

(c) For indefinite delivery contracts, the individual order does not provide for progress payments; and

(d) For other than an indefinite delivery contract, the contract does not provide for progress payments.

7. Amend section 32.1004 by—

a. Revising the 3rd sentence of paragraph (a)(1);

b. Revising paragraph (a)(2)(iii);

c. Revising the introductory text of paragraph (b)(2);

d. Adding a new sentence to the end of paragraph (b)(2)(ii);

e. Redesignating paragraphs (c), (d), and (e) as (d), (e), and (f) respectively, and adding a new paragraph (c);

f. Revising the 2nd sentence of the newly redesignated paragraph (f)(1)(ii); and

g. Removing from the newly redesignated paragraph (f)(2)(ii) “(e)(1)(ii)” and adding “(f)(1)(ii)” in its place.

The revised and added text reads as follows:

**32.1004 Procedures.**

\* \* \* \* \*

(a) \* \* \* (1) \* \* \* The signing of contracts or modifications, the exercise of options, the passage of time, or other such occurrences do not represent meaningful efforts or actions and shall not be identified as events or criteria for performance-based payments. \* \* \*

\* \* \* \* \*

(2) \* \* \*

(iii) The contract must specifically identify cumulative events or criteria and identify which events or criteria are preconditions for the successful achievement of each cumulative event or criterion.

\* \* \* \* \*

(b) \* \* \*

(2) Total performance-based payments shall—

\* \* \* \* \*

(ii) \* \* \* Unless otherwise provided in agency procedures, the contracting officer shall document the rationale for establishing the performance-based payment rate if the performance-based payment rate is less than the contractor’s applicable progress payment rate.

\* \* \* \* \*

(c) *Payment Amount.* The contracting officer shall not limit the amount of a performance-based payment to a percentage of actual incurred cost for the scheduled event or performance criteria.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) \* \* \* Unless agencies prescribe other evaluation procedures, if the

contracting officer anticipates that the cost of providing performance-based payments would have a significant impact on determining the best value offer, the solicitation should state that the evaluation of the offeror’s proposed prices will include an adjustment to reflect the estimated cost to the Government of providing each offeror’s proposed performance-based payments (see Alternate I to the provision at 52.232–28).

\* \* \* \* \*

8. Amend section 32.1005 by—

a. Revising the introductory text of paragraph (a); and

b. Removing from paragraph (b)(2) “32.1004(e)” and adding “32.1004(f)” in its place.

The revised text reads as follows:

**32.1005 Solicitation provision and contract clause.**

(a) Insert the clause at 52.232–32, Performance-Based Payments, in—

\* \* \* \* \*

9. Amend section 32.1007 by—

a. Revising paragraph (a);

b. Removing from paragraph (b)(2) “32.1004(c)” and adding “32.1004(d)” in its place; and

c. Adding to the end of paragraph (c) a new sentence.

The revised and added text reads as follows:

**32.1007 Administration and payment of performance-based payments.**

(a) *Responsibility.* The contracting officer responsible for administering performance-based payments (see 42.302(a)(12)) for the contract shall review and approve all performance-based payments for that contract.

\* \* \* \* \*

(c) \* \* \* Reviews shall not include verification of actual cost unless the purpose is to assist in establishing revised or new performance-based payment milestones or values.

\* \* \* \* \*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

10. Amend section 52.232–32 by revising the date of the clause and the second sentence of paragraph (c)(2) to read as follows:

**52.232–32 Performance-Based Payments.**

\* \* \* \* \*

PERFORMANCE-BASED PAYMENTS (DATE)

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* The designated payment office will pay approved requests on the

[Contracting Officer insert day as prescribed by agency head; if

not prescribed, insert “30th”] day after receipt of the request for performance-based payment by the designated payment office. \*

\* \*

\* \* \* \* \*

(End of clause)

[FR Doc. 06–9678 Filed 12–13–06; 8:45 am]

BILLING CODE 6820-EP-S

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 10**

**RIN 1018-AB72**

**General Provisions; Revised List of Migratory Birds**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the Fish and Wildlife Service, are reopening the comment period for our proposed rule to revise the list of migratory birds protected by the Migratory Bird Treaty Act (MBTA) to allow interested persons additional time to prepare and submit comments.

**DATES:** We will consider all comments that we receive on or before December 29, 2006.

**ADDRESSES:** Submit your comments on this proposal in one of the following ways:

1. By postal mail to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, VA 22203;

2. By hand-delivery to U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Room 4000, Arlington, VA 22203. By prior arrangement, materials available for public inspection can also be examined at this location;

3. By fax to (703) 358–2272; or

4. By e-mail to [mbtabirdlist@fws.gov](mailto:mbtabirdlist@fws.gov);

or  
5. By the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** John L. Trapp, (703) 358–1714.

**SUPPLEMENTARY INFORMATION:** On August 24, 2006, we published in the **Federal Register** (71 FR 50194–50221) a proposed rule to revise the List of Migratory Birds by adding numerous species and removing numerous species. The proposed rule is available for online viewing or downloading at <http://www.fws.gov/migratorybirds/>.

Our reasons for proposing changes to the list include correcting previous

mistakes, including misspellings; adding species based on new evidence of occurrence in the United States or U.S. territories; removing species no longer known to occur within the United States; and changing names based on new taxonomy. The net increase of 140 species (152 added and 12 removed) would bring to 972 the total number of species protected by the MBTA (16 U.S.C. 703–711).

We regulate most aspects of the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds. An accurate and up-to-date list of species protected by the MBTA is essential for regulatory purposes.

The comment period for the proposed rule ended October 23, 2006. We are reopening the comment period for an additional 15 days (see **DATES**) to allow interested persons additional time to prepare and submit comments. We will also consider all comments received between October 24, 2006 (the day after the close of the original comment period) and the date of this notice.

Dated: December 5, 2006.

**David M. Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. E6–21313 Filed 12–13–06; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### RIN 1018–AU83

### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Monterey Spineflower (*Chorizanthe pungens* var. *pungens*)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** In response to a settlement agreement, we, the U.S. Fish and Wildlife Service (Service), propose to revise currently designated critical habitat for the Monterey spineflower (*Chorizanthe pungens* var. *pungens*) pursuant to the Endangered Species Act of 1973, as amended (Act). In total, approximately 11,032 acres (ac) (4,466 hectares (ha)) fall within the boundaries of the proposed revision to the critical habitat designation. The proposed revision to critical habitat is located in Santa Cruz and Monterey Counties, California.

**DATES:** We will accept comments from all interested parties until February 12, 2007. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by January 29, 2007.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may mail or hand-deliver written comments and information to Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (VFWO), 2493 Portola Road, Suite B, Ventura, California 93003.

2. You may send comments by electronic mail (e-mail) to [fw8mosp@fws.gov](mailto:fw8mosp@fws.gov). Please see the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may fax your comments to 805/644–3958.

4. You may go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the VFWO 2493 Portola Road, Suite B, Ventura, California 93003 (telephone 805/644–1766).

**FOR FURTHER INFORMATION CONTACT:** Diane Noda, Field Supervisor, VFWO, 2493 Portola Road, Suite B, Ventura, California 93003, (telephone 805/644–1766, ext. 319; facsimile 805/644–3958). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339, 7 days a week and 24 hours a day.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Comments Solicited**

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of *Chorizanthe*

*pungens* var. *pungens* habitat, and what areas should be included in the designations that were occupied at the time of listing that contain the features that are essential for the conservation of the species and why, and what areas that were not occupied at the time of listing are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(6) This proposed designation's revised criteria for determining essential features and critical habitat boundaries; and

(7) The existence of any conservation or management plans being implemented by California State Parks, Bureau of Land Management (BLM) on former Fort Ord, or other public or private land management agencies or owners that we should consider for exclusion from the designation pursuant to section 4(b)(2) of the Act. Please include information on any benefits (educational, regulatory, etc.) of including or excluding lands from this proposed revised designation.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to [fw8mosp@fws.gov](mailto:fw8mosp@fws.gov) in ASCII file format and avoid the use of special characters or any form of encryption. Please also include “Attn: *Chorizanthe pungens* var. *pungens*” in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our VFWO at phone number 805/644–1766, ext. 333. Please note that the Internet address, [fw8mosp@fws.gov](mailto:fw8mosp@fws.gov), will be closed out at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their names and home