

[FR Doc. 02-9088 Filed 4-12-02; 8:45 am]

BILLING CODE 4510-30-C

## NATIONAL CREDIT UNION ADMINISTRATION

### Notice of Meeting; Sunshine Act

**TIME AND DATE:** 10 a.m., Thursday, April 18, 2002.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

1. Quarterly Insurance Fund Report.  
2. Request from a Federal Credit Union to Expand its Community Charter.

3. Final Rule: Interpretative Ruling and Policy Statement (IRPS) 02-1, Chartering and Field of Membership Policy.

4. Request from a Corporate Credit Union for Federal Share Insurance.

**RECESS:** 11:15 a.m.

**TIME AND DATE:** 11:30 a.m., Thursday, April 18, 2002.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Administrative Action Under Section 206 of the Federal Credit Union Act. Closed pursuant to Exemptions (8), (9)(A)(ii), and (9)(B).

2. Two (2) Administrative Actions under Part 704 of NCUA's Rules and Regulations. Closed pursuant to Exemption (8).

#### FOR FURTHER INFORMATION CONTACT:

Becky Baker, Secretary of the Board, Telephone 703-518-6304.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 02-9214 Filed 4-11-02; 2:17 pm]

BILLING CODE 7535-01-M

## NATIONAL SCIENCE FOUNDATION

### Conservation Act of 1978 Notice of Permit Modification

**AGENCY:** National Science Foundation.

**SUMMARY:** The Foundation modified a permit to conduct activities regulated under the Antarctic Conservation Act of 1978 (Public Law 95-541; Code of Federal Regulations Title 45, part 670).

#### FOR FURTHER INFORMATION CONTACT:

Nadene G. Kennedy, Permit Officer, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

#### Description of Permit and

**Modification:** On March 12, 2001, the National Science Foundation issued a permit (ACA #2001-025) to Dr. Daniel P. Costa after posting a notice in the January 31, 2001 *Federal Register*.

Public comments were not received. A request to modify the permit was posted in the *Federal Register* on March 5, 2002. No public comments were received. The modification, issued by the Foundation on April 8, 2002, allows the permit holder to enter several Antarctic Specially Protected Areas in the Antarctic Peninsula in order to capture and attached satellite relay data loggers (SRDL) on up to 25 crabbeater seals. Access to the sites will only take place to locate seals hauled up on the shore, in situations where there are no seals available on the surrounding pack ice.

**Location:** Dion Islands (ASPA #107), Lagotellerie Island (ASPA #116), Avian Island (ASPA #117), and Rothera Point, Adelaide Island (ASPA #129).

**Nadene G. Kennedy,**

*Permit Officer.*

[FR Doc. 02-8995 Filed 4-10-02; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-22-ISFSI]

### In the Matter of Private Fuel Storage L.L.C. (Independent Spent Fuel Storage Installation)

CLI-02-11

#### Memorandum and Order

This order concerns two documents filed by the State of Utah on February 11, 2002, relating to the pending license application submitted by Private Fuel Storage, L.L.C. (PFS). Utah's "Suggestion of Lack of Jurisdiction" argues that the Nuclear Waste Policy Act of 1982, as amended (NWPA),<sup>1</sup> deprives the Commission of "jurisdiction" over PFS's application for a license to construct and operate an independent spent fuel storage installation (ISFSI) on the reservation of the Skull Valley Band of Goshute Indians. In its "Petition to Institute Rulemaking and to Stay Licensing Proceeding," Utah asks the Commission to amend its regulations in accordance with this theory, and to suspend related proceedings while the rulemaking is pending.

For the reasons set forth below, we deny the request for stay, set a schedule

for interested parties to submit briefs on the substantive issue whether the NRC has authority under Federal law to issue a license for the proposed privately-owned, away-from-reactor spent fuel storage facility, and defer a decision on the rulemaking petition until we have had the opportunity to decide this threshold legal question.

### I. Background

In 1980, the NRC promulgated its regulations allowing for licensing of ISFSIs, 10 CFR part 72, under its general authority under the Atomic Energy Act (AEA) to regulate the use and possession of special nuclear material.<sup>2</sup> This was two years before Congress enacted the NWPA.

In both its Petition for Rulemaking and "Suggestion of Lack of Jurisdiction," Utah argues that the NWPA contemplates a comprehensive and exclusive solution to the problem of spent nuclear fuel and does not authorize private, away-from-reactor storage facilities such as the proposed PFS facility. Utah rests its argument on the following provision:

Notwithstanding any other provision of law, nothing in this act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.<sup>3</sup>

Thus, says Utah, the NWPA cannot be said to "authorize" a private, away-from-reactor ISFSI like the proposed the PFS facility. Utah claims that because the NWPA established a comprehensive system for dealing with spent nuclear fuel, it is the only possible source for NRC's jurisdiction over spent fuel storage and overrides the Commission's general authority under the AEA to regulate the handling of spent fuel.

PFS opposes Utah's petitions, and argues that nothing in the NWPA expressly repeals the NRC's general, AEA-based licensing authority over spent fuel. PFS emphasizes that the NWPA provision on which Utah relies does not explicitly prohibit a private, away-from-reactor facility. The NRC Staff opposes Utah's petitions on procedural grounds.

### II. Discussion

#### A. Request for Stay of Proceedings Pending Review

We find that Utah's request does not meet the four-part test for a stay of Board proceedings. In determining

<sup>2</sup> See 45 FR 74,693 (Nov. 12, 1980).

<sup>3</sup> NWPA § 135(h).

<sup>1</sup> 42 U.S.C. § 10101 et. seq.