

- (5) Participation fees for retail and trade exhibitions and shows;
- (6) The cost of educational training;
- (7) The cost of food service promotions;

(8) Salaries associated with contractors and employees engaged in the above activities; and

(9) Capital costs relating to expanding production of modified wheat gluten or modified wheat starch for value-added products.

(b) Costs that may not be paid using CCC funds are:

(1) Fees paid for helping to prepare the application for program benefits;

(2) Political fund raising activities; and

(3) Costs that CCC determines are not consistent with the intent of the program.

#### **§ 1482.7 Reports.**

(a) A producer submitting an application must maintain accurate records and accounts that will document that all eligibility requirements under this Part and other requirements as may be determined by CCC are met. Such records and accounts must be retained for three years after the date of payment to the wheat gluten or wheat starch producer under this program. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, U.S. Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received plus interest thereon, as determined by CCC.

(b) Producers participating in the Value-Added Wheat Gluten and Wheat Starch Product Market Development Program must submit a quarterly report listing completion of activities and costs incurred under the program.

(c) Participating producers must also submit a project performance report 60 days after the end of the first year of the program and 60 days after the end of the second year of the program. The report should explain the activities undertaken to adjust to import competition that were included in the Agreement. CCC will review the report following the first program year. If a participating producer has not made significant progress in completing the stated activities in the first program year as determined by CCC, CCC may cancel the producer's eligibility for the second program year, and CCC may require the producer to refund with interest all or some of the funds received from CCC. If a participating producer has not made significant progress in completing the

stated activities in the second program year as determined by CCC, CCC may require the producer to refund with interest some or all of the funds received from CCC in the second year of the program.

#### **§ 1482.8 Payment.**

(a) The total amount of CCC funds available to eligible producers for the first year of this program is \$27 million and the total amount available for the second (final) year of this program is \$13 million.

(b) The maximum payment rate to an applicant will be based on an applicant's average annual production of vital wheat gluten from July 1, 1998 through June 30, 2000 relative to the total average annual U.S. production of vital wheat gluten of all eligible applicants.

(c) After receipt and approval of an eligible producer's application and proposal, CCC will issue payment for the first program year to the applicant. Upon satisfactory completion of the activities included in the producer's Agreement for the first program year, as determined by CCC after receipt of the report required in § 1482.7 (c), CCC will issue payment for the second program year to the producer.

#### **§ 1482.9 Debarment and suspension.**

The Government-wide debarment and suspension (Nonprocurement) regulations and Government Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, Subparts A through E, apply to this Part.

#### **§ 1482.10 Misrepresentation and scheme or device.**

(a) A producer shall be ineligible to receive payments under this program if CCC determines the producer:

(1) Adopted any scheme or device which tends to defeat the purpose of the program in this Part;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this Part to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the producer's actions, shall be refunded with interest together with such other sums as may become due, plus damages as may be determined by CCC.

(c) Interest charged under this part shall accrue at the rate of interest which the United States Treasury charges CCC for funds. Such interest shall accrue from the date CCC made such funds available to the date of repayment or the date interest increases as determined in accordance with applicable regulations.

(d) CCC may waive the accrual of interest and/or damages if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

(e) Any producer or person engaged in an act prohibited by this Part and any producer or person receiving payment under this Part, in part because of such act, shall be jointly and individually liable for any refund due under this Part and for related charges.

(f) The remedies provided in this Part shall be in addition to other civil, criminal, or administrative remedies which may apply.

(g) Other limitations may apply.

#### **§ 1482.11 Appeals.**

(a) Any producer who is subject to an adverse determination made under this Part shall have a right to appeal the determination by filing a written request with the Deputy Administrator of the Farm Service Agency at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, DC 20250-0550.

(b) Any producer who believes that it has been adversely affected by a determination under this Part must seek review with the Deputy Administrator within thirty days of such determination, unless provided with notice by CCC which provides a different time for appealing.

(c) Any producer who believes that it has been adversely affected by a determination by the Agency must seek review with the Deputy Administrator before any other review may be requested by a court of competent jurisdiction.

#### **§ 1482.12 Expiration.**

This program will expire June 5, 2003. The program shall not be extended.

Signed at Washington, D.C. on June 4, 2001.

**J.B. Penn,**

*President, Commodity Credit Corporation.*

[FR Doc. 01-14431 Filed 6-5-01; 10:16 am]

BILLING CODE 3410-10-P

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## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 115**

**RIN 3245-AE74**

#### **Surety Bond Guarantee Program**

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Direct final rule.

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**SUMMARY:** SBA revises our Surety Bond Guarantee Program rules to conform them to two recently-enacted statutory changes. First, the law increases the eligible contract amount from \$1.25 million to \$2 million. Second, the law extends the authorization period of the Pilot Preferred Surety Bond (PSB) Program from September 30, 2000 to September 30, 2003.

**DATES:** The rule will become effective on August 7, 2001. Unless adverse comment is received by July 9, 2001. If an adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** Send written comments to Barbara Brannan, Special Assistant, Office of Surety Guarantees, U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:**

Robert J. Moffitt, Associate Administrator, Office of Surety Guarantees, (202) 205-6540.

**SUPPLEMENTARY INFORMATION:** This direct final rule implements provisions of section 805 of the Small Business Reauthorization Act of 2000 (Act), Public Law 106-554, 114 Stat. 2763A-653 (December 21, 2000), relating to SBA's Surety Bond Guarantee (SBG) Program. The Act increases the contract amount eligible for SBA-guaranteed bonding from \$1.25 million to \$2 million. This rule revises section 115.12(e) "Amount of contract" to effect that change and makes the necessary conforming changes to other relevant sections of SBA's SBG Program rules.

This Act also extends the duration of the Pilot Preferred Surety Bond (PSB) Program for an additional three years. The PSB Program is a pilot program in which SBA-selected sureties are authorized to issue, service and monitor surety bonds without SBA's prior approval. This rule revises section 115.61 to extend the duration of the Pilot PSB Program from September 30, 2000 to September 30, 2003.

This rule makes no changes to the current regulations other than those necessary to conform to the statute. SBA is publishing this regulation as a direct final rule because SBA believes the rule is non-controversial since it is merely conforming the rules to implement provisions of the Act that became effective on December 21, 2000. SBA believes that this rule will not elicit any significant adverse comments.

**Compliance With Executive Orders 12866, 12988 and 13132, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Paperwork Reduction Act (44 U.S.C. CH. 35)**

OMB has determined that this final rule does not constitute a "significant regulatory action" for purposes of Executive Order 12866. "Significant regulatory action" means any regulatory action that is likely to result in a rule that may have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations thereof; and does not raise any novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. In fiscal year 1999, SBA guaranteed 2,399 final bonds valued at \$426.1 million, with an average contract amount of \$177,602. In fiscal year 2000, SBA guaranteed 1,795 final bonds valued at \$328.9 million, with an average contract amount of \$183,247. For fiscal years 1999 and 2000, SBA guaranteed an aggregate of only seven (7) surety bond contracts in the former statutory maximum amount of \$1.25 million. Based upon SBA's experience with, and its understanding of, the surety industry, SBA projects the guarantee of no more than 10 surety bond contracts in the new statutory maximum amount of \$2.0 million per year. At most, this projection would result in an aggregate increase in guaranteed amount of less than \$7.5 million each year ( $10 \times \$750,000 = \$7.5$  million). The extension of the PSB Program will result in no discernable effect on the economy. Neither of the statutory amendments implemented by this direct final rule raises any other significant regulatory action concerns.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule merely implements provisions of the Act increasing the maximum surety bond contract amount that can participate in the SBG Program and extending the authorization period of the PSB Program. This rule does not impose costs upon the businesses that might be affected by it. Therefore, it will not have an annual economic effect of \$100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition

or the United States economy. Few of the small business contracting concerns participating in the SBG Program are projected to take advantage of the new statutory increase in the contract amount. This is a tiny fraction of the total of 13-16 million small business concerns in the United States. The rule contains no new information collections, recordkeeping requirements, or changes in forms.

For purposes of Executive Order 12988, SBA has determined that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of the Order.

For purposes of Executive Order 13132, SBA has determined that this final rule will have no federalism implications.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this final rule contains no new reporting or recordkeeping requirements.

**List of Subjects in 13 CFR Part 115**

Claims, Reporting and recordkeeping requirements, Small businesses, Surety bond.

For the reasons set forth above, part 115 of Title 13, Code of Federal Regulations (CFR) is amended as follows:

**PART 115—SURETY BOND GUARANTEES**

1. The authority citation for Part 115 is revised to read as follows:

**Authority:** 5 U.S.C. app 3; 15 U.S.C. 687b, 687c, 694a, 694b; 694b note, Pub. L. 106-554, 114 Stat. 2763A-653.

**§§ 115.12, 115.19, 115.31, 115.60 and 115.68 [Amended]**

2. Amend Sections 115.12(e)(1); 115.12(e)(3); 115.19(a); 115.31(d); 115.60(a)(1); and 115.68 by removing the "\$1,250,000" each time it appears and inserting in its place "\$2,000,000".

**§ 115.31 [Amended]**

3. Revise the final sentence of section 115.31(d) to read "For example if a Contract amount increases to \$2,100,000, SBA's share of the Loss under an 80% guarantee is limited to 76.1% [ $2,000,000 / 2,100,000 = 95.2\% \times 80\% = 76.1\%$ ]."

**§ 115.61 [Amended]**

4. Amend section 115.61 by removing the year "2000" both times it appears and replacing it with the year "2003".

Dated: May 24, 2001.

**John Whitmore,**

*Acting Administrator.*

[FR Doc. 01-14445 Filed 6-7-01; 8:45 am]

BILLING CODE 8025-01-U

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD07-01-046]

RIN 2115-AE46

#### Special Local Regulations: Skull Creek, Hilton Head, SC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** Temporary Special Local Regulations are being adopted for the Skull Creek July 4th celebration Fireworks Display, Skull Creek, Hilton Head, SC. These regulations are needed to provide for the safety of life on navigable waters during the event.

**DATES:** This rule becomes effective at 8:30 p.m. and terminates at 10:30 p.m. on July 4, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of [CGD07-01-046] and are available for inspection or copying at Coast Guard Group Charleston, 196 Tradd St., Charleston SC 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** ENS Bill Walsh, Coast Guard Group Charleston at 843-724-7600 x203.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public because there will be numerous spectator craft in the area.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

##### Background and Purpose

These regulations are required to provide for the safety of life on navigable waters because of the inherent

danger of fireworks during the Skull Creek July 4th celebration on Skull Creek, Hilton Head, SC. The event sponsor expects approximately 120 spectator craft to observe the show. The fireworks barge will be located in approximate position 32 13.95' N, 080 45.1' W, offshore from Hudsons Seafood. This rule creates a regulated area that will prohibit non-participating vessels from entering the regulated area during the event.

##### Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The regulated area will only be in effect for approximately 2 hours.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612) we considered whether this rulemaking will have a significant economic impact on a substantial number of small entities. Small entities include small business, not-for-profit organizations that are independently owned and operated and are not dominant under their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the Skull Creek intercoastal waterway from 8:30 p.m. to 10:30 p.m., July 4, 2001. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because the rule will only be in effect for 2 hours.

##### Assistance for Small Entities

Under section 213 (a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-221), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the

actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-GAIR (1-888-734-3247)

##### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

##### Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

##### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

##### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

##### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

##### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

##### Environment

The Coast Guard has considered the environmental impact of this action and