

flight deck door and applicable corrective actions by doing all of the actions in the Accomplishment Instructions of C&D Aerospace Alert Service Bulletin B221001–52A02, dated November 5, 2002; except where the service bulletin specifies installing a placard, this AD does not require that action. Any applicable corrective actions must be done before further flight.

**Note 2:** For the purposes of this AD, a general visual inspection is “a visual examination of a interior or exterior area, installation or assembly to detect obvious damage, failure or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normal available lighting conditions such as daylight, hangar lighting, flashlight or drop-light and may require removal or opening of access panels or doors. Stands, ladders or platforms may be required to gain proximity to the area being checked.”

#### *Parts Installation*

(n) As of July 19, 2005, no person may install a reinforced flight deck door under any STC listed in Table 1 of this AD, on any airplane, unless all applicable requirements of this AD have been done on the door.

#### **New Requirements of This AD**

##### *Inspection and Corrective Actions if Necessary for Certain Airplanes*

(o) For Boeing Model 737–300, –400, and –500 series airplanes equipped with flight deck door assembly P/N B221001: Within 18 months after the effective date of this AD, do the actions specified in paragraph (m)(2) of this AD.

#### **Alternative Methods of Compliance (AMOCs)**

(p)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) AMOCs approved previously in accordance with AD 2005–12–05 are approved as AMOCs for the corresponding provisions of this AD.

Issued in Renton, Washington, on December 26, 2006.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7–708 Filed 1–18–07; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 38**

**RIN 2900–AM53**

#### **Headstone and Marker Application Process**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations concerning headstones and markers furnished by the Government through the National Cemetery Administration (NCA) headstone and marker program. The proposed amendments are necessary to update ordering procedures for headstones and markers and to provide instructions for requesting the addition of a new emblem of belief to VA's list of emblems of belief available for inscription on Government-furnished headstones and markers. The proposed amendments would also establish criteria to guide VA's decisions on requests to add new emblems of belief to the list.

**DATES:** Comments must be received by VA on or before March 20, 2007.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AM53—Headstone and Marker Application Process.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Lindee Lenox, Director, Memorial Programs Service, Office of Field Programs, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 501–3100 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** NCA administers VA's memorial benefits programs, which include providing for

the interment of eligible deceased veterans, their spouses, and other eligible dependents in national cemeteries. Currently, NCA maintains more than 2.7 million gravesites at 124 national cemeteries in 39 States and Puerto Rico, as well as 33 soldiers' lots and monument sites. Congress has authorized VA to promulgate all necessary rules and regulations to ensure that these cemeteries are maintained as “national shrines as a tribute to our gallant dead” and that graves are appropriately marked. 38 U.S.C. 2403(b) and (c), 2404(a) and (c).

Section 2306 of title 38, United States Code, provides that VA shall furnish headstones and markers for the graves of eligible veterans and their eligible family members. Under 38 U.S.C. 2404(c)(1), each grave in a national cemetery “shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Secretary [of Veterans Affairs] shall by regulation prescribe.” VA's current regulations describe the process for ordering a headstone or marker and note that the types of Government-furnished headstones, markers, and inscriptions “will be in accordance with policies approved by the Secretary [of Veterans Affairs].” See 38 CFR 38.630(a), 38.632. They also provide that inscriptions “will be in accordance with the policies and specifications of the Under Secretary for Memorial Affairs.” 38 CFR 38.630(b).

In the National Cemeteries Act of 1973, Pub. L. 93–43, Congress created the National Cemetery System by transferring certain national cemeteries and the headstone and marker program from the Department of the Army to VA's predecessor, the Veterans Administration. At that time, the Department of the Army considered emblems of belief to be an appropriate optional inscription for Government-furnished headstones and markers. VA continued that policy under its management of the program but did not promulgate regulations specifying emblems of belief as an approved type of inscription.

In this rule, VA proposes to update ordering procedures for headstones and markers and to clarify its policy for requesting the addition of a new emblem of belief to VA's list of emblems available for inscription on Government-furnished headstones and markers.

Under current procedures, headstones and markers are ordered automatically from NCA Memorial Programs Service (MPS) during the process of arranging

an interment or memorialization of an eligible veteran or family member in a national cemetery or a State veterans cemetery that uses the NCA electronic ordering system. The cemetery staff enters the information received from the applicant directly into the NCA electronic ordering system, and no further application is necessary. When burial or memorialization is in a private cemetery or other cemetery that does not use the NCA electronic ordering system, the applicant must complete VA Form 40–1330, Application for Standard Government Headstone or Marker. The form, which may be submitted to the Memorial Programs Service by mail or by fax, provides general information about the headstone and marker benefit, to include information about the types of headstones or markers, eligibility, required identifying information, the application process, inscriptions, required signatures, and available assistance for completing the application.

When ordering a Government-furnished headstone or marker, an applicant may request that VA also inscribe an emblem of belief, that represents the belief system of the decedent. The emblems of belief available for inscription on Government-furnished headstones and markers are listed at <http://www.cem.va.gov/cehm/hm/hmemb.asp>. Copies of this list are also available upon toll free telephone request to the Memorial Programs Service Applicant Assistance Unit at 1–800–697–6947. VA does not provide inscription of emblems identifying the decedent's affiliation with social, cultural, ethnic, fraternal, trade, professional, or military groups.

On occasion, an applicant will request an emblem of belief that is not currently available for inscription. Proposed § 38.632(g) would establish criteria for evaluating a request to add a new emblem of belief to the list currently available for inscription. These criteria are necessary to ensure that: there is an immediate need to inscribe the proposed new emblem of belief on a new, first headstone or marker based on the death of an eligible individual, unless good cause is shown for an exception; the emblem meets the technical production requirements in proposed § 38.632(e)(7); and the affiliated organization does not promote or engage in activity that is illegal or contrary to clear public policy. These criteria also will ensure that the emblem is endorsed by a recognized authority or governing body of the affiliated organization representing a genuine and non-frivolous belief system and that the affiliated organization provides all of

the information that VA needs to determine whether an emblem should be made available for headstone and marker inscriptions.

VA proposes to define “belief system” in this rule broadly enough to accommodate religious beliefs held by groups of persons without discriminating against belief systems that appear to be secular but assume the functional significance of religious beliefs in the lives of groups of persons. In any event, VA would make no attempt to distinguish among the doctrines of various churches or other groups holding a system of belief, provided the beliefs are genuine and not frivolous, and the churches or other groups do not promote or engage in any activity that is illegal or contrary to clear public policy.

While VA has never addressed recognition of belief systems in its regulations, we note that this issue arises in other Government contexts. For example, it is Department of Defense (DoD) policy to accommodate the free exercise of religion in the military as guaranteed by the Constitution of the United States, provided that it does not interfere with the military mission. See DoD Directive 1300.17 (2003). To facilitate this accommodation, DoD appoints military personnel for duty within the Chaplain Corps of each of the service departments. Chaplains must be endorsed by organizations that hold exempt status under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) as a church for Federal tax purposes. Thus, an Internal Revenue Service (IRS) determination that an entity is exempt under section 501(c)(3) and classified as a church for purposes of sections 509(a)(1) and 170(b)(1)(A)(i) of the Internal Revenue Code (26 U.S.C. 509(a)(1) and 170(b)(1)(A)(i)) is generally sufficient for purposes of appointing military chaplains. See DoD Directive 1304.19 (2004); DoD Instruction 1304.28 (2004).

Certain characteristics generally are attributed to churches for Federal tax purposes. These attributes of a church have been identified by the IRS and by court decisions. They include: distinct legal existence; recognized creed and form of worship; definite and distinct ecclesiastical government; formal code of doctrine and discipline; distinct religious history; membership not associated with any other church or denomination; organization of ordained ministers; ordained ministers selected after completing prescribed courses of study; literature of its own; established places of worship; regular congregations; regular religious services; schools for the religious instruction of

the young; schools for the preparation of its ministers. The IRS generally uses a combination of these characteristics, together with other facts and circumstances, to determine whether an organization is considered a church for federal tax purposes. The IRS makes no attempt to evaluate the content of whatever doctrine a particular organization claims is religious, provided the particular beliefs of the organization are truly and sincerely held by those professing them and the practices and rites associated with the organization's belief or creed are not illegal or contrary to clearly defined public policy. See IRS Publication 1828, Tax Guide for Churches and Religious Organizations.

In our view, the IRS criteria for determining whether an organization is a church for Federal income tax purposes may be helpful in determining whether an emblem of belief represents a genuine and not frivolous belief system and should be available for a VA Government-furnished headstone and marker inscription. If the IRS has determined that a group holding a particular belief system is a church under the Internal Revenue Code, we believe that determination should be one of the factors that VA considers in reviewing requests to add a new emblem of belief to the current list of emblems available for inscription on Government-furnished headstones and markers. Accordingly, in § 38.632(g)(2), we propose to state that VA will consider whether the IRS has issued a determination letter to an affiliated organization recognizing the organization as exempt under section 501(c)(3) of the Internal Revenue Code and classifying it as a church for purposes of sections 509(a)(1) and 170(b)(1)(A)(i) of the Code. We also propose to consider whether an affiliated organization that has not sought an IRS determination of its status under section 501(c)(3) appears to have the characteristics generally attributed to churches under IRS guidelines. Under proposed § 38.632(e), affiliated organizations will be required to address these factors and provide supporting documentation when endorsing an applicant's request for a new emblem of belief.

Using the evaluation criteria proposed in § 38.632(g) will ensure that available emblems represent only genuine and not frivolous belief systems and that the practices and rites associated with the belief system are not illegal or contrary to clear public policy. Establishing procedures and criteria for the inscription of emblems in this manner will help ensure that VA effectively

administers the headstone and marker program, efficiently produces headstones and markers upon request, and fulfills its obligation to maintain VA's cemeteries as national shrines. VA intends to preclude the addition of any emblem that would have an adverse impact on the dignity and solemnity of cemeteries honoring those who served the Nation.

Under proposed § 38.632, the process for requesting a new emblem of belief varies based on the place of burial or memorialization. When burial or memorialization is in a Federally-administered cemetery or a State veterans cemetery that uses the NCA electronic ordering system, an applicant must submit a written request to the cemetery director for a headstone or marker bearing a new emblem of belief. The applicant must also arrange for an affiliated organization to endorse the proposed new emblem of belief as representative of the belief system and to submit the supplemental information specified in proposed § 38.632(e). When burial or memorialization is in a private cemetery or other cemetery that does not use the NCA electronic ordering system, the applicant must request a new emblem of belief in the Remarks section of VA Form 40-1330. This applicant must also arrange for an affiliated organization to endorse the proposed new emblem of belief as representative of the belief system and to submit the supplemental information specified in proposed § 38.632(e).

VA would only consider requests for the addition of a new emblem of belief on a new, first, Government-furnished headstone or marker for a deceased eligible veteran or family member, unless good cause is shown for an exception. With regard to the good-cause exception, for example, if a request for a new emblem of belief had been denied under previous VA procedures and a Government-furnished headstone or marker had been issued without an inscribed emblem, VA would consider a request for the previously denied emblem under the procedures and requirements of this proposed rule.

Requests for new emblems of belief would only be accepted from the decedent's next-of-kin or personal representative. VA would not accept requests from organizations independently seeking the addition of a new emblem of belief.

If a new emblem of belief request is received for a deceased eligible individual interred or memorialized in a Federally-administered cemetery or a State veterans cemetery, VA would furnish a headstone or marker without

an emblem of belief to mark the grave while the request is being processed. If the requested emblem of belief is subsequently added to VA's list of emblems, VA would furnish a replacement headstone or marker that bears the new emblem of belief.

If a request for inscription of a new emblem of belief is received for a deceased eligible veteran interred or memorialized in a private cemetery, the applicant would be able to request that VA furnish a headstone or marker without an emblem to mark the grave while the request is being processed (with the option to replace the headstone or marker if the emblem is made available) or may choose to delay delivery of a headstone or marker to mark the grave until a decision is made. All costs for installation of a Government-furnished headstone or marker in a private cemetery are the responsibility of the applicant. Proper disposal of a replaced headstone or marker is also required to ensure that no portion of the inscription is legible and that the replaced headstone or marker cannot be used for private, personal, or commercial activities.

#### **Paperwork Reduction Act**

Although this proposed rule will impose a new information collection on affiliated organizations that endorse individual requests to add a new emblem of belief to VA's list of emblems available for inscription on Government-furnished headstones and markers, VA has concluded that this new requirement will affect fewer than ten affiliated organizations within any 12-month period. Under 5 CFR 1320.3(c), requests that do not impose a collection of information on ten or more entities within any 12-month period do not constitute a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521). Therefore, this proposed rule contains no provisions constituting a new collection of information. The Office of Management and Budget (OMB) previously approved all collections of information referenced in this proposed rule under control number 2900-0222. This rule does not change those collections.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The

Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or 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; (2) Create a serious inconsistency or interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The rule may have an insignificant economic impact on the few affiliated organizations that endorse a new emblem of belief and provide supplemental information in support of an individual's request. VA anticipates that fewer than 10 affiliated organizations will be affected by this collection of information in any one year. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and

tribal governments, or on the private sector.

### Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance program numbers and titles for this proposed rule are 64.201, National Cemeteries; and 64.202, Procurement of Headstones and Markers and/or Presidential Memorial Certificates.

### List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Veterans.

Approved: November 7, 2006.

**Gordon H. Mansfield,**  
Deputy Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 38 to read as follows:

### PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

1. The authority citation for part 38 continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

2. Revise § 38.632 to read as follows:

#### § 38.632 Headstone and marker application process.

(a) *General.* This section contains procedures for ordering a Government-furnished headstone or marker through the National Cemetery Administration (NCA) headstone and marker application process for burial or memorialization of deceased eligible veterans and eligible family members. It also contains procedures for requesting the addition of a new emblem to VA's list of emblems of belief available for inscription on Government-furnished headstones and markers.

(b) *Definitions.* For purposes of this section:

(1) *Affiliated organization* refers to an organization that practices the system of beliefs that were held by a deceased eligible individual and that has a religious purpose. The term "religious purpose" includes a purpose that appears to be secular, but which nevertheless assumes the functional significance of a religious purpose. This term does not refer to any organization representing or affiliated with social, cultural, ethnic, fraternal, trade, professional, or military groups.

(2) *Applicant* refers to the next of kin or personal representative of the deceased eligible individual who applies for a Government-furnished headstone or marker.

(3) *Belief system* refers to a genuine and non-frivolous group of religious opinions, doctrines, and/or principles believed or accepted as true by a group of persons. This term includes a belief system that appears to be secular, but which nevertheless assumes the functional significance of a religion in the lives of a group of persons.

(4) *Emblem of belief* refers to an emblem that represents the belief system of the decedent. It does not include social, cultural, ethnic, fraternal, trade, professional, or military emblems, or any emblem that is obscene or would have an adverse impact on the dignity and solemnity of cemeteries honoring those who served the Nation.

(5) *Federally-administered cemetery* refers to a VA National Cemetery, Arlington National Cemetery, the Soldier's and Airmen's Home National Cemetery, a military post or base cemetery of the Armed Forces, a service department academy cemetery, and a Department of the Interior National Cemetery.

(6) *Headstones and markers* refer to headstones or markers that are

furnished by the Government to mark the grave or memorialize a deceased eligible veteran or eligible family member.

(7) *State veterans cemetery* refers to a cemetery operated and maintained by a State or territory for the benefit of deceased eligible veterans or eligible family members.

(c) *Headstone and marker application process.* (1) Headstones or markers will be ordered automatically during the process of arranging burial or memorialization for a deceased eligible veteran or eligible family member in a national cemetery or a State veterans cemetery that uses the NCA electronic ordering system. Cemetery staff will order a Government-furnished headstone or marker by entering information received from the applicant directly into the NCA electronic ordering system. No further application is required to order a Government-furnished headstone or marker when the cemetery uses the NCA electronic ordering system.

(2) Submission of a completed VA Form 40-1330 (Application for Standard Government Headstone or Marker) is required when a request for a Government-furnished headstone or marker is not made using the NCA electronic ordering system. VA Form 40-1330 provides general information about Government-furnished headstones and markers available to mark the graves of deceased eligible veterans or eligible family members. There is a space in the Remarks section of VA Form 40-1330 for applicants to clarify information or make special requests.

(d) *Emblem of belief application process.* When an applicant requests the addition of a new emblem of belief for inscription on a Government-furnished headstone or marker for a deceased eligible individual, the following procedures will apply:

If the burial or memorialization of an eligible individual is in a:	The applicant must:
(1) Federally-administered cemetery or a State veterans cemetery that uses the NCA electronic ordering system.	(i) Submit a written request to the director of the cemetery where burial is requested indicating that a new emblem of belief is desired for inscription on a Government-furnished headstone or marker; and (ii) Arrange for an affiliated organization, as defined in paragraph (b)(1) of § 38.632, to provide the supplemental information specified in paragraph (e) of § 38.632 to the NCA Director of Memorial Programs Service.
(2) Private cemetery (deceased eligible veterans only), Federally-administered cemetery or a State veterans cemetery that does not use the NCA electronic ordering system.	(i) Submit a completed VA Form 40-1330 to the NCA Director of Memorial Programs Service, indicating in the REMARKS section of the form that a new emblem of belief is desired; and (ii) Arrange for an affiliated organization, as defined in paragraph (b)(1) of § 38.632, to provide the supplemental information specified in paragraph (e) of § 38.632 to the NCA Director of Memorial Programs Service.

(e) *Supplemental information from the affiliated organization.* The supplemental information provided by

the affiliated organization must identify the deceased eligible individual for whom a request has been made to add

a new emblem to VA's list of emblems of belief available for inscription on Government-furnished headstones and

markers. The supplemental information submitted by an affiliated organization also must include the following:

(1) A signed letter from a recognized authority, board of directors or equivalent governing body, for the affiliated organization certifying that:

(i) The proposed new emblem of belief is widely used and recognized as the symbol of a distinct belief system; and

(ii) The affiliated organization endorses adding the emblem to VA's list of emblems of belief available for inscription on Government-furnished headstones and markers.

(2) A copy of an IRS determination letter, if available, recognizing the affiliated organization as exempt under section 501(c)(3) of the Internal Revenue Code and classifying it as a church under sections 509(a)(1) and 170(b)(1)(A)(i) of the Code.

(3) If the organization has not applied for tax-exempt status, a statement explaining the extent to which the organization otherwise meets the characteristics generally attributed to a church by the Internal Revenue Service (IRS), as described in paragraph (g)(10)(ii) of this section.

(4) A concise written description of the main tenets of the affiliated organization's belief system.

(5) Information about the structure of the affiliated organization, including the locations of congregations or other religious membership groups that comprise the affiliated organization.

(6) A statement certifying that the affiliated organization does not promote or engage in any activity that is illegal or contrary to clear public policy.

(7) A three-inch diameter digitized black and white representation of the requested emblem that is free of copyright restrictions and can be reproduced in a production-line environment in stone or bronze without loss of graphic quality.

(f) *Incomplete supplemental information provided by an affiliated organization.* If VA determines that a request to add a new emblem of belief is incomplete, VA will notify the applicant in writing of any missing information and that he or she has 60 days to submit such information or no further action will be taken. If the applicant does not submit all required information or demonstrate that he or she has good cause for failing to provide the information within 60 days of the notice, then the applicant will be notified in writing that the request for a new emblem of belief will be deemed withdrawn and no further action will be taken.

(g) *Evaluation criteria.* The Director of NCA's Office of Field Programs shall forward to the Under Secretary for Memorial Affairs the request, any pertinent records or information, and the Director's recommendation after evaluating whether:

(1) The emblem represents a belief system, as defined in paragraph (b)(3) of this section.

(2) The emblem meets the definition of an emblem of belief, as defined in paragraph (b)(4) of this section.

(3) There is an immediate need to inscribe the emblem on a new, first, Government-furnished headstone or marker for a deceased eligible individual, unless good cause is shown for an exception.

(4) The emblem is endorsed by an affiliated organization, as defined in paragraph (b)(1) of this section.

(5) The affiliated organization endorsing the emblem does not promote or engage in any activity that is illegal or contrary to clear public policy.

(6) The letter provided under paragraph (e)(1) of this section is from a recognized authority, board of directors, or equivalent governing body of the belief system represented by the emblem.

(7) The emblem meets the technical requirements for inscription specified in paragraph (e)(7) of this section.

(8) The affiliated organization provided all of the supplemental information listed in paragraph (e) of this section.

(9)(i) The IRS has determined that the affiliated organization is exempt under section 501(c)(3) of the Internal Revenue Code and is classified as a church under sections 509(a)(1) and 170(b)(1)(A)(i) of the Code; and,

(ii) If the affiliated organization has not applied to the IRS for recognition of tax-exempt status, whether the organization has characteristics generally attributed to a church, such as: a distinct legal existence, a recognized creed and form of worship, a definite and distinct ecclesiastical government, a formal code of doctrine and discipline, a distinct religious history, a membership not associated with any other church or denomination, an organization of ordained ministers, ordained ministers selected after completing prescribed courses of study, a literature of its own, established places of worship, regular congregations, regular religious services, schools for the religious instruction of the young, and schools for the preparation of its ministers.

(h) *Decision by the Under Secretary for Memorial Affairs.* A request to add a new emblem to VA's list of emblems

of belief available for inscription on Government-furnished headstones and markers shall be granted if the Under Secretary for Memorial Affairs finds, by a preponderance of the evidence, that the request meets each of the criteria in paragraphs (g)(1) through (7) of this section. In making that determination, the Under Secretary shall consider the Director of NCA's Office of Field Programs' recommendation and may consider information from any source. The Director of Field Programs will provide the individual who made the request written notice of the decision of the Under Secretary for Memorial Affairs. The decision of the Under Secretary for Memorial Affairs is final. (Authority: 38 U.S.C. 501, 2404)

[FR Doc. E7-644 Filed 1-18-07; 8:45 am]

BILLING CODE 8320-01-P

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1986-0005; FRL-8271-1]

### National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; notice of intent to delete the Avenue E Groundwater Contamination Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency, (EPA) Region V is issuing a notice of intent to delete the Avenue E Groundwater Contamination Superfund Site (Site) located in Traverse City, Michigan, from the National Priorities List (NPL) and requests public comments on this notice of intent to delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Avenue E