

pursuant to the order of the Commission or a court having jurisdiction.

19. *No Waiver of Confidentiality.* Disclosure of Confidential Information as provided herein shall not be deemed a waiver by the Submitting Party of any privilege or entitlement to confidential treatment of such Confidential Information. Reviewing Parties, by viewing these materials: (a) agree not to assert any such waiver; (b) agree not to use information derived from any confidential materials to seek disclosure in any other proceeding; and (c) agree that accidental disclosure of Confidential Information shall not be deemed a waiver of the privilege.

20. *Additional Rights Preserved.* The entry of this Protective Order is without prejudice to the rights of the Submitting Party to apply for additional or different protection where it is deemed necessary or to the rights of Reviewing Parties to request further or renewed disclosure of Confidential Information.

21. *Effect of Protective Order.* This Protective Order constitutes an Order of the Commission and an agreement between the Reviewing Party, executing the attached Declaration, and the Submitting Party.

**Authority:** This Protective Order is issued pursuant to sections 4(i) and 4(j) of the Communications Act as amended, 47 U.S.C. 154(i), (j) and 47 CFR 0.457(d).

#### List of Subjects

##### 47 CFR 54

Universal Service.

##### 47 CFR 69

Communications common carriers.

Federal Communications Commission.

**James D. Schlichting,**

*Deputy Chief, Common Carrier Bureau.*

#### Attachment

#### DECLARATION

In the Matter of Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High Cost Support for Non-Rural LECs (CC Docket Nos. 96-45, 97-160). I, \_\_\_\_\_, hereby declare under penalty of perjury that I have read the Protective Order that has been entered by the Common Carrier Bureau in this proceeding, and that I agree to be bound by its terms pertaining to the treatment of Confidential Information submitted by parties to this proceeding. I understand that the Confidential Information shall not be disclosed to anyone except in accordance with the terms of the Protective Order and shall be used only for purposes of the proceedings in this matter. I acknowledge that a violation of

the Protective Order is a violation of an order of the Common Carrier Bureau. I acknowledge that this Protective Order is also a binding agreement with the Submitting Party.

(signed) \_\_\_\_\_  
(printed name) \_\_\_\_\_  
(representing) \_\_\_\_\_  
(title) \_\_\_\_\_  
(employer) \_\_\_\_\_  
(address) \_\_\_\_\_  
(phone) \_\_\_\_\_  
(date) \_\_\_\_\_

[FR Doc. 98-21260 Filed 8-10-98; 8:45 am]

BILLING CODE 6712-01-M

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1842 and 1853

#### Revision to the NASA FAR Supplement on Contractor Performance Information

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Interim rule adopted as final with changes.

**SUMMARY:** This is a final rule amending the NASA FAR Supplement (NFS) to implement FAR requirement to evaluate contractor performance.

**DATES:** This rule is effective August 11, 1998.

**ADDRESSES:** Paul Brundage, Code HK, NASA Headquarters, 300 E Street, SW, Washington, DC 20456-0001.

**FOR FURTHER INFORMATION CONTACT:** Paul Brundage, (202) 358-0481.

#### SUPPLEMENTARY INFORMATION:

##### Background

FAR 42.15 requires that Federal agencies evaluate contract performance for each contract in excess of \$100,000. NASA received public comments on the interim rule published in the **Federal Register** on May 21, 1998 (63 FR 27859-27860). As a result, NASA has made the final evaluations cumulative.

##### Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

#### Lists of Subjects in 48 CFR Parts 1842 and 1853

Government procurement.

**Deidre Lee,**

*Associate Administrator for Procurement.*

Accordingly, the interim rule published May 21, 1998 (63 FR 27859) amending 48 CFR parts 1842 and 1853 is adopted as final with the following changes.

1. The authority citation for 48 CFR Parts 1842 and 1853 continues to read as follows:

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

#### PART 1842—CONTRACT ADMINISTRATION

##### Subpart 1842.15 [Revised]

2. Subpart 1842.15 is revised to read as follows:

##### Subpart 1842.15—Contractor Performance Information

###### § 1842.1501 General.

Communications with contractors are vital to improved performance and this is NASA's primary objective in evaluating past performance. Other objectives include providing data for both future source selections and for reports under NASA's Contractor Performance Assessment Program (CPAP). While the evaluations must reflect both shortcomings and achievements during performance, they should also elicit from the contractors their views on impediments to improved performance emanating from the Government or other sources.

###### § 1842.1502 Policy (NASA Supplement paragraph (a)).

(a) Within 60 days of every anniversary of the award of a contract having a term exceeding one year, contracting officers shall conduct interim evaluations of performance on contracts subject to FAR subpart 42.15 and this subpart. On such contracts, both an interim evaluation covering the last period of performance and a final evaluation summarizing all performance shall be conducted.

###### § 1842.1503 Procedures (NASA Supplement paragraphs (a) and (b)).

(a) The contracting officer shall determine who (e.g., the technical office or end users of the products or services) evaluates appropriate portions of the contractor's performance. The evaluations are subjective in nature. Nonetheless, the contracting officer, who has responsibility for the evaluations, shall ensure that they are reasonable.

(b) NASA Form 1680, entitled, "Evaluation of Performance," shall be used to document evaluations. This provides for a five-tiered rating (using the definitions for award fee evaluation scoring found in 1816.405-275) covering the following attributes: quality, timeliness, price or control of costs (not required for firm-fixed-price contracts or firm-fixed-price contracts with economic price adjustment), and other considerations. Evaluations used in determining award fee payments satisfy the requirements of this subpart and do not require completion of NASA Form 1680. In addition, hybrid contracts containing both award fee and non-award fee portions do not require completion of NASA Form 1680. Contracting Officers shall ensure that the Government discusses all evaluations with contractors and shall record the date and the participants on the evaluation form. Contracting officers shall sign and date the evaluation after considering any comments received from the contractor within 30 days of the contractor's receipt of the evaluation. If a contractor in its timely comments disagrees with an evaluation and requests a review at a level above the contracting officer, it shall be provided within 30 days. While the FAR forbids use of the evaluations for source selections more than three years after contract completion, they shall nevertheless be retained in the contract file as provided in FAR 4.8, Government Contract Files.

[FR Doc. 98-21503 Filed 8-10-98; 8:45 am]

BILLING CODE 7510-01-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1080-AF01

#### Endangered and Threatened Wildlife and Plants: Emergency Listing of the Jarbidge River Population Segment of Bull Trout as Endangered

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

**ACTION:** Emergency rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) exercises its emergency authority to determine the Jarbidge River population segment of bull trout (*Salvelinus confluentus*) from the Jarbidge River basin in southern Idaho and northern Nevada to be endangered pursuant to the Endangered Species Act of 1973, as amended (Act).

The Jarbidge River population segment, composed of a single subpopulation, is threatened by habitat degradation from past and ongoing land management activities such as mining, road construction and maintenance, and grazing. Recently initiated river channel alteration associated with unauthorized road construction on the West Fork of the Jarbidge River is believed to imminently threaten the survival of the Jarbidge River bull trout population. Because of the need to make the protective measures afforded by the Act immediately available to the Jarbidge River population of bull trout and its habitat, the Service finds that an emergency rule action is justified. This emergency rule provides Federal protection pursuant to the Act for the Jarbidge River population of bull trout for a period of 240 days. A proposed rule to list the Jarbidge River population of bull trout as threatened, which requested data and comment from the public, was published in the **Federal Register** on June 10, 1998. The comment period on the proposed rule closes on October 8, 1998.

**DATES:** This emergency rule is effective on August 11, 1998, and expires on April 8, 1999.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U. S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502.

**FOR FURTHER INFORMATION CONTACT:** Robert D. Williams, Field Supervisor, Nevada Fish and Wildlife Office (see **ADDRESSES** section; telephone: 702/861-6300).

#### SUPPLEMENTARY INFORMATION:

##### Background

A complete discussion of this section is contained in the proposed rule published on June 10, 1998 (63 FR 31693).

##### Distinct Population Segments

The best available scientific and commercial information supports designating five distinct population segments (DPSs) of bull trout in the coterminous United States—(1) Klamath River, (2) Columbia River, (3) Coastal-Puget Sound, (4) Jarbidge River, and (5) St. Mary-Belly River. A final listing determination for the Klamath River and Columbia River DPSs was published in the **Federal Register** on June 10, 1998 (63 FR 31647), and includes a detailed description of the rationale behind the DPS delineation. A proposed rule to list the Coastal Puget Sound, Jarbidge River,

and St. Mary-Belly River population segments as threatened was also published in the **Federal Register** on June 10, 1998 (63 FR 31693). The approach is consistent with the joint National Marine Fisheries Service (NMFS) and Service's policy for recognizing distinct vertebrate population segments under the Act (February 7, 1996; 61 FR 4722). This emergency rule addresses only the Jarbidge River bull trout DPS.

The Jarbidge River, located in southwest Idaho and northern Nevada, is a tributary in the Snake River basin and contains the southernmost habitat occupied by bull trout. This population segment is discrete because it is segregated from other bull trout in the Snake River basin by a large gap (greater than 240 kilometers (km) (150 miles (mi)) in suitable habitat and several impassable dams on the mainstem Snake River. The occurrence of a species at the extremities of its range is not necessarily sufficient evidence of significance to the species as a whole. However, because the Jarbidge River possesses bull trout habitat that is disjunct from other patches of suitable habitat, the population segment is considered significant because it occupies a unique or unusual ecological setting, and its loss would result in a substantial modification of the species' range.

##### Status and Distribution

To facilitate evaluation of current bull trout distribution and abundance for the Jarbidge River population segment, the Service analyzed data on a subpopulation basis within the segment because fragmentation and barriers have isolated bull trout. A subpopulation is considered a reproductively isolated bull trout group that spawns within a particular area(s) of a river system.

The Jarbidge River DPS consists of one bull trout subpopulation occurring primarily in Nevada (Service 1998b). Resident fish inhabit the headwaters of the East Fork and West Fork of the Jarbidge River and several tributary streams, and low numbers of migratory (fluvial) fish are present (Zoellick et al. 1996; L. McLelland, Nevada Division of Wildlife (NDOW), *in litt.* 1998; K. Ramsey, Humboldt National Forest (HNF), *in litt.* 1997). Bull trout were not observed during surveys in the Idaho portion of the Jarbidge River basin in 1992 and 1995 (Warren and Partridge 1993; Allen et al. 1997), however, a single, small bull trout was captured when traps were operated on the lower East Fork and West Fork Jarbidge River during August through October 1997 (F. Partridge, Idaho Department of Fish and