93.395—Cancer Treatment Research
93.396—Cancer Biology Research
93.821—Biophysics and Physiological Sciences Research
93.837—Heart and Vascular Diseases Research
93.838—Lung Diseases Research
93.839—Blood Diseases and Resources Research
93.846—Arthritis, Musculoskeletal and Skin Diseases Research
93.847—Diabetes, Endocrinology and Metabolism Research
93.848—Digestive Diseases and Nutrition Research
93.849—Kidney Diseases, Urology and Hematology Research
93.853—Clinical Research Related to Neurological Disorders
93.855—Allergy, Immunology and Transplantation Research
93.856—Microbiology and Infectious Diseases Research
93.859—Biomedical Research and Research Training
93.865—Research for Mothers and Children
93.866—Aging Research
93.867—Vision Research
93.879—Medical Library Assistance
93.929—Center for Medical Rehabilitation Research
93.934—Fogarty International Center Research Collaboration Award
93.939—Blood Diseases and Resources Research
93.941—HIV Demonstration, Research, Public and Professional Education Projects
93.942—Research, Treatment and Education Programs on Lyme Disease in the United States
93.943—Epidemiologic Research Studies of Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) Infection in Selected Population Groups
93.947—Tuberculosis Demonstration, Research, Public and Professional Education

List of Subjects in 42 CFR Part 52

Grant programs—Health; Medical research; Occupational safety and health.

Dated: May 11, 2006.

Elias A. Zerhouni,

Director, National Institutes of Health.

Approved: October 12, 2006.

Michael O. Leavitt,

Secretary.

Editorial Note: This document was received by the Office of the Federal Register on June 20, 2007.

For reasons presented in the preamble, it is proposed to amend part 52 of title 42 of the Code of Federal Regulations as set forth below.

PART 52—GRANTS FOR RESEARCH PROJECTS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 216.

1A. We propose to amend § 52.2 by revising the definition of the term ''Principal investigator'' to read as follows:

§ 52.2 Definitions.

* * * * *

Principal investigator means the individual(s) judged by the applicant organization to have the appropriate level of authority and responsibility to direct the project or program supported by the grant and who is or are responsible for the scientific and technical direction of the project.

* * * * *

2. We propose to amend *§ 52.6 by revising paragraph (d) to read as follows:*

§ 52.6 Grant awards.

* * * * *

(d) *Multiple or concurrent awards.* Whenever a research project involves a number of different but related problems, activities or disciplines which require evaluation by different groups, or whenever support for a project could be more effectively administered by separate handling of separate aspects of the project, the Secretary may evaluate, approve and make one or more awards pursuant to one or more applications.

* * * * *

[FR Doc. E7–12223 Filed 6–22–07; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Sierra Nevada Distinct Population Segment of the Mountain Yellow-Legged Frog (Rana muscosa)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of an amended 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce an amended 12-month finding on a petition to list the Sierra Nevada distinct population segment (DPS) of the mountain yellow-legged frog (*Rana muscosa*) under the Endangered Species Act of 1973, as amended (Act). We are amending our previous 12-month petition finding, which found that listing is warranted but precluded, by revising the preclusion and expeditious progress section of that finding.

DATES: The finding announced in this document was made on June 25, 2007.

ADDRESSES: Supporting documentation used in the development of this amended 12-month finding will be available for inspection, by appointment, during normal business hours at the Endangered Species Program, Division of Conservation and Classification, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203. Comments and materials received, as well as supporting documentation used in the development of the initial 12-month finding published on January 16, 2003 (68 FR 2283), are available for inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Chris Nolin, Chief, Division of Conservation and Classification, Endangered Species Program (see **ADDRESSES** section) (telephone 703–358–2171). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that the petitioned action may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but that the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether any species is threatened or endangered, and expeditious progress is being made to add or remove qualified species from the Lists of Endangered and Threatened Wildlife and Plants (Lists). Such 12-

month findings are to be published promptly in the **Federal Register.** In addition, section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded shall be treated as though resubmitted on the date of such finding, requiring a subsequent finding to be made within 12 months; we refer to such findings as ''resubmitted petition findings.''

Biological Information and Summary of Factors Affecting the Species

Our initial 12-month finding, published in the **Federal Register** on January 16, 2003 (68 FR 2283), included information on the biology, status, and summary of factors affecting the species. This information has been updated annually through our Candidate Notice of Review (CNOR), in which we evaluate the available scientific information and make our resubmitted petition findings on this and other species for which we previously have made a 12-month finding that listing is warranted but precluded. The most recent CNOR was published on September 12, 2006 (71 FR 53756); in it we continued to find that listing the Sierra Nevada DPS of the mountain yellow-legged frog is warranted but precluded, based on the latest species assessment for this taxon. That assessment, which provides the most current information on the biology, status, and summary of factors affecting the species, is available on our Internet Web site at *http://www.fws.gov/endangered/candidates/index.html.* We are currently reviewing and evaluating the available information on this taxon and will again update our species assessment and resubmitted petition finding in the next CNOR, which we anticipate we will publish in fall 2007, unless we take some other listing action pertaining to the Sierra Nevada DPS of the mountain yellow-legged frog prior to that time.

Previous Federal Actions

On February 10, 2000, we received a petition, dated February 8, 2000, from the Center for Biological Diversity and Pacific Rivers Council to list the Sierra Nevada population of the mountain yellow-legged frog stating that the Sierra Nevada population of the mountain yellow-legged frog satisfies the criteria in our Distinct Population Segment (DPS) Policy and that it should be listed as endangered. On October 12, 2000, we published a 90-day finding on that petition in the **Federal Register** (65 FR 60603), concluding that the petition presented substantial scientific or commercial information to indicate that the listing of the Sierra Nevada population of the mountain yellow-legged frog may be warranted; we also requested information and data regarding the species. On January 10, 2003, we made a 12-month petition finding that listing was warranted but precluded, and we published the 12-month finding in the **Federal Register** on January 16, 2003 (68 FR 2283). We made this finding in accordance with a court order requiring us to complete a finding by January 10, 2003 (*Center for Biological Diversity* v. *Norton,* No. 01–2106 (N. D. Cal. Dec. 12, 2001)). Upon publication of that finding, we added the Sierra Nevada DPS of the mountain yellow-legged frog to our list of species that are candidates for listing.

The Center for Biological Diversity and the Pacific Rivers Council challenged our finding that listing was warranted but precluded, and sought to compel the Service to proceed with listing the frog. On June 21, 2004, the U.S. District Court for the Eastern District of California granted summary judgment in favor of the United States (*Center for Biological Diversity* v. *Norton*, No. 03–01758 (E. D. Cal. June 21, 2004)). In response to an appeal of the decision, on October 18, 2006, the 9th Circuit Court of Appeals reversed and remanded the District Court's judgment. Specifically, the 9th Circuit Court of Appeals concluded that the 12-month finding we published on January 16, 2003, did not meet the requirements of section 4(b)(3)(B) of the Act, because the finding did not contain information demonstrating that: (1) The immediate proposal and timely promulgation of a final regulation implementing the petitioned action is precluded by pending proposals to determine whether any species is an endangered species or a threatened species; and (2) expeditious progress is being made to add qualified species to either of the Lists and to remove from such Lists species for which the protections of the Act are no longer necessary (*Center for Biological Diversity* v. *Kempthorne,* 466 F.3d 1098, 1103 (9th Cir. Oct. 18, 2006)).

We are addressing the 9th Circuit Court's ruling by amending our January 16, 2003, warranted but precluded finding to include a description and evaluation of the reasons and data demonstrating why listing the Sierra Nevada DPS of the mountain yellow-legged frog was precluded and describing the expeditious progress we had made on adding qualified species to the Lists at the time we published the 12-month finding.

Preclusion and Expeditious Progress

Preclusion is a function of the listing priority of a species in relation to the resources that are available and competing demands for those resources. Thus, in any given fiscal year (FY), multiple factors dictate whether it will be possible to undertake work on a proposed listing regulation or whether promulgation of such a proposal is warranted but precluded by higher priority listing actions.

The resources available for listing actions are determined through the annual Congressional appropriations process. The appropriation for the Listing Program is available to support work involving the following listing actions: Proposed and final listing rules; 90-day and 12-month findings on petitions to add species to the Lists or to change the status of a species from threatened to endangered; resubmitted petition findings; proposed and final rules designating critical habitat; and litigation-related, administrative, and program management functions (including preparing and allocating budgets, responding to Congressional and public inquiries, and conducting public outreach regarding listing and critical habitat). The work involved in preparing various listing documents can be extensive and may include, but is not limited to: gathering and assessing the best scientific and commercial data available and conducting analyses used as the basis for our decisions; writing and publishing documents; and obtaining, reviewing, and evaluating public comments and peer review comments on proposed rules and incorporating relevant information into final rules. The number of listing actions that we can undertake in a given year also is influenced by the complexity of those listing actions, i.e., more complex actions generally are more costly. For example, during the past several years, the cost (excluding publication costs) for preparing a 12-month finding, without a proposed listing rule, has ranged from approximately $11,000 for one species with a restricted range and involving a relatively uncomplicated analysis, to $305,000 for another species that is wide-ranging and involved a complex analysis.

We cannot spend more than is appropriated for the Listing Program without violating the Anti-Deficiency Act (31 U.S.C. 1341(a)(1)(A)). In addition, in FY 1998 and for each fiscal year since then, Congress has placed a statutory cap on funds which may be expended for the Listing Program, equal to the amount expressly appropriated

for that purpose in that fiscal year (see H.R. 2107, 105th Cong. (1997)). This cap was designed to prevent funds appropriated for other functions under the Act, or for other Service programs, from being used for Listing Program actions (see H.R. No. 105–163, at 21, 25 (1997)).

Recognizing that designation of critical habitat for species already listed would consume most of the overall Listing Program appropriation, Congress also put a critical habitat subcap in place in FY 2002 and has retained it each subsequent year to ensure that some funds are available for other work in theListing Program: ''The critical habitat designation subcap will ensure that some funding is available to address other listing activities'' (H.R. Rep. No. 107–103, at 30 (2001). In FY 2002 and each year since then, the Service has had to use virtually the entire critical habitat subcap to address court-mandated designations of critical habitat, and consequently none of the critical habitat subcap funds have been available for other listing activities.

Thus, through the listing cap, the critical habitat subcap, and the amount of funds needed to address court-mandated critical habitat designations, Congress and the courts have in effect determined the amount of money available for other listing activities. Therefore, the funds in the listing cap, other than those needed to address court-mandated critical habitat for already listed species, set the limits on our determinations of preclusion and expeditious progress.

Congress also recognized that the availability of resources was the key element in deciding whether, when making a 12-month petition finding, we would prepare and issue a listing proposal or make a ''warranted but precluded'' finding for a given species. The Conference Report No. 835 accompanying Public Law 97–304, which established the current statutory deadlines and the warranted but precluded finding, states (in a discussion on 90-day petition findings that by its own terms also covers 12-month findings) that the deadlines were ''not intended to allow the Secretary to delay commencing the rulemaking process for any reason other than that the existence of pending or imminent proposals to list species subject to a greater degree of threat would make allocation of resources to such a petition [i.e., for a lower-ranking species] unwise'' (H.R. Conf. Rep. No. 97–835, at 21 (1982)). Taking into account the information presented above, in FY 2003 (the fiscal year in which we made our initial warranted but precluded finding for this population of the mountain yellow-legged frog), the outer parameter within which ''expeditious progress'' must be measured is that amount of progress that could be achieved by spending $3,077,000, which was the amount available in the Listing Program appropriation that was not within the critical habitat subcap.

Our process is to make our determinations of preclusion on a nationwide basis to ensure that the species most in need of listing will be addressed first and also because we allocate our listing budget on a nationwide basis. However, through court orders and court-approved settlements, Federal district courts have mandated that we must complete certain listing activities with respect to specified species and have established the schedules by which we must complete those activities. The species involved in these court-mandated listing activities are not always those that we have identified as being most in need of listing. As described below, a large majority of the $3,077,000 appropriation available in FY 2003 for new listings of species was consumed by court-mandated listing activities; by ordering or sanctioning these actions the courts essentially determined that these were the highest priority actions to be undertaken with available funding. Copies of the court orders and settlement agreements referred to below are available from the Service (see **ADDRESSES** section above) and are part of the administrative record for this resubmitted petition finding.

The FY 2003 appropriation of $3,077,000 for listing activities (i.e., the portion of the Listing Program funding not related to critical habitat designations for species that already are listed) was fully allocated to fund work in the following categories of actions in the Listing Program (see Table below): Compliance with court orders and court-approved settlement agreements requiring that petition findings or listing determinations be completed by a specific date; section 4 (of the Act) listing actions with absolute statutory deadlines; essential litigation-related, and administrative- and program-management functions; and a few high-priority listing actions.

FY 2003 LISTING ALLOCATION

	Allocated	Available balance
FY03 Appropriation	$3,077,000	$3,077,000
Capability Funding (Regional Office staff salaries)	700,000	2,377,000
Economic Analysis*	9,805	2,367,195
FEDERAL REGISTER Printing	188,700	2,178,495
Attorney Fee Awards and Litigation	39,496	2,138,999
General Program Activities (funds used primarily for work on 90-day and 12-month petition findings required by statute, or by court-order or settlement agreements; also for limited work on proposed rules; also includes Washington Office salaries)	2,138,999	0

* Funds used for work on critical habitat associated with a proposed listing determination for Scotts Valley polygonum.

In FY 2003, our allocation of Listing Program funds included a limited amount of funding ($100,000) to each Regional office to ensure that the office maintained minimal core capacity for listing actions (e.g., evaluating the status of species to help ensure that an emergency listing action can be taken if necessary, participating in work to meet the statutory requirement to annually review and make findings on resubmitted petitions). In a Region that faces a relatively limited workload in the Listing Program with regard to deadlines resulting from court orders or settlement agreements, and a relatively limited workload related to meeting statutory deadlines, some of this ''capability'' funding may be available to address high priority listing actions. However, in most Regions the limited amount of capability funding for Regional offices included in an allocation is used for work associated with supporting listing actions related to court orders or settlement agreements, and for meeting statutory

deadlines (i.e., there are no funds available for high priority listing actions).

Based on the available funds and their allocation for these purposes, no FY 2003 funds were available for proposed listing actions for any species, including the Sierra Nevada DPS of the mountain yellow-legged frog, except for those with court-ordered deadlines and for the Miami blue butterfly (see explanation below for why we worked on a proposed rule for this species). Specific details regarding the individual actions taken using the FY 2003 funding, which precluded our ability to undertake a listing proposal for the Sierra Nevada DPS of the mountain yellow-legged frog, are provided below. As noted below, in some instances, the work was based on meeting deadlines established by court order or by settlement agreements. In other instances, the work was done in order to meet statutory deadlines. All 12-month findings are subject to an unqualified statutory deadline. With regard to 90-day findings, the decision in *Biodiversity Legal Foundation* v. *Badgley*, 309 F.3d 1166 (9th Cir. 2002), held that the Act requires that 90-day petition findings (i.e., the initial finding as to whether a petition contains substantial information, which the Act directs us to make within 90 days of receipt of a petition, if practicable) must be made no later than 12 months after receipt of the petition, regardless of whether it is practicable to do so. Thus, all 90-day findings are arguably subject to an absolute statutory deadline. As a result of this ruling, which changed our interpretation of section 4(b)(3) of the Act, we have been working to issue petition findings on outstanding petitions.

Our decision that a proposed rule to list the Sierra Nevada DPS of the mountain yellow-legged frog was warranted but precluded, included consideration of its listing priority. In accordance with guidance we published on September 21, 1983, we assign a listing priority number (LPN) to each candidate species (48 FR 43098). Such a priority ranking guidance system is required under section 4(h)(3) of the Act (16 U.S.C. 1533(h)(3)). Using this guidance, we assign each candidate a LPN of 1 to 12, depending on the magnitude of threats, imminence of threats, and taxonomic status; the lower the listing priority number, the higher the listing priority (e.g., a species with a LPN of 1 would have the highest listing priority). At the time we made our 12-month finding (68 FR 2283, January 16, 2003), we assigned the Sierra Nevada DPS of the mountain yellow-legged frog a LPN of 3 based on threats that were of a high magnitude and imminent, and on its taxonomic status as a distinct population segment. Thus, listing this population of the frog was precluded by the more than 80 candidate species that had higher listing priority (LPN = 2) at the time of our petition finding (see Table 1 of the Notice of Review; 67 FR 40657, June 13, 2002), in addition to being precluded by lack of available funds.

As explained above, a determination that listing is warranted but precluded also must demonstrate that expeditious progress is being made to add and remove qualified species to the Lists. (We note that in this amended finding we do not discuss specific actions taken on progress towards removing species from the Lists because that work is conducted using appropriations for our Recovery program, a separately-budgeted component of the Endangered Species Program. As explained above in our description of the statutory cap on Listing Program funds, the Recovery Program funds and actions supported by them cannot be considered in determining expeditious progress made in the Listing Program.) As with our ''precluded'' finding, expeditious progress in adding qualified species to the Lists is a function of the resources available and the competing demands for those funds. Our expeditious progress in FY 2003 in the Listing Program, up to the date we published the 12-month finding for the Sierra Nevada DPS of the mountain yellow-legged frog, included preparing and publishing the following:

(1) Final rule to list *Lomatium cookii* (Cook's lomatium) and *Limnanthes floccosa* (large-flowered woolly meadowfoam) (67 FR 68004, November 7, 2002). The deadline for this action was the result of a court-approved settlement agreement.

(2) Withdrawal of a proposed rule to list the flat-tailed lizard as threatened (68 FR 331, January 3, 2003). The deadline for this listing decision was the result of a court order.

(3) 12-month petition finding for the Yosemite toad (67 FR 75834, December 10, 2002). The deadline for this action was the result of a court-approved settlement agreement.

(4) 90-day petition findings for three species: Washington population of the western gray squirrel (67 FR 65931, October 29, 2002) (deadline set by a court order), Mono basin population of the greater sage-grouse (67 FR 78811, December 26, 2002) (statutory deadline), and cerulean warbler (67 FR 65083, October 23, 2002) (statutory deadline).

Our expeditious progress also included work on listing actions for 55 species for which decisions had not been completed as of the date we published our initial 12-month finding for the Sierra Nevada population of the mountain yellow-legged frog. These actions are listed below; work on those actions with an asterisk (*) was conducted pursuant to a deadline set by a court and all other actions, with the exception of the work on a proposed listing for the Miami blue butterfly, were pursuant to meeting statutory timelines, i.e., timelines required under the Act:

(1) *90-day petition findings for the following species:* New England cottontail, greater/eastern sage-grouse, western sage-grouse*, mountain quail*, trumpeter swan, Colorado River cutthroat trout, and midvalley fairy shrimp*.

(2) *12-month petition findings for the following species:* Western gray squirrel*, Queen Charlotte goshawk*, California spotted owl*, Kootenai river burbot*, westslope cutthroat trout*, *Horkelia hendersonii* (Henderson's horkelia)*, and *Lupinus lepidus* var. *ashlandensis* (Mt. Ashland lupine)*.

(3) *Proposed listing determinations for the following species:* California tiger salamander (rangewide)*, Salt Creek tiger beetle (deadline subject to an out-of-court settlement agreement), and Miami blue butterfly. We worked on a proposed rule to list the Miami blue butterfly as it was a high priority listing action. The Miami blue butterfly is restricted to one isolated population on Bahia Honda Key in Florida and is threatened by the combined influences of catastrophic environmental events, habitat destruction or modification, mosquito control activities, potential illegal collection, potential loss of genetic heterogeneity, and potential predation. Work on assessing the status of the species and preparing a listing rule originally was approved for funding and was initiated in FY 2003 because at the time, the Region considered that it was an emergency. We later decided not to exercise our discretion under section 4(b)(7) to emergency list the species (based in part on the existence of a captive-bred population). However, because a review of the species had been conducted, and because it was a high priority species, continued work on the proposed listing was approved.

(4) *Final listing determinations for the following species:* Florida black bear*, pygmy rabbit, mountain plover*, Rota bridled white-eye*, California tiger salamander (Sonoma County)*, slickspot peppergrass*, Scott Valley polygonum (with critical habitat), and three Mariana Island plants (*Nesogenes*

rotensis, Osmoxylon mariannense, and *Tabernaemontana rotensis*)*.

(5) Resubmitted petition findings for 30 species (these species are identified with the code ''C*'' in Table 1 of the CNOR published in the **Federal Register** (67 FR 40657, June 13, 2002)).

We have endeavored to make our listing actions as efficient and timely as possible, given the requirements of the relevant laws and regulations, and constraints relating to workload and personnel. We are continually considering ways to streamline processes or achieve economies of scale, such as by batching related actions together where feasible. Given our limited budget for implementing section 4 of the Act, the actions described above collectively constitute expeditious progress.

Conclusion

The information provided above amends our finding, published January 16, 2003 (68 FR 2283), that listing the Sierra Nevada DPS of the mountain yellow-legged frog is warranted but precluded. Specifically, the information amends the finding to include information pertaining to preclusion and expeditious progress. Thus this amended finding fully satisfies the requirements of section 4(b)(3)(B)(iii) of the Act. We note also that since publication of our initial warranted but precluded finding, we have made resubmitted petition findings pursuant to the requirement of section 4(b)(3)(C)(i) of the Act, and published these in the **Federal Register** on May 4, 2004 (69 FR 24875), May 11, 2005 (70 FR 24869), and September 12, 2006 (71 FR 53755). In each case we have found that the petitioned action is warranted but precluded, and our finding has included information demonstrating preclusion and expeditious progress.

We will continue to monitor the status of this species and its habitat. Should an emergency situation develop, we will act to provide immediate protection, if warranted. We intend that any proposed listing action for the Sierra Nevada DPS of the mountain yellow-legged frog will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning the status of this species.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 14, 2007.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E7–12282 Filed 6–22–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[I.D. 021607C]

Endangered and Threatened Species; Proposed Endangered Status for the Cook Inlet Beluga Whale; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: On April 20, 2007, NMFS proposed the listing of the Cook Inlet beluga whale as an endangered species under the Endangered Species Act of 1973 (ESA). As part of that proposal, NMFS announced a public comment period to end on June 19, 2007, and then extended the comment period to August 3, 2007. NMFS has received requests for public hearings on this issue. In response, NMFS announced two public hearings to be held in Alaska in a previous **Federal Register** notice. In addition, NMFS is announcing a separate hearing in this notice that will be held in Silver Spring, Maryland, in order to provide greater opportunity for public comment.

DATES: The hearing will be held on July 31, 2007, from 3:30 to 6:30 p.m. in Silver Spring, MD. Written comments must be received by August 3, 2007.

ADDRESSES: The July 31, 2007, hearing will be held at NOAA Headquarters, Building 2, Conference Room 2358, 1325 East-West Highway, Silver Spring, MD.

Written comments can be sent to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- E-mail: *CIB-ESA-Endangered@noaa.gov*. Include in the subject line the following document identifier: Cook Inlet Beluga Whale PR. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.
- Mail: P. O Box 21668, Juneau, AK 99802.
- Hand delivery to the Federal Building : 709 W. 9th Street, Juneau, AK.
- Fax: (907) 586–7557.

FOR FURTHER INFORMATION CONTACT: For specific information regarding the July 31, 2007, hearing in Silver Spring, MD, contact Chris Uyeda, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226, telephone (301) 713–1401 . For all other information regarding the proposed listing of the Cook Inlet beluga whale contact Brad Smith, NMFS, 222 West 7th Avenue, Anchorage, AK 99517, telephone (907) 271–5006; Kaja Brix, NMFS, (907) 586–7235; or Marta Nammack, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On April 20, 2007, NMFS published a proposed rule (72 FR 19854) to list the Cook Inlet beluga whale as an endangered species under the Endangered Species Act of 1973 (ESA), as amended. This action followed completion of the Cook Inlet beluga whale status review, which found this population to be at risk of extinction within the next 100 years and described NMFS' determination that this population constitutes a ''species'', or distinct population segment under the ESA.

On June 13, 2007, in response to requests, NMFS announced that two public hearings would be held in Alaska regarding the proposed listing of the Cook Inlet beluga whale (72 FR 32605). Following this announcement, NMFS received an additional request for a public hearing to be held in Silver Spring. This request was submitted beyond the 45–day statutory deadline for public hearing requests (16 U.S.C. 1533(b)(5)(E)). However, NMFS has decided to voluntarily honor the request in order to provide additional opportunities for public comment.

Public Hearings

Joint Commerce-Interior ESA implementing regulations state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In past ESA rule-makings NMFS has conducted traditional public hearings, consisting of recorded oral testimony from interested individuals. This format, although providing a means for public input,