

(2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions, except as shown in paragraphs (d)(1) and (d)(4) of this section.

(3) Information relating to a decoration or award or required for memorialization purposes.

(4) Information relating to the review or change in type of discharge or correction of records.

(5) Personal documents, such as birth certificates, when such documents are required to be furnished by the member.

(6) Services that are furnished free according to statutes or Executive Orders.

(7) Information from or copies of medical and dental records or x-ray films of patients or former patients of military medical or dental facilities, when such information is required for further medical or dental care, and requests for such data are submitted by an accredited medical facility, physician, or dentist, or requested by the patient, his or her next of kin, or legal representative. Other requests subject to the Privacy Act shall be according to DoD 5400.11-R, "DoD Privacy Act Program" (see § 204.3(c)(1)(xi) of this part).

(8) Services requested by, and furnished to, a member of Congress for official use.

(9) Services requested by state, territorial, county, or municipal government, or an agency thereof, that is performing a function related to or furthering a DoD objective.

(10) Services requested by a court, when such services will serve as a substitute for personal court appearance of a military or civilian employee of the Department of Defense.

(11) Services requested by a nonprofit organization that is performing a function related to or furthering an objective of the Federal Government or that is in the interest of public health and welfare, including education.

(12) Services requested by donors in connection with the conveyance or transfer of a gift to the Department of Defense.

(13) Occasional and incidental services (including requests from residents of foreign countries), that are not requested often, when it is determined administratively that a fee would be inappropriate for the occasional and incidental services rendered.

(14) Administrative services offered by reference or reading rooms to inspect public records, excluding copies of records or documents furnished.

(15) Services rendered in response to requests for classification review of DoD classified records, submitted under Executive Order 12065, "National Security Information," and implemented by DoD 5200.1-R. Such services consist of the work performed in conducting the classification review or in granting and completing an appeal from a denial of declassification following such review.

(16) Services of a humanitarian nature performed in such emergency situations as life-saving transportation for non-Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a disaster site. This does not mean that inter- and intra-governmental agreements to recover all or part of costs shall not be negotiated. Rather, it means the recipients or beneficiary will not be assessed a "user charge."

Dated: January 20, 2006.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### 48 CFR Part 9904

#### Cost Accounting Standards Board; Accounting for Insurance Costs

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

**ACTION:** Staff discussion paper.

**SUMMARY:** The Cost Accounting Standards (CAS) Board, Office of Federal Procurement Policy, invites public comments on the staff discussion paper (SDP) regarding CAS 416, "Accounting for Insurance Costs." In particular, this staff discussion paper addresses the use of the term "catastrophic losses" in CAS 416-50(b)(1).

**DATES:** Comments must be in writing and must be received by March 27, 2006.

**ADDRESSES:** Due to delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. Electronic comments may be submitted to [casb2@omb.eop.gov](mailto:casb2@omb.eop.gov). Please put the full body of your comments in the text of the electronic message and also as an

attachment readable in either MS Word or Corel WordPerfect. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 395-5105.

**FOR FURTHER INFORMATION CONTACT:** Rein Abel, Cost Accounting Standards Board (telephone: 202-395-3254).

#### SUPPLEMENTARY INFORMATION:

##### A. Regulatory Process

The Board's rules, regulations and Standards are codified at 48 CFR Chapter 99. The Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires the Board, prior to the establishment of any new or revised CAS, to complete a prescribed rulemaking process. The process generally consists of the following four steps:

1. 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 (e.g., prepare and publish a SDP).

2. Promulgate an Advance Notice of Proposed Rulemaking (ANPRM).

3. Promulgate a Notice of Proposed Rulemaking (NPRM).

4. Promulgate a Final Rule.

This SDP is issued by the Board in accordance with the requirements of 41 U.S.C. 422(g)(1)(B), and is step one of the four-step process.

##### B. Background and Summary

The Office of Federal Procurement Policy, Cost Accounting Standards Board, is releasing a SDP on the use of the term "catastrophic losses" in CAS 416-50(b)(1). Section 26(g)(1) of the Office of Procurement Policy Act, 41 U.S.C. 422(g)(1), requires that the Board, prior to the promulgation of any new or revised CAS, 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 or revision of an existing Standard. The purpose of the SDP is to solicit public views with respect to the Board's consideration of whether the word "catastrophic" should be replaced with a term such as "significant" or "very large" in 48 CFR 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 48 CFR 9904.416 and FAR 31.205-19, Insurance cost.

Respondents are encouraged to identify and comment on any issues not addressed in this SDP that they believe are important to the subject. This SDP reflects research accomplished to date by the staff of the CAS Board in the respective subject area and is issued by the Board in accordance with the requirements of 41 U.S.C. 422(g)(1)(A).

### C. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to this SDP, including but not limited to the questions listed in the SDP. All comments must be in writing or by e-mail, and submitted to the mailing or e-mail addresses indicated in the **ADDRESSES** section.

**Joshua B. Bolten,**  
*Director.*

### Cost Accounting Standards Board Staff Discussion Paper (SDP) CAS 416—Catastrophic Losses

#### *Background*

#### *Purpose*

- The purpose of this SDP is to explore whether the word “catastrophic” in CAS 416–50(b)(1) should be replaced with a term such as “significant” or “very large” to (a) more closely align the Standard with what was intended by its original promulgators and (b) eliminate any potential confusion between CAS 416 and FAR 31.205–19.

#### *CAS 416*

- In February, 1976, the CAS Board staff distributed to the public an issues paper on accounting for insurance costs. The staff received 59 responses to the issues paper. An analysis of those responses and a draft Standard were presented to the Board at its meeting of December 20, 1976.

- On January 13, 1977, the draft Standard was distributed to the public. The staff received 64 responses to the draft Standard.

- An analysis of the major issues raised by the public was addressed in Staff Technical Paper Number 38, dated August 23, 1977. The staff technical paper included the following discussion related to the allocation of catastrophic losses:

The staff draft standard required that a loss be allocated only to the segment in which it occurred. Twelve respondents objected to this provision. They pointed out that the home office can legitimately act as a re-insurance of a small segment against catastrophic losses; otherwise, small segments might find it necessary to purchase outside insurance to protect them. The Staff

concur in this objection; the proposed Standard now provides that a portion of catastrophic losses may be allocated to the home office.

- On September 20, 1978, the CAS Board published CAS 416, which included language on catastrophic losses at CAS 416.50(b)(1). This language, which has remained unchanged since that publication, reads as follows:

(b) Allocation of insurance costs. (1) Where actual losses are recognized as an estimate of the projected average loss in accordance with 9904.416–50(a)(2), or where actual loss experience is determined for the purpose of developing self-insurance charges by segment, a loss which is incurred by a given segment shall be identified with that segment. However, if the contractor’s home office is, in effect, a reinsurer of its segments against catastrophic losses, a portion of such catastrophic losses shall be allocated to, or identified with, the home office.

- In the September 20, 1978 publication of CAS 416, paragraph (6) of Preamble A included the following discussion of the use of the term “catastrophic losses” in the Standard:

Two respondents asked that the standard define or prescribe criteria for determining when a loss is considered to be “catastrophic” for purposes of home-office reinsurance agreements; they were concerned about after-the-fact disagreement as to whether a particular loss was “catastrophic” and thereby to be allocated in part to the home office, or “noncatastrophic” and to be absorbed entirely by 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. 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.

#### *FAR 31–205–19*

- The language currently at FAR 31.205–19(c)(4), which was originally promulgated under DAR Case 78–400–07, reads as follows:

Self-insurance charges for risks of catastrophic losses are unallowable.

- The March 19, 1979 report on DAR Case 78–400–7 stated that the purpose of the language was to assure that the Government did not allow self-insurance charges for catastrophic losses, such as earthquakes, which have a very small likelihood of occurring for any particular contractor.

- In early 2001, the Director of Defense Procurement requested the views of interested parties on potential areas for revising FAR Part 31 in light

of the evolution of Generally Accepted Accounting Principles, the advent of Acquisition Reform, and experience gained from implementation of FAR Part 31. A series of public meetings was held during spring 2001 to discuss potential opportunities for revising the provisions in FAR Part 31 relating to cost measurement, assignment, and allocation. Attendees included representatives from industry, Government, and other interested parties.

The public meetings resulted in a number of recommendations for revising FAR Part 31, including a recommendation to address the issue of catastrophic insurance at FAR 31.205–19, Insurance Costs. One commenter at the public meeting noted that a literal reading of FAR and CAS would result in the following:

- In accordance with CAS 416.50(b)(1), a contractor can reinsure the losses of a segment at the home office only if these are catastrophic losses.

- FAR 31.205–19 disallows self-insurance charges for catastrophic losses.

- Therefore, any reinsurance of catastrophic losses by the home office under CAS 416 would be unallowable under FAR 31.205–19.

- On January 30, 2003, in an attempt to address the situation raised by the public commenter, the FAR Council published a proposed rule in the **Federal Register** (68 FR 4880). The proposed rule was intended to distinguish the FAR concept of catastrophic losses from the reinsurance concepts in CAS 416 by amending FAR 31.205–19 to define the term “catastrophic losses” as “large dollar coverage with a very low frequency of loss.”

Several public commenters objected to the FAR Council’s proposed amendment, asserting that the definition in the proposed rule could be interpreted to include deductibles or over ceiling amounts for property and other high dollar insurance policies. The public commenters further contended that the proposed definition of catastrophic losses would cause contention and uncertainty in the field because it did not account for differences in what constitutes a large loss among different sized contractors. The commenters also asserted that including “very low frequency of loss” in the definition would cause confusion. The commenters recommended deleting the proposed definition and continuing the use of existing practices that rely upon individual circumstances and general reasonableness.

• After analyzing the public comments, the FAR Council withdrew the proposed definition. In recommending withdrawal of the rule, the June 26, 2003 report of the FAR Part 31 Streamlining Committee noted the following:

Upon further review, the Committee recommends that the proposed definition of catastrophic losses be deleted from the final rule. The Committee continues to believe that the proposed definition is consistent with the intent of the promulgators of the current language, as evidenced by the March 19, 1979 Committee report underlying DAR Case 78-400-7.

The intent of the proposed coverage was to distinguish catastrophic losses as used in the cost principle from the type of catastrophic loss anticipated by the illustration at CAS 416.60(h). In that illustration, motor vehicle liability losses in excess of a specified amount were absorbed by the home office and reallocated to all segments. In the particular case described, the specified amount was too low based on loss experience to be considered catastrophic under the provisions of CAS 416. However, the illustration appears to anticipate losses that may be catastrophic to a particular segment of a company but not necessarily catastrophic in a more general sense. The Committee does not believe the drafters of the cost principle intended to disallow self-insurance charges for the type of loss anticipated by the CAS illustration. However, since CAS does not include a definition of catastrophic loss, defining the term in FAR could cause confusion by the users of these regulations.

As to the commenter's recommendation that self-insurance charges for catastrophic losses should be allowable, the Committee disagrees. As was noted in the report on DAR Case 78-400-7, the Government should not allow self-insurance charges for catastrophic losses, such as earthquakes, which have a very small likelihood of occurring for any particular contractor.

#### Key Questions for Consideration

The CAS Board is soliciting comments on this issue from interested parties. In particular, the Board is interested in comments related to the following questions:

1. Do contractors and contracting agencies currently interpret the term "catastrophic losses" differently when applying CAS 416.50(b)(1) and FAR 31.205-19(e)? If so, how does the use of the term differ between the two applications?

2. Under CAS 416.50(b)(1), the contractor is required to assign insurance costs on the basis of the projected average loss. Actual losses cannot be used unless they approximate the projected average loss. FAR 31.205-19(c)(4) disallows self-insurance costs for catastrophic losses. Thus, if the term "catastrophic losses" is interpreted as having the same meaning in both CAS

and FAR, how does a contractor recover amounts related to catastrophic losses, since the costs cannot be assigned based on actual costs under CAS (and therefore are not allowable as actual costs), and the costs are unallowable as self-insurance charges under FAR?

3. How does the insurance industry use the term "catastrophic losses?"

4. How does the insurance industry's use of the term "catastrophic losses" differ from its use in CAS and FAR, if any?

5. Have there been problems in the implementation of CAS 416.50(b)(1) as a result of the use of the term "catastrophic?"

6. Provide any examples of instances where the use of the term "catastrophic" has resulted in contract disputes. For each example provided, include the nature of the dispute and the resolution.

7. Provide any comments as to whether the language at CAS 416.50(b)(1) should be revised. If the recommendation is to revise the language, please provide suggested revisions.

8. Provide any comments regarding use of the term "extraordinary item" as used in Generally Accepted Accounting Principles in lieu of the term "catastrophic insurance."

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Mussentuchit *Gilia* as Threatened or Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Mussentuchit *Gilia* (*Gilia* [= *Aliciella tenuis*]) as threatened or endangered under the Endangered Species Act of 1973, as amended. We find the petition does not provide substantial information indicating that listing *Gilia* [= *Aliciella tenuis*] may be warranted. Therefore, we will not be initiating a further status review in response to this petition. The public may submit to us any new information that becomes available concerning the status of the species or threats to it.

**DATES:** The finding announced in this document was made on January 19, 2006. You may submit new information concerning this species for our consideration at any time.

**ADDRESSES:** The complete file for this finding is available for public inspection, by appointment, during normal business hours at the Utah Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. Submit new information, materials, comments, or questions concerning this species to us at the above address.

**FOR FURTHER INFORMATION CONTACT:** Henry Maddux, Field Supervisor, Utah Fish and Wildlife Office (see **ADDRESSES**) (telephone 801-975-3330, extension 124; facsimile 801-975-3331).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition and other information that is readily available to us (e.g., in our files). To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial scientific information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific information was presented, we are required to commence a review of the status of the species.

In making this finding, we relied on information provided by the petitioners, and readily available in our files, and evaluated that information in accordance with 50 CFR 424.14(b). Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the "substantial scientific information" threshold.

We added *Aliciella tenuis* to our list of candidate species on September 30, 1993, as a category 2 candidate species