

required to use the three factor formula to allocate residual home office expenses to the segments. To update the thresholds to reflect the changed economic and business environment since they were initially established, the parties took different approaches to revising the thresholds. One party advocated that the operating revenue thresholds be raised by 400 percent to reflect the changes in the consumer price index (CPI) from 1973 to 2003. The other party urged the Board to conduct a Staff Study, similar to that performed by the Board to establish the current thresholds. On February 13, 2008, the CAS Board published a Staff Discussion Paper (SDP) on the Allocation of Home Office Expenses to Segments as the first step in its review to determine whether the current CAS 403 thresholds should be revised (73 FR 8260).

C. Public Comments

Three respondents submitted comments in response to the SDP. Two respondents supported a comprehensive study to determine the appropriate operating revenue thresholds at 48 CFR 9904.403–40(c)(2) for the application of the three factor formula described at 48 CFR 9904.403–50(c)(1), while another respondent supported adjusting the current thresholds by the change in the CPI. The arguments for the comprehensive study included the development of objective data to understand the impact of adjusting the operating revenue thresholds upon contractors subject to the three factor formula, and the possibility to measure the relationship of residual expenses to operating revenue for a representative contractor population. An impediment to conducting the comprehensive study is the time and effort required to compile and evaluate the data. In support of adjusting the current operating revenue thresholds by the change in the CPI, a respondent argued that the CPI is readily available and an independent, objective measure, while the Staff Study will require significant time and effort to accomplish without any certainty that the results would materially differ or be demonstrably superior to a CPI indexing approach. The other respondents noted that increasing the current thresholds by the change in the CPI was arbitrary and would risk exposing the acquisition community to the same underlying conditions which caused the CAS Board to promulgate CAS 403 originally.

Response: The CAS Board noted the arguments provided by the respondents.

D. Conclusion

After reviewing the comments and regulatory history of CAS 403, the CAS Board believes that it would be prudent to discontinue the review of the CAS 403 three factor formula operating revenue thresholds at this time. No evidence has been presented to the Board that the current thresholds are creating an inequity, or that adjusting the thresholds would substantially change the outcome, *i.e.*, the pool of contractors required to use the three factor formula to allocate residual home office expenses to the segments would not change significantly. The Board will revisit the issue in the future if circumstances warrant doing so.

Daniel I. Gordon,

Chair, Cost Accounting Standards Board.

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards: Accounting for Insurance Costs

AGENCY: Cost Accounting Standards Board (Board), Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB).

ACTION: Notice of Discontinuation of Rulemaking.

SUMMARY: The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards (CAS) Board, is providing public notification of the decision to discontinue the rulemaking on the development of an amendment to Cost Accounting Standard (CAS) 416 regarding the use of the term “catastrophic losses” at 48 CFR 9904.416–50(b)(1).

FOR FURTHER INFORMATION CONTACT: Eric Shipley, Project Director, Cost Accounting Standards Board (telephone: 410–786–6381).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

Rules, Regulations and Standards issued by the Cost Accounting Standards Board (Board) are codified at 48 CFR chapter 99. The Office of Federal Procurement Policy Act, at 41 U.S.C. 1502(c) [formerly, 41 U.S.C. 422(g)], requires the Board, prior to the establishment of any new or revised Cost Accounting Standard, to complete

a prescribed rulemaking process. The process generally consists of four steps.

The Board has already completed step one of the statutory rulemaking process, which requires the Board to consult with interested persons concerning the advantages, disadvantages, and improvements anticipated in the pricing and administration of government contracts as a result of the adoption of a proposed Standard. This notice announces the discontinuation of the rulemaking after completing step one of the four-step process in accordance with the requirements at 41 U.S.C. 1502(c).

B. Background and Summary

Prior Promulgations

In a letter dated September 26, 2000, the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics requested that the Board consider whether the word “catastrophic” in the term “catastrophic losses” should be replaced with a term such as “significant” or “very large” in 9904.416–50(b)(1) in order to (a) more closely align the Standard with what was intended by its original promulgators and (b) eliminate any confusion between 9904.416–50(b)(1) and FAR 31.205–19, Insurance cost. At its May 13, 2005 meeting, the CAS Board directed the staff to begin work on a Staff Discussion Paper (SDP). On January 26, 2006, the Board published the SDP, “Accounting for Insurance Costs” (71 FR 4335) which in particular, addressed the use of the term “catastrophic losses” in CAS 416.

Public Comments

The Board received public comments from two respondents to the SDP. One respondent was concerned whether the term “catastrophic losses” is intended to create a classification of event characterized by rare occurrence and significant loss, or whether it is only the magnitude of a given loss that is defining as “catastrophic.” This respondent believed that self-insurance should be an acceptable method to cover catastrophic losses, such as earthquakes and wind damage, as well as “other significant and non-recurring losses such as unusually large medical claims, major fires, or other losses that are significantly higher than might normally be expected.” A primary concern was that “the FAR, however, does not definitively address their allowability and CAS is unclear how costs for such significant actual self insured losses are to be measured and reflected in projected annual average losses.”

The other respondent recommended that the CAS Board take no further action and close this case. This respondent referred to the observation in the SDP that FAR 31.205-19 and CAS 416 both use the word “catastrophic” to refer to infrequent and unpredictable events involving major losses. The respondent believed there is no conflict between allocability under CAS 416 and allowability under FAR 31.205-19(e), explaining his belief as follows:

CAS 416 controls the measurement and allocation of the cost of infrequent and difficult to predict events. The FAR at 31.205-19(e) and 28.308 disallow the cost unless the Government accepts the risk and associated cost of such infrequent and difficult to predict events.

Neither respondent provided any data or other information describing disputes or other problems arising from the use of the term “catastrophic losses” in 9904.416-50(b)(1).

Response

In deciding to discontinue rulemaking on this case, the Board reviewed the history of the development of the CAS and the FAR provisions on the term “catastrophic losses.” The CAS Board was clearly addressing the allocation of large losses from infrequent and unpredictable events in paragraph (6) of the preamble to CAS 416 (43 FR 42239, September 20, 1978), which stated:

Obviously, a catastrophic loss would be one which would be very large in relation to the average loss per occurrence for that exposure, and losses of that magnitude would be expected to occur infrequently.

9904.416-50(b)(1) treats “catastrophic losses” as a contingency and recognizes the cost of “catastrophic losses” separately from the projected average loss, or actual loss experience if used. This treatment is consistent with general insurance practices that exclude catastrophic losses from the insurable risk covered by an insurance policy. As part of its cost accounting practices the contractor establishes the threshold for reinsuring a portion of the catastrophic loss which might occur at a segment. The Board explained in the preamble that the reinsurance arrangement can reflect the relative size and activities of the segment:

The Board believes that what constitutes “catastrophic loss” depends on the individual circumstances of each contractor. The determination should be made at the time the internal loss-sharing policy is established and should be revised, as necessary, for changes in future circumstances.

Notwithstanding the description of the issue in the SDP, there does not appear

to be a substantive difference between the implied definition of the term “catastrophic losses” in 9904.416-50(b)(1) and FAR 31.205-19. The Board believes that the deliberations and actions of the original Board adequately address the narrow question of how the term “catastrophic losses” is used in 9904.416-50(b)(1). Questions of allowability under FAR 31.205-19 are beyond the purview of the Board.

Conclusions

After reviewing the comments and the history of the CAS rules, the Board believes use of the term “catastrophic losses” in CAS 416 is consistent with the intent of its original promulgators that a “catastrophic loss” is “very large in relation to the average loss per occurrence for that exposure,” is “expected to occur infrequently,” and is dependent “on the individual circumstances of each contractor.” The original promulgators intended the definition of what constitutes a “catastrophic loss” be part of the contractor’s cost accounting practice where the determination of what constitutes a catastrophic loss “should be made at the time the internal loss-sharing policy is established and should be revised, as necessary, for changes in future circumstances.” (See Preamble to CAS 416 (43 FR 42239, Sept. 20, 1978).)

Although CAS 416 has been in effect for over 30 years, the respondents provided no data on problems or disputes related to the meaning of the term “catastrophic losses.” At this time, the Board believes that no amendments to CAS 416 regarding the use of the term “catastrophic losses” are necessary and is hereby discontinuing further rulemaking in this case.

Daniel I. Gordon,

Chair, Cost Accounting Standards Board.

[FR Doc. 2011-21898 Filed 8-25-11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R3-ES-2011-0029 ; 92220-1113-000; ABC Code: C6]

RIN 1018-AX57

Endangered and Threatened Wildlife and Plants; Revising the List of Endangered and Threatened Wildlife for the Gray Wolf (*Canis lupus*) in the Eastern United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; correction and reopening of comment period.

SUMMARY: On May 5, 2011, we, the U.S. Fish and Wildlife Service (Service), published a proposed rule to reevaluate the listing of the Minnesota population of gray wolves (*Canis lupus*) and revise the listing to conform to current statutory and policy requirements (76 FR 26086). In that proposed rule, we recognized recent taxonomic information indicating that the gray wolf subspecies *Canis lupus lycaon* should be elevated to the full species *C. lycaon*. We proposed to identify the Minnesota population as a Western Great Lakes (WGL) Distinct Population Segment (DPS) of the gray wolf and to remove this DPS from the List of Endangered and Threatened Wildlife. We also proposed to revise the range of the gray wolf (the species *C. lupus*) by removing all or parts of 29 eastern States, which, based in part on recognition of *C. lycaon*, were not part of the historical range of the gray wolf.

We announce the reopening of the comment period for our May 5, 2011, proposed rule to provide for public review and comment of additional information regarding our recognition of *C. lycaon* as a separate species. We seek information, data, and comments from the public with respect to new information relevant to the taxonomy of wolves in North America. In addition we are making a correction to our May 5, 2011, proposed rule and notifying the public that we are considering concluding that proposed rule with two or more final rules.

DATES: We request that comments on this proposal be submitted by the close of business on September 26, 2011. Any comments that we receive after the closing date may not be considered in the final decision on this action.

ADDRESSES: *Document availability:* See **SUPPLEMENTARY INFORMATION** for information on how to access the new report described in this revised proposed rule.

Comment submission: You may submit comments by one of the following methods:

Electronically: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Enter Keyword or ID box, enter FWS-R3-ES-2011-0029, which is the docket number for this rulemaking. Then, in the Search panel at the top of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on “Submit a Comment.”

By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments