

time and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Marnette M. Myers of the Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*.

**Par. 2.** Section 1.9300-1 is added to read as follows:

[The text of proposed § 1.9300-1 is the same as the text of § 1.9300-1T published elsewhere in this issue of the **Federal Register**.]

Linda M. Kroening,

*Acting Deputy Commissioner for Services and Enforcement.*

[FR Doc. E6-21030 Filed 12-11-06; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 22

#### RIN 1018-AT94

#### Protection of Bald Eagles; Definition of "Disturb"

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

**ACTION:** Proposed rule; reopening of the comment period; notice of availability; draft environmental assessment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (we or us), reopen the comment period for our proposed rule, and announce the availability of a Draft Environmental Assessment (DEA) evaluating the possible effects of defining "disturb" under the Bald and Golden Eagle Protection Act. We prepared the DEA as part of the National Environmental Policy Act process. The analysis of our preferred alternative is

based on a definition slightly modified from our February, 2006 proposed rulemaking (71 FR 8265, February 16, 2006).

**DATES:** Send your comments on the proposed rule and/or DEA by January 11, 2007.

**ADDRESSES:** You may obtain copies of the proposed rule and DEA by visiting our Web site at <http://www.fws.gov/migratorybirds/>, at the address listed below. You may submit comments and other information, identified by RIN 1018-AT94, by any one of the following methods:

- **Mail:** Robert Blohm, Acting Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MBSP-4107, Arlington, Virginia 22203. Attn: RIN 1018-AT94.

- **Hand Delivery/Courier:** Same address as above.

- **E-mail:** [BaldEagle\\_ProposedRule@fws.gov](mailto:BaldEagle_ProposedRule@fws.gov).

Include "RIN 1018-AT94" in the subject line of the message.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

For detailed instructions on submitting comments, see the "Public Comments Invited" heading at the end of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Eliza Savage, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 703-358-2329, or via e-mail at: [Eliza\\_Savage@fws.gov](mailto:Eliza_Savage@fws.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 16, 2006, we published in the **Federal Register** a proposed rule (71 FR 8265) to define "disturb" under the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d). The proposed rule would add a definition for "disturb" to regulations at 50 CFR 22.3. We proposed this action in anticipation of possible removal (delisting) of the bald eagle in the 48 contiguous States from the List of Endangered and Threatened Wildlife under the Endangered Species Act (16 U.S.C. 1531 *et seq.*). If the bald eagle is delisted, BGEPA will become the primary law protecting bald eagles. The purpose of the proposed rule is to define the term "disturb" in a manner consistent with the language and intent of the BGEPA and thereby provide a predictable standard to guide bald eagle management following delisting.

We opened a public comment period on the proposed rule until May 17, 2006. On May 16, 2006, we published

a notice to extend the comment period until June 19, 2006 (71 FR 28294).

In the February 16, 2006, proposed rule, we stated that we would prepare an environmental assessment pursuant to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) if warranted. We have prepared a draft environmental assessment (DEA), which we now make available for public comment. In the DEA, we considered four alternatives for the definition of "disturb," as applied to bald eagles and golden eagles.

Under Alternative 1, we would not define "disturb." Disturbance would remain a prohibited act under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), without further regulatory interpretation. Under Alternative 2, the definition of "disturb" would be based on immediate effects to individual birds. We would define "disturb" as having a direct effect, as evinced by immediate behavioral response on the part of a bald eagle or a golden eagle, without consideration for secondary, biologically significant events. Alternative 3 is to define "disturb" to encompass effects to individual birds while requiring a biological impact. Under this alternative, we would define "disturb" as "to agitate or bother a bald or golden eagle to the degree that causes (i) injury or death to an eagle (including chicks or eggs) due to interference with normal breeding, feeding, or sheltering behavior, or (ii) nest abandonment." This is the preferred alternative. It has been modified from our February, 2006 proposed rulemaking for purposes of clarification. Alternative 4 is to define disturb such that the disturbing action must be intentionally directed at eagles and cause injury or death.

##### Public Comments

When submitting comments, please include your name and return address, and identify your comments as pertaining to RIN 1018-AT94. Submit comments by only one method; do not send duplicate submissions. We prefer that comments be submitted electronically. To facilitate our compilation of the Administrative Record for this action, if you send written comments, you must submit them on 8½ inch by 11 inch paper. Addresses are listed in the **ADDRESSES** section near the beginning of this document.

Our practice is to make comments, including names and addresses of respondents, available for public review by appointment during normal business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record,

which we will honor to the extent allowable by law. Comments from organizations and businesses and from individuals officially representing organizations or businesses will be

available for public inspection in their entirety. If you wish to view the files, please call 703-358-1714 to make an appointment.

Dated: December 1, 2006.

**David Verhey,**

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

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