

B. Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA has determined that today's proposed rule will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate treatment, storage or disposal facilities are already subject to the regulatory requirements of existing State law which EPA proposes to authorize. EPA's proposed authorization therefore, will not add any burdens, since authorization will result only in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Accordingly, pursuant to 5 U.S.C. 605(b), I hereby certify that authorization of the State Program will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. Authorization of the State Program will not impose any additional information requirements upon the regulated community.

D. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note, *Utilization of Consensus Technical Standards by Federal Agencies*) directs

all federal agencies to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs federal agencies to provide Congress, through the Office of Management and Budget, with an explanation in any instance where they decide not to use available and applicable voluntary consensus standards. Authorization of the State Program does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

E. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this proposed rule from the requirements of section 6 of E.O. 12866.

F. Compliance With Executive Order 12875

E.O. 12875 is intended to develop an effective process to permit elected officials and other representatives of state or local governments to provide meaningful input in the development of regulatory proposals containing significant unfunded mandates. Since today's rule proposes authorization of preexisting requirements of State law, no new unfunded mandates result from this action. (See also the discussion under IV.A, above, *Unfunded Mandates Reform Act*).

G. Compliance With Executive Order 13045

E.O. 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, applies only to federal rules that are "economically significant" as defined under Executive Order 12866 (i.e., a rule "that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities", E.O. 13045, 62 FR 19885, 4/23/97). EPA has determined that the authorization of the State Program will not have a significant effect on the economy within the meaning of E.O. 12866, since today's rule proposes authorization of preexisting requirements of State law, and imposes no new requirements. (See also IV.A

and F above). Accordingly, E.O. 13045 is inapplicable to today's proposed rule.

Authority: This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of RCRA, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 19, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2505

RIN 3045-AA21

Rules Implementing the Government in the Sunshine Act

AGENCY: Corporation for National and Community Service.

ACTION: Proposed rule.

SUMMARY: These proposed rules will implement provisions of the Government in the Sunshine Act (Sunshine Act). The Sunshine Act applies to meetings of agencies of the United States government that are headed by collegial bodies composed of two or more members, a majority of whom are appointed by the President with the advice and consent of the Senate. The Act provides that meetings, as defined in the Act, shall be held in public except where stated exemptions apply. The Sunshine Act applies to meetings of the Board of Directors of the Corporation for National and Community Service (the Corporation). The Corporation invites comments from the public on these proposed rules.

DATES: The Corporation will consider public comments received on or before July 12, 1999.

ADDRESSES: Comments may be mailed or delivered to Frank Trinity, Associate General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525, sent by facsimile transmission to (202) 565-2796, or sent electronically to: ftrinity@cns.gov. Copies of all communications received will be available for review at the Corporation by members of the public.

FOR FURTHER INFORMATION CONTACT: Frank Trinity, Associate General Counsel, Corporation for National and Community Service, (202) 606-5000, ext. 256. T.D.D. (202) 565-2799.

This notice may be requested in an alternative format for persons with visual impairments.

SUPPLEMENTARY INFORMATION: The Corporation for National and Community Service (Corporation) is a Government corporation established in 1993 that administers programs under the Domestic Volunteer Service Act of 1973 and the National and Community Service Act of 1990. In 1993, Congress also established the Corporation's Board of Directors (the Board) and directed that members of the Board be appointed by the President and confirmed by the Senate. The Board has several statutory responsibilities, including the review and approval of specific plans and proposals submitted by the Corporation's Chief Executive Officer under the national service laws. To carry out its statutory duties, the Board meets at least three times per year.

The Sunshine Act defines meetings and sets certain requirements for advance public notice of such meetings (5 U.S.C. 552b(e)) and permits agencies to close the meetings to public attendance and to withhold information regarding meetings when an agency finds that any of the ten exemptions enumerated in the Sunshine Act applies, 5 U.S.C. 552b(c). The Sunshine Act provides for procedures that must be followed by agencies in invoking an exemption, 5 U.S.C. 552b(d), (f). The Sunshine Act requires agencies to adopt, after opportunity for public comment, regulations to implement the Sunshine Act, 5 U.S.C. 552b(g). Consistent with this requirement, the Corporation proposes regulations to implement the provisions of 5 U.S.C. 552b(b)–(f). The proposed regulations are intended to follow the exemptions provided in the Sunshine Act and to implement fully the Sunshine Act's procedural requirements regarding public notice of meetings, availability of transcripts or other records of meetings, and closure of meetings.

Executive Order 12866

The Corporation has determined that this regulatory action is not a "significant" rule within the meaning of Executive Order 12866 because it is not likely to result in: (1) an annual effect on the economy of \$100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal

or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Corporation has determined that this regulatory action will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Other Impact Analyses

Because the proposed changes do not authorize any information collection activity this regulatory action is not subject to review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

List of Subjects in 45 CFR Part 2505

Sunshine Act.

For the reasons stated in the preamble, part 2505 of chapter XXV, title 45 of the Code of Federal Regulations is proposed to be added to read as follows:

PART 2505—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

2505.1 Applicability.

2505.2 Definitions.

2505.3 To what extent are meetings of the Board open to the public?

2505.4 On what grounds may the Board close a meeting or withhold information?

2505.5 What are the procedures for closing a meeting, withholding information, and responding to requests by affected persons to close a meeting?

2505.6 What are the procedures for making a public announcement of a meeting?

2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

Authority: 5 U.S.C. 552b; 42 U.S.C. 12651(c)

§ 2505.1 Applicability.

(a) This part implements the provisions of section 3(a) of the Government in the Sunshine Act (5 U.S.C. 552b). These procedures apply to meetings of the Corporation's Board of Directors, or to any subdivision of the Board that is authorized to act on its behalf. The Board of Directors may waive the provisions of this part to the extent authorized by law.

(b) Nothing in this part expands or limits the present rights of any person under the Freedom of Information Act (5 U.S.C. 552), except that the exemptions set forth in § 2505.4 shall govern in the case of any request made pursuant to the Freedom of Information Act to copy or inspect the transcript, recording, or minutes described in § 2505.5.

(c) Nothing in this part authorizes the Corporation to withhold from any individual any record, including transcripts, recordings, or minutes required by this part, which is otherwise accessible to such individual under the Privacy Act (5 U.S.C. 552a).

§ 2505.2 Definitions.

As used in this part:

(a) *Board* means the Board of Directors established pursuant to 42 U.S.C. 12651a, or any subdivision of the Board that is authorized to act on its behalf.

(b) *Chairperson* means the Member elected by the Board to serve as Chairperson.

(c) *General Counsel* means the Corporation's principal legal officer or other attorney acting at the designation of the Corporation's principal legal officer.

(d) *Corporation* means the Corporation for National and Community Service established pursuant to 42 U.S.C. 12651.

(e) *Meeting* means the deliberations of at least a quorum of the Corporation's Board of Directors where such deliberations determine or result in the joint conduct or disposition of official Corporation business. A meeting may be conducted under this part through telephone or similar communications equipment by means of which all participants may communicate with each other. The term meeting includes a portion thereof. The term meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the members individually by telephone.

(2) Action by a quorum of the Board to—

(i) Open or to close a meeting or to release or to withhold information pursuant to § 2505.5;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice as permitted by § 2505.6(b); or

(iv) Change the subject-matter or the determinations to open or to close a publicly announced meeting under § 2505.7(b).

(3) A gathering for the purpose of receiving briefings from the Corporation's staff or expert consultants, provided that Members of the Board do not engage in deliberations at such sessions that determine or result in the joint conduct or disposition of official Corporation business on such matters.

(4) A gathering for the purpose of engaging in preliminary discussions or exchanges of views that do not effectively predetermine official Corporation action on a particular matter.

(f) *Member* means a current member of the Corporation's Board of Directors.

(g) *Presiding Officer* means the Chairperson or, in the absence of the Chairperson, the Vice Chairperson of the Board of Directors or other member authorized to act in this capacity by the Board.

(h) *Quorum* means the number of Members authorized to conduct Corporation business pursuant to the Board's bylaws.

§ 2505.3 To what extent are meetings of the Board open to the public?

The Board shall conduct meetings, as defined in § 2505.2, in accordance with this part. Except as provided in § 2505.4, the Board's meetings shall be open to the public. The public is invited to attend all meetings of the Board that are open to the public but may not participate in the Board's deliberations at such meetings or record any meeting by means of electronic, photographic, or other device.

§ 2505.4 On what grounds may the Board close a meeting or withhold information?

The Board may close a meeting or withhold information that otherwise would be required to be disclosed under §§ 2505.5, 2505.6 and 2505.7 if it properly determines that an open meeting or disclosure is likely to—

(a) Disclose matters that are—

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy; and

(2) In fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of the Corporation;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute—

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, but only to the extent that the production of such records or information would—

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institution;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Corporation, except that this provision shall not apply in any instance where the

Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action; or

(j) Specifically concerning the Corporation's issuance of a subpoena or the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 2505.5 What are the procedures for closing a meeting, withholding information, and responding to requests by affected persons to close a meeting?

(a) The Board may vote to close a meeting or withhold information pertaining to a meeting. Such action may be taken only when a majority of the entire membership of the Board votes to take such action. A separate vote shall be taken with respect to each action under § 2505.4. The Board may act by taking a single vote with respect to a series of meetings which are proposed to be closed to the public, or with respect to any information concerning a series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series. Each Member's vote under this paragraph shall be recorded and no proxies shall be allowed.

(b) If your interests may be directly affected if a meeting is open you may request that the Board close the meeting on one of the grounds referred to in § 2505.4(e), (f), or (g). You should submit your request to the Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525. The Board shall, upon the request of any one of its members, determine by recorded vote whether to grant your request.

(c) Within one working day of any vote taken pursuant to this section, the Board shall make publicly available a written copy of such vote reflecting the vote of each Member on the question. If a meeting is to be closed to the public, the Board shall, within one working day, make available a full written explanation of its action closing the meeting and a list of all persons expected to attend the meeting and their affiliation.

(d) For each closed meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemption relied upon. A copy of the certification shall be available for public inspection.

(e) For each closed meeting, the Board shall issue a statement setting forth the time, place, and persons present. A copy of such statement shall be available for public inspection.

(f) (1) For each closed meeting, with the exception of a meeting closed pursuant to § 2505.4(h) or (j), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting.

(2) For meetings that are closed pursuant to § 2505.4(h) or (j), the Board may maintain a set of minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any vote. All documents considered in connection with any action shall be identified in such minutes.

(3) The Corporation shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Corporation determines to contain information which may be properly withheld. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Corporation shall maintain the transcript, recording, or minutes for each closed meeting for at least two years or at least one year after the conclusion of any Corporation business acted upon at the meeting, whichever occurs later.

§ 2505.6 What are the procedures for making a public announcement of a meeting?

(a) For each meeting, the Board shall make a public announcement, at least one week before the meeting, of—

- (1) The meeting's time and place;
- (2) The matters to be considered;
- (3) Whether the meeting is to be open or closed; and
- (4) The name and business telephone number of the official designated by the

Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if—

(1) The Board determines by recorded vote that Board business requires that the meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time and posted on the Corporation's home page.

(c) Immediately following a public announcement required by paragraph (a) of this section, the Corporation will submit for publication in the **Federal Register** a notice of the time, place, and subject-matter of the meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.

§ 2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

(a) After there has been a public announcement of a meeting, the time or place of the meeting may be changed only if the Board publicly announces the change at the earliest practicable time. Such a change need not be determined by recorded vote.

(b) After there has been a public announcement of a meeting, the subject-matter of the meeting, or the determination of the Board to open or to close a meeting may be changed only when—

(1) The Board determines, by recorded vote, that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces the change and the vote of each Member at the earliest practicable time.

(c) The deletion of any subject-matter previously announced for a meeting is not a change requiring the approval of the Board under paragraph (b) of this section.

Dated: May 6, 1999.

Thomas L. Bryant,

Acting General Counsel.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF43

Endangered and Threatened Wildlife and Plants; Proposed Rule To Delist the Douglas County Population of Columbian White-Tailed Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We (the U.S. Fish and Wildlife Service) propose to remove the Douglas County population of the Columbian white-tailed deer (*Odocoileus virginianus leucurus*) from the Lists of Endangered and Threatened Wildlife and Plant species (delist), pursuant to the Endangered Species Act of 1973, as amended.

Two populations of this subspecies exist, one in Douglas County, Oregon, (Douglas County population), and the other in Columbia and Clatsop counties, Oregon, and Wahkiakum County, Washington (Columbia River population). The Columbian white-tailed deer was listed as endangered in 1967 under the Endangered Species Preservation Act, and subsequently listed under the Endangered Species Act of 1973 as amended (Act).

The Douglas County population has increased from a low of fewer than 300 deer in 1940 to a current total of about 5,500 deer. The range of this population also has increased. Habitat has been secured and/or protected for the population, enabling it to increase in numbers and range to the point where a change in status is appropriate.

The Douglas County population of Columbian white-tailed deer meets the recovery plan's criteria for delisting. The Columbia River population numbers meet the criteria for downlisting to threatened, but do not presently meet the objectives for secure habitat needed to delist the population. We anticipate another proposed rule in the future to downlist this population.

This proposed rule includes a proposed 5-year post-delisting monitoring plan for the Douglas County population as required for species that are delisted due to recovery. Monitoring will include population trends and productivity.

DATES: We must receive your comments on the Douglas County population of Columbian white-tailed deer delisting by July 12, 1999. Public hearing requests must be received by June 25, 1999.