

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective July 8, 2002.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 26, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.
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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 18

RIN 2700-AC33

NASA FAR Supplement—Conformance With FACs 01-01, 01-02, and 01-06; and Miscellaneous Administrative and Technical Revisions

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule to conform the NASA FAR Supplement with the FAR as a result of changes made by FAC's 01-01, 01-02, and 01-06; and make editorial and miscellaneous changes dealing with NASA internal and administrative matters.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, NASA Headquarters

Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546, (202) 358-1645, e-mail: *celeste.dalton@hq.nasa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

Item IV of FAC 01-01 amended various FAR subparts and clauses to implement recent statutory and regulatory changes relating to veterans' employment opportunities and reporting. Item II of FAC 01-02 amended various FAR subparts to implement Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management. Item III of FAC 01-02 amended various FAR subparts and clauses to reflect changes to the Office of Management and Budget (OMB) prompt payment requirements and clarify existing FAR prompt payment coverage. Item V of FAC 0106 amended various FAR subpart to rewrite procurement integrity coverage in plan language. This final rule makes changes to NFS parts 1803, 1811, 1822, 1823, and 1832 necessary to conform to the changes in FAC's 01-01, 01-02, and 01-06. Additional changes dealing with NASA internal and administrative matters included in this rule clarify the approval authority for letter contracts and that "instrument" means the award document when referring to contracts, grants, cooperative agreement, or other agreement. Changes are made to subparts 1806.3 and 1819.70 to delete text duplicative of the FAR. Changes are made to clauses in part 1852 to identify optional (though preferable) forms for submission of information about technology innovations under NASA contracts and to identify the web site where these forms are available. Editorial changes are made throughout the NFS to reflect title changes. Lastly, technical amendments are made to subpart 1804.74 and part 1852 to update url listings. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

NASA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it does not impose any new requirements.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR, Parts 1801 through 1809, 1811, 1812, 1815 through 1817, 1819, 1822, 1823, 1825, 1828 through 1830, 1832, 1835 through 1837, 1842, 1845, 1848 through 1850, and 1852

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR Chapter 18, Parts 1801 through 1809, 1811, 1812, 1815 through 1817, 1819, 1822, 1823, 1825, 1828 through 1830, 1832, 1835 through 1837, 1842, 1845, 1848 through 1850, and 1852 are amended as follows:

1. The authority citation for 48 CFR Chapter 18, Parts 1801 through 1809, 1811, 1812, 1815 through 1817, 1819, 1822, 1823, 1825, 1828 through 1830, 1832, 1835 through 1837, 1842, 1845, 1848 through 1850, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. 48 CFR Chapter 18 is amended by—
a. Removing "Associate Administrator for Procurement" and adding "Assistant Administrator for Procurement" in its place each time it appears;

b. Removing "Associate Administrator for Management Systems and Facilities" and adding "Assistant Administrator for Management Systems" in its place each time it appears;

c. Removing "Associate Administrator for Equal Opportunity Programs" and adding "Assistant Administrator for Equal Opportunity Programs" in its place each time it appears;

d. Removing "Associate Administrator for Small and Disadvantage Business Utilization" and adding "Assistant Administrator for Small and Disadvantage Business Utilization" in its place each time it appears;

e. Removing "Associate Administrator for Headquarters Operations" and adding "Director for Headquarters Operations" in its place each time it appears; and

f. Removing "Deputy Associate Administrator for Procurement" and adding "Deputy Assistant Administrator for Procurement" in its place each time it appears.

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Redesignate section 1803.104–3 as 1803.104–1.

4. Redesignate section 1803.104–5 as 1803.104–4 and amend the newly designated section 1803.104–4 by—

a. Revising the title to read as follows:

1803.104–4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

b. In paragraph (a)(ix), removing “1803.104–5(a)(i)” and adding “1803.104–4(a)(i)” in its place;

c. In paragraph (c)(i), removing—
(1) “FAR 3.104–3” and adding “FAR 2.101” in its place; and

(2) “FAR 3.104–5(c)” and adding “FAR 3.104–4(c)” in its place.

d. In paragraph (c)(ii), add “2.101 and” immediately before “3.104” in the first sentence.

5. Redesignate section 1803.104–10 as 1803.104–7.

PART 1804—ADMINISTRATIVE MATTERS

1804.7403 [Amended]

6. Amend section 1804.7403 in paragraph (a)(1) by removing “*http://www.ccr2000.com*” and adding “*http://www.ccr.gov*” in its place.

PART 1806—COMPETITION REQUIREMENTS

1806.303–170 [Amended]

7. Amend section 1806.303–170 by removing the last sentence.

PART 1811—DESCRIBING AGENCY NEEDS

8. Revise section 1811.101 to read as follows:

1811.101 Order of precedence for requirements documents.

(a) Safeguards to ensure safety, security, and environmental protection must be included, as applicable, in requirements documents.

(b)(2) Requirements for the use of environmentally preferable products will be established in accordance with NPG 8830.1, “Affirmative Procurement Plan for Environmentally Preferable Products.” Requirements for the use of energy and water efficient products and the use of renewable energy technology will be established in accordance with NPG 8570.1, “Energy Conservation Technologies and Practices.”

PART 1816—TYPES OF CONTRACTS

9. In section 1816.104–70, revise paragraph (b) to read as follows:

1816.104–70 Contract type for performance-based contracting (PBC).

* * * * *

(b) A PBC is a completion form of contract (something is accomplished). Term/level-of-effort, time-and-materials and labor hour contracts are not PBC.

10. Revise section 1816.603–370 to read as follows:

1816.603–370 Approvals.

(a)(1) The approval authority to issue a letter contract is—

(i) The Assistant Administrator for Procurement when the estimated value of the definitized contract is equal to or greater than the Master Buy Plan (MBP) submission threshold of 1807.7101;

(ii) The procurement officer when the estimated value of the definitized contract is below the MBP submission threshold; and

(iii) The Assistant Administrator for Procurement for any modification of an undefinitized letter contract approved by the procurement officer that increases the estimated value of the definitized contract to an amount equal to or above the MBP submission threshold. This approval must be obtained prior to issuing the modification.

(2) The procurement officer must sign all requests for approval by the Assistant Administrator for Procurement and submit them to Code HS.

(b) All requests for authority to issue a letter contract must include the following:

(1) Contractor name and address.

(2) Place of performance.

(3) Contract number, including modification number, if applicable.

(4) Brief description of the work or services to be performed.

(5) Performance period or delivery schedule for both the letter contract and definitized contract.

(6) Estimated value of the work authorized by the letter contract.

(7) Estimated value of the definitized contract.

(8) Contract type of the definitized contract.

(9) A statement that the definitized contract will contain all required clauses or identification of approved specific clause deviations.

(10) Complete justification of the necessity for the letter contract, including the advantages to the Government and a description of the efforts to avoid its issuance or to minimize its scope.

(11) The definitization schedule described in FAR 16.603–2(c) expected to be negotiated with the contractor.

PART 1819—SMALL BUSINESS PROGRAMS

1819.7001 [Removed]

11. Remove section 1819.7001.

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

12. Revise Subpart 1822.13 to read as follows:

Subpart 1822.13—Special Disabled Veterans, Veterans of the Vietnam ERA, and Other Eligible Veterans

1822.1305 Waivers.

(c) Requests for waivers shall be submitted to the Assistant Administrator for Equal Opportunity Programs (Code E).

1822.1308 Complaint procedures.

Contracting officers shall submit all complaints to the Assistant Administrator for Equal Opportunity Programs (Code E).

PART 1823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

13. Revise the title of Part 1823 to read as set forth above.

14. Add Subpart 1823.2 to read as follows:

Subpart 1823.2—Energy and Water Efficiency and Renewable Energy

1823.203 Energy-efficient products.

Responsibility, policy and procedures for NASA’s implementation of FAR 23.203, including cost-effectiveness, are described in NPG 8570.1, “Energy Efficiency and Water Conservation Technologies and Practices.”

15. Add Subpart 1823.4 to read as follows:

Subpart 1823.4—Use of Recovered Materials

1823.404 Agency affirmative procurement programs.

NASA’s affirmative procurement program is described in the Affirmative Procurement Plan for Environmentally Preferable Products (NPG 8830.1)

16. Add Subpart 1823.7 to read as follows:

Subpart 1823.7—Contracting for Environmentally Preferable Products and Services

1823.703 Policy.

Responsibility, policy and procedures for NASA's implementation of FAR 23.703 is described in NPG 8570.1, "Energy Efficiency and Water Conservation Technologies and Practices".

PART 1832—CONTRACT FINANCING

17. Add section 1832.007 to read as follows:

1832.007 Contract financing payments.

(a)(1) Except as authorized in 1832.908, it is NASA's policy to make contract financing payments on the 30th day after the designated billing office has received a proper request. However, the due date for making contract financing payments for a specific contract may be earlier than the 30th day, but not earlier than 7 days, after the designated billing office has received a proper request, provided that:

(i) The contractor provides consideration whose value is determined to be greater than the cost to the United States Treasury of interest on funds paid prior to the 30th day, calculated using the Current Value of Funds Rate published annually in the **Federal Register** (subject to quarterly revision);

(ii) The contracting officer approves the payment date change, with the concurrence of the installation Financial Management Officer; and

(iii) The contract file includes documentation regarding the value of the consideration and the analysis determining that value.

1832.906 [Removed]

18. Remove section 1832.906.

1832.908 [Amended]

19. Amend section 1832.908 by redesignating paragraph (c)(3) as (c)(2).

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.016–71 [Amended]

20. In section 1835.016–71, amend the last sentence of paragraph (c)((2)(B) by removing "NASA instruments" and adding "NASA award instruments" in its place.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.204–74 [Amended]

21. Section 1852.204–74 is amended as follows:

a. The clause date is revised to read "May 2002"; and

b. In paragraph (d) remove "<http://www.ccr2000.com>" and add "<http://www.ccr.gov>" in its place.

22. Revise section 1852.227–11 to read as follows:

1852.227–11 Patent Rights—Retention by the Contractor (Short Form).

As prescribed at 1827.303–70(a), modify the clause at FAR 52.227–11 by adding the following subparagraph (5) to paragraph (c) of the basic clause; adding the following subparagraph (5) to paragraph (f); and using the following subparagraph (2) in lieu of subparagraph (g)(2) of the basic clause:

(c)(5) The Contractor may use whatever format is convenient to disclose subject inventions required in subparagraph (c)(1). NASA prefers that the contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (Including Software) to disclose subject inventions. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site <http://invention.nasa.gov>. (End of addition)

(f)(5) The Contractor shall provide the Contracting Officer the following:

(i) A listing every 12 months (or such longer period as the Contracting Officer may specify) from the date of the contract, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the contract listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a coinventor.

(End of addition)

(g)(2) The Contractor shall include the clause in the NASA FAR Supplement at 1852.227–70, New Technology, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or nonprofit organization.

(End of substitution)

23. Amend the clause at section 1852.227–70 by revising the date of the clause; redesignating paragraphs (e)(3) through (e)(5) as (e)(4) through (e)(6)

respectively; and adding new paragraph (e)(3) to read as follows:

1852.227–70 New Technology.

* * * * *

New Technology

(May 2002)

(e) * * *

(3) The Contractor may use whatever format is convenient to disclose reportable items required in subparagraph (e)(2). NASA prefers that the Contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (Including Software) to disclose reportable items. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site <http://invention.nasa.gov>.

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1852.235–72 [Amended]

24. Section 1852.235–72 is amended as follows:

a. The clause date is revised to read "May 2002"; and

b. In the second sentence of paragraph (a)(4), add the word "award" immediately after the word "appropriate".

[FR Doc. 02–11168 Filed 5–6–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600 and 660

[Docket No. 011231309–2090–03; I.D. 042502D]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Pacific Halibut Fisheries; Corrections

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason trip limit adjustment; announcement of incidental halibut retention allowance; corrections to the 2002 specifications and management measures; request for comments.

SUMMARY: NMFS announces changes in the following trip limits for the Pacific Coast groundfish fisheries: limited entry trawl gear fisheries for the DTS complex (Dover sole, thornyheads, and sablefish), splitnose rockfish, minor slope rockfish, chilipepper rockfish, yelloweye rockfish sublimit in minor shelf rockfish, and lingcod; limited entry fixed gear