

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed suspension has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Act, the suspension of the following provisions of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered:

1. For the months of September 1, 1995, through February 29, 1996: In § 1137.7(b), the second sentence is amended by suspending the words "plant which has qualified as a" and "of March through August"; and

2. For the months of September 1, 1995, through August 31, 1996: In § 1137.12(a)(1), the first sentence is amended by suspending the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant"; and in the second sentence "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of", and the word "distributing".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 20th day after publication of this notice

in the **Federal Register**. The period for filing comments is limited to 20 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

#### Statement of Consideration

The proposed rule would suspend certain portions of the pool plant and producer definitions of the Eastern Colorado order. The proposed suspension would make it easier for handlers to qualify milk for pooling under the order.

The proposed suspension was requested by Mid-America Dairyman, Inc. (Mid-Am), a cooperative association that has pooled milk of dairy farmers on the Eastern Colorado order for several years. Mid-Am has requested the suspension to prevent the uneconomic and inefficient movement of milk for the sole purpose of pooling the milk of producers who have been historically associated with the Eastern Colorado order.

Mid-Am requests, for the months of September 1995 through February 1996, the removal of the restriction on the months when automatic pool plant status applies for supply plants. Mid-Am also proposes that, for the months of September 1995 through August 1996, the touch-base requirement not apply and the diversion allowance for cooperatives be raised.

These provisions have been suspended previously in order to maintain the pool status of producers who have historically supplied the fluid needs of Eastern Colorado distributing plants. Mid-Am states that the marketing conditions that justified the prior suspensions continue to exist.

Mid-Am asserts that they have made a commitment to meet the fluid milk requirements of distributing plants if the suspension request is granted. Without the suspension, Mid-Am contends that it will be necessary to ship milk from distant farms to Denver-area bottling plants to qualify milk for pooling. The distant milk will displace locally-produced milk that would then have to be shipped from the Denver area to manufacturing plants located in outlying areas.

In addition, Mid-Am maintains that ample supplies of locally-produced milk that can be delivered directly to distributing plants will be available to meet the market's fluid needs without requiring shipments from supply plants.

Mid-Am also claims that neither the elimination of the touch-base requirement for producers nor the increase in the amount of milk that can be diverted to nonpool plants by a cooperative should jeopardize the needs of the market's fluid processors.

Accordingly, it may be appropriate to suspend the aforesaid provisions for the time periods stated.

#### List of Subjects in 7 CFR Part 1137

Milk marketing orders.

The authority citation for 7 CFR Part 1137 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

Dated: July 24, 1995.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 95-18593 Filed 7-27-95; 8:45 am]

BILLING CODE 3410-02-P

### FEDERAL HOUSING FINANCE BOARD

#### 12 CFR Part 960

[No. 95-N-07]

#### Amendment of Affordable Housing Program Regulation

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Housing Finance Board (Board) is soliciting comments on a proposal to amend its regulation governing the operation of the Affordable Housing Program (AHP or Program). The proposed rule would add a new provision authorizing a Federal Home Loan Bank (Bank) to set aside a limited portion of its available AHP subsidies to assist first-time homebuyers pursuant to a program meeting specific requirements set forth in the proposed rule. In addition, the proposed rule would permit a Bank to establish a first-time homebuyer program with requirements different from those specifically set forth, subject to prior approval of the Board.

**DATES:** Comments on this proposed rule must be received in writing on or before August 28, 1995.

**ADDRESSES:** Comments should be mailed to: Federal Housing Finance Board, Executive Secretariat, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** Sharon B. Like, Attorney-Advisor, Office of General Counsel, (202) 408-2930, or Diane E. Dorius, Deputy Director, Office of Housing Finance,

(202) 408-2576, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

#### SUPPLEMENTARY INFORMATION:

### I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish a Program to subsidize the interest rate on advances to members of the Federal Home Loan Bank System (Bank System) engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. See 12 U.S.C. 1430(j)(1). The Board is required to promulgate regulations governing the Program. See 12 U.S.C. 1430(j)(9); 12 CFR part 960.

Under the Board's AHP regulation, each Bank must make a specified annual contribution to fund its Program. See 12 CFR 960.10. During each calendar year, each Bank accepts applications for funds from its members during two of four quarterly funding periods, or "rounds." See 12 CFR 960.4.

Applications are reviewed and recommended, and AHP funds are awarded to applicants through, a competitive scoring process set forth in the AHP regulation. See 12 CFR 960.5. AHP funds are awarded to the applicants whose applications score the highest among all the applications received by the Bank in that funding round. See *id.*

### II. Analysis of the Proposed Rule

The Board believes that promoting homeownership for first-time homebuyers is a significant part of the mission of the Bank System. In furtherance of that goal, the Board and the Banks recently joined a partnership agreement to promote the President's National Homeownership Strategy to expand homeownership to millions of households by the year 2000. The Board believes that permitting the Banks to direct a portion of their AHP contribution to assist low- and moderate-income, first-time homebuyers is consistent with its commitment to the National Homeownership Strategy.

The proposed rule would amend the AHP regulation to authorize a Bank to set aside up to the greater of \$1 million or 10 percent of its annual required AHP contribution to fund a Matched Savings First-Time Homebuyers' Initiative (Initiative), through which the Bank would assist low- and moderate-income, first-time homebuyers to purchase homes.

Members may be pre-approved by their Bank for participation in an Initiative if they: have established a

savings account program offering dedicated savings accounts to eligible households; have established a first-time homebuyer policy that defines the qualifications for being a "first-time" homebuyer and that includes financial or other incentives for such homebuyers; and have established or sponsor a homebuyer counseling program. Eligible households must have incomes at or below 80 percent of area median income. Participating households must make regular deposits in dedicated savings accounts maintained with the members according to an agreed upon schedule of savings for a minimum of 10 months, and must complete the required homebuyer counseling program. Each dollar of a household's savings will be matched by the member with up to three dollars of Bank AHP funds. Each Bank may determine the appropriate ratio of AHP funds-to-savings of a participating household (with a maximum of three-to-one), which ratio shall apply to all households participating in the Bank's initiative. The total amount of AHP funds received by a household may not exceed \$5,000. The household is expected to use the funds within one year of its acceptance into the Initiative to pay for downpayment and closing costs in connection with its first-time purchase of a one-to-four family, owner-occupied property (including a condominium or cooperative housing unit) to be used as its primary residence.

A home purchased by a participating household with funds received under an Initiative must be subject to a deed restriction, "soft" second mortgage or other legally enforceable mechanism, pursuant to the requirements set forth in the proposed rule, that would enable the Bank to recapture from the member or directly from the seller a *pro rata* portion of those funds if the home is sold by the initial household to a household that is not low- or moderate-income, within 5 years (or longer, at the discretion of the Bank) from the date of purchase by the participating household. The proposed rule would allow for Bank waiver of the recapture requirement if its imposition would cause undue hardship on the seller.

Since the requirements governing the eligibility of households and the uses of set-aside funds under the Initiative are to be uniformly applied, funding of such Initiatives will not be subject to the competitive scoring process applicable to regular AHP applications under the regulation. Instead, a Bank would make set-aside funds available to an Initiative on a rolling, first come, first-served basis. In addition, the proposed rule would allow a Bank to make available

up to \$1 million of additional AHP funds from the next year's Initiative set-aside if demand for funds under the Initiative exceeds the amount set aside in the current year.

In order to allow the Banks to implement an Initiative as soon as possible, the Board's proposal would allow a Bank to establish an Initiative meeting the specific requirements set forth in the proposed rule without obtaining prior Board approval. However, the Board recognizes that the Banks may develop strategies for implementing first-time homebuyer programs that differ from the model in the proposed rule, but which may be equally, or more, effective. The Board believes that the Banks should have flexibility for innovation and the ability to respond to local conditions in providing assistance for first-time homebuyers. Therefore, proposed § 960.5(g)(2) would permit Banks to establish first-time homebuyer programs that are different from that described in the proposed rule, with prior Board approval.

While public comment is being requested on all aspects of the proposed rule, the Board is requesting specific comment on several issues of note.

First, the Bank Act requires that owner-occupied housing financed under the AHP must be "long-term." See 12 U.S.C. 1430(j)(1). Commenters should be aware that the Board specifically has requested comment on the appropriate "long-term" period applicable generally to owner-occupied housing financed under the AHP in a previously published proposal. See 59 FR 1323 (Jan. 10, 1994). In the preamble to that proposal, the Board discussed alternative proposals to set the "long-term" requirement at 5 years or 30 years. The Board here has proposed 5 years as the minimum "long-term" requirement that would be applicable solely to homes purchased with funds provided under an Initiative, but that would not apply to AHP projects receiving funding through the regular AHP competitive scoring process set forth in §§ 960.4 and 960.5 of the AHP regulation. See 12 CFR 960.4, 960.5. In making this proposal, it is not the Board's intention to preclude continuing dialogue on the issue of "long-term" retention in this or any other context, but rather is to encourage a full discussion. Therefore, the Board specifically requests comment on the appropriate length of the "long term" requirement for homes purchased through an Initiative.

Second, the proposal would allow a Bank to commit, in any year, a portion of its future AHP contributions if

demand for Initiative funds in that year exceeded that year's set-aside. The commitment in the current year of future AHP contributions currently is not permitted under the AHP regulation. The Board specifically requests comment on this aspect of the proposed rule as well.

Third, the Board specifically solicits comment on whether other, non-conforming set-aside programs proposed by a Bank under proposed § 960.5(g)(2) should be limited to programs that assist first-time homebuyers, or whether it would be practicable to broaden the language of the proposal to allow for assistance to be provided to other categories of activities related to homeownership that promote the National Homeownership Strategy, such as improving and rehabilitating existing homes and encouraging homeownership strategies that revitalize distressed communities.

Finally, the Board specifically, requests comment on whether the funding limit of the greater of \$1 million or 10 percent of a Bank's annual required AHP contribution: (a) is appropriate generally; and (b) should apply to other, non-conforming set-aside programs under proposed § 960.5(g)(2), or whether the funding limits for such other programs should be left to the discretion of the Board.

### III. Regulatory Flexibility Act

The proposed rule applies only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act (RFA). See 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, see *id.* section 605(b), the Board hereby certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects for 12 CFR Part 960

Banks, Banking, Credit, Federal home loan banks, Housing.

Accordingly, part 960, chapter IX, title 12, subchapter E, Code of Federal Regulations, is hereby proposed to be amended as follows:

#### SUBCHAPTER E—AFFORDABLE HOUSING

#### PART 960—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 960 is revised to read as follows:

**Authority:** 12 U.S.C. 1422a, 1422b, 1430(j).

2. Section 960.4 is amended by revising the first sentence of paragraph (a) to read as follows:

#### § 960.4 Applications for funding.

(a) Except as provided in § 960.5(g), the Program is based on District-wide competitions administered by the Board. \* \* \*

\* \* \* \* \*

3. Section 960.5 is amended by adding a new paragraph (g) and by revising paragraph (a)(1) to read as follows:

#### § 960.5 Project scoring and funding.

(a) *General.* (1) Each Bank will evaluate all applications received pursuant to § 960.4(a) from its members that satisfy the use provisions identified in § 960.3(b).

\* \* \* \* \*

(g) *Set-Aside programs.*—(1) *Programs exempt from prior board approval.*

Without the prior approval of the Board, a Bank may set aside annually up to the greater of \$1 million or 10 percent of its annual required Affordable Housing Program contribution to implement a matched savings first-time homebuyers' initiative that meets all of the following requirements:

(i) *Announcement of available bank funds.* The Bank shall notify its members of the amount of annual funds available under the initiative;

(ii) *Pre-approval of member participants.* The Bank shall approve a member's participation in the initiative if the member has:

(A) Established a savings account program offering dedicated savings accounts to eligible households;

(B) Established a first-time homebuyer policy that defines the qualifications for being a "first-time homebuyer" and that includes financial or other incentives for such first-time homebuyers;

(C) Established a homebuyer counseling program based on those offered by or in conjunction with a not-for-profit housing agency or other recognized counseling organization;

(D) Committed that the Bank or member participant will be entitled to recapture of the equivalent amount of the matching funds, as provided in paragraph (g)(1)(ix) of this section;

(iii) *Approval of initial enrollment of households.* The Bank shall approve the initial enrollment, through the approved member participant, of a household as a potential beneficiary in the initiative, if the household:

(A) Is low- or moderate-income, as defined in § 960.1(g);

(B) Has opened a dedicated savings account with the member participant and established a schedule of savings into the account;

(C) Meets the requirements of the member participant's first-time homebuyer policy;

(D) Has enrolled in a homebuyer counseling program established by the member participant that is based on those offered by or in conjunction with a not-for-profit housing agency or other recognized counseling organization;

(E) Has agreed to obtain mortgage financing from the member participant for the purchase of a home;

(iv) *Bank program acceptance six months after initial enrollment and reservation of bank matching funds.* The Bank shall accept a household into its initiative, shall reserve, in the name of the household, matching funds as targeted in the household's schedule of savings for a period of one year, and shall notify the member participant and household of such acceptance, if, six months after the initial enrollment date of the household, the member participant certifies to the Bank that the household is progressing satisfactorily by participating in the homebuyer counseling program and systematically depositing funds to its dedicated savings account according to its agreed schedule of savings;

(v) *Verification of household progress.* The Bank shall require the member participant to verify, every six months from a household's acceptance date into the initiative, the household's progress in completing the homebuyer counseling program and making deposits to its dedicated savings account according to its agreed schedule of savings;

(vi) *Approval of matching funds drawdown.* The Bank shall approve a request from a member participant for matching funds, in an amount equal to, in the Bank's discretion, up to three times the amount of a household's savings in its dedicated savings account, up to a maximum of \$5,000 per household, and shall credit such funds to the member participant's account, if the member participant certifies to the Bank that:

(A) The household made deposits to its dedicated savings account according to its agreed schedule of savings for a minimum of ten months;

(B) Closing on the sale of a home to the household has occurred within one year of the household's acceptance date into the initiative, or a later period if the Bank determines that reasonable circumstances justified extending such time period for the use of the funds;

(C) The household has completed the required homebuyer counseling program;

(D) The household has received the financial or other incentives committed by the member participant pursuant to its first-time homebuyer policy;

(E) A deed restriction, "soft" second mortgage or other legally enforceable mechanism exists on the household's home that entitles the Bank or member participant to recapture of the equivalent amount of the matching funds, as provided in paragraph (g)(1)(ix) of this section;

(vii) *Eligible uses of funds.*

Households receiving funds under an initiative may use such funds only for the payment of downpayment or closing costs in connection with the household's purchase of a one-to-four family, owner-occupied residential property (including a condominium or cooperative housing unit) to be used as its primary residence;

(viii) *Availability of funds.* (A) The Bank shall make its initiative funds available on a rolling, first come, first-served basis;

(B) The Bank may reserve the option, if needed because demand for its funds in a given year exceeds the amount of set-aside funds available for that year, to:

(i) Make available up to an additional \$1 million from the next year's set-aside of funds under such initiative; or

(ii) Establish a waiting list or other process by which households would be approved by the Bank to receive funds under the initiative;

(ix) *Long-term requirement—Recapture of funds upon resale.* The Bank shall require that a home purchased using funds under an initiative be subject to a deed restriction, "soft" second mortgage or other legally enforceable mechanism that requires that, if the home is sold prior to the end of a period of not less than 5 years from the date of purchase by the initial household, to a household that is not low- or moderate-income:

(I) The Bank or its designee be given notice of the sale; and

(II) The seller be required to repay a pro rata share, except for de minimis amounts determined by the Bank, of the funds provided under the initiative, reduced for every year the seller owned the home, to be repaid from any net gain from the sale of the home after deduction for sales expenses, and to be returned to the Bank to be made available for other Affordable Housing Program projects, except that the Bank in its discretion may waive such repayment requirement if its imposition would cause undue hardship on the seller, as defined by the Bank;

(x) Each Bank may establish its own procedures for further implementation of the requirements of this paragraph (g)(1).

(2) *Other programs.* A Bank may set aside a portion of its annual required

Affordable Housing Program contribution to implement a first-time homebuyer program that does not meet the requirements of § 960.5(g)(1), provided the program otherwise satisfies the requirements of 12 U.S.C. 1430(j), and receives the prior approval of the Board.

Dated: July 13, 1995.

By the Federal Housing Finance Board.

**Bruce A. Morrison,**  
*Chairman.*

[FR Doc. 95-18424 Filed 7-27-95; 8:45 am]

BILLING CODE 6725-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 33

[Docket No. 95-ANE-42; Notice No. SC-95-04-NE]

#### Special Conditions: Allison Engine Company Model 250-C40 Turboshift Engine

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This notice proposes special conditions for the Allison Engine Company Model 250-C40 turboshift engine. This engine will have novel or unique engine ratings that are not defined by the applicable airworthiness regulations. This notice proposes the safety standards for those novel or unique ratings that the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 33 of the Federal Aviation Regulations (FAR).

**DATES:** Comments must be submitted on or before August 28, 1995.

**ADDRESSES:** Comments on this proposal may be submitted in triplicate to: Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 95-ANE-42, 12 New England Executive Park, Burlington, Massachusetts 01803-5299. Comments must be marked: Docket No. 95-ANE-42. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chung Hsieh, Engine and Propeller Standards Staff, ANE-110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England

Executive Park, Burlington, Massachusetts 01803-5229; (617) 238-7115; Fax (617) 238-7199.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under **ADDRESSES**. All communications received on or before the closing date for comments, specified under **DATES**, will be considered by the Administrator before taking action on the proposal. The proposal contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed special conditions. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this proposal will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95-ANE-42" The postcard will be dated stamped and returned to the commenter.

##### Background

On May 11, 1993, the Allison Engine Company (AE) applied for an amendment to type certificate E1GL to include a new model 250-C40 turboshift engine. On March 30, 1995, the Allison Engine Company applied for 30-second one engine inoperative (OEI) and 2-minute OEI ratings for the engine. The AE Model 250-C40 turboshift engine will be rated at 30-Second OEI, 2-Minute OEI, 30-Minute OEI, Continuous OEI, Takeoff, and Maximum Continuous ratings.

The applicable airworthiness requirements do not contain 30-Second OEI and 2-Minute OEI rating definitions, and do not contain adequate or appropriate safety standards for the type certification of these new and unusual engine ratings.

##### Type Certification Basis

Under the provisions of section 21.17(a) of the FAR, Allison Engine Company must show that the AE Model