without any action being required on its part, pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that the amendment to the Customs Regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Further, this document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Drafting Information: The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 142

Administrative practice and procedure, Confidential business information, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

Amendment to the Regulations

For the reasons set forth above, part 142 of the Customs Regulations (19 CFR part 142), is amended as set forth below:

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. In § 142.3a, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively; in the first sentence of newly designated paragraph (e) the reference ''paragraph (c)'' is revised to read ''paragraph (d)''; and a new paragraph (c) is added to read as follows:

§ 142.3a Entry numbers.

* * * * *

(c) *Publication of Entry Filer Codes.* Customs shall make available electronically a listing of filer codes and the importers, consignees, and customs brokers assigned those filer codes. The listing will be updated periodically.

* * * * *

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: February 17, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–6880 Filed 3–16–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1220

[Docket No. 98N–0135]

Revocation of Regulations Under the Tea Importation Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the regulations under the Tea Importation Act. This action is in response to the passage of the Federal Tea Tasters Repeal Act on April 9, 1996, that repealed the Tea Importation Act of 1897. In addition, the agency is withdrawing the proposed rule that announced the agency's intentions to implement the Tea Importation Act in the wake of the agency's appropriation for fiscal year (FY) 1996, which did not provide funds to operate the Board of Tea Experts. The proposal has been rendered moot by the repeal of the Tea Importation Act.

DATES: The regulation is effective April 17, 1998. Comments by April 16, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12430 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hilario R. Duncan, Center for Food Safety and Applied Nutrition (HFS–24), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–8281.

SUPPLEMENTARY INFORMATION: On April 9, 1996, President Clinton signed into law the Federal Tea Tasters Repeal Act of 1996 (Pub. L. 104–128). This act repealed the Tea Importation Act of 1897 (21 U.S.C. 41 *et seq.*), eliminating the Board of Tea Experts and related programs that prohibited the importation of tea that does not meet the standards established by FDA for purity, quality, and fitness for consumption. The regulations implementing the Tea Importation Act of 1897 are codified in part 1220 (21 CFR part 1220).

In view of Congress' repeal of the Tea Importation Act of 1897, the legal authority under which part 1220 was issued, and the elimination of the Board of Tea Experts, the agency has concluded that part 1220 should be revoked. In addition, the agency is withdrawing the proposal published in the **Federal Register** of February 7, 1996 (61 FR 4597). The proposal announced the agency's intentions to implement the Tea Importation Act in the wake of the agency's appropriation for FY 1996, which did not provide funds to operate the Board of Tea Experts. The proposal has been rendered moot by the repeal of the Tea Importation Act.

Therefore, in accordance with the Federal Tea Tasters Repeal Act of 1996, FDA is revoking ''Part 1220—Regulations Under the Tea Importation Act.''

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA is revoking part 1220 by final rule without first publishing a general notice of proposed rulemaking. A final regulatory analysis under the Regulatory Flexibility Act (5 U.S.C. 601–612) is, therefore, not required. The agency expects the revocation of part 1220 to reduce the burden on small entities. In addition, FDA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866.

Because FDA is revoking regulations that were issued under legal authority that Congress has repealed, the agency for good cause finds that notice and public procedure on this rule is unnecessary and, therefore, not required under 5 U.S.C. 553. See *Hadson Gas Systems, Inc.* v. *FERC*, 75 F.3d 680 (D.C. Cir. 1996). Under 21 CFR 10.40(e), however, interested persons may, on or before April 16, 1998, submit to the Dockets Management Branch (address above) written comments regarding revocation of this part. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 1220

Administrative practice and procedure, Customs duties and inspection, Imports, Public health, Tea.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1220 is removed.

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

Part 1220 [Removed]

1. Part 1220 is removed.

Dated: March 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–6777 Filed 3–16–98; 8:45 am]

BILLING CODE 4160–01–F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1806, 1807, 1816, 1819, and 1837

Revisions to the NASA FAR Supplement on Performance-Based Contracting and Other Miscellaneous Revisions

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to clarify that Performance-Based Contracting (PBC) is the preferred contracting technique for the acquisition of all supplies and services at NASA; provide guidance on the appropriate contract type for PBC requirements; provide common sense guidance as to when positive and negative incentives should not be used; and clarify the use of award fee incentives in conjunction with other contract types. Other miscellaneous revisions are made to conform with recent FAR numbering changes.

EFFECTIVE DATE: March 17, 1998.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Sateriale, NASA, Office of Procurement, Contract Management Division (Code HK), 202) 358–0491.

SUPPLEMENTARY INFORMATION:

Background

Federal Acquisition Circular 97–1 revised FAR 7.105 and added FAR 37.6 to address Performance-Based Service Contracting. These changes obviate the need for similar coverage in the NFS, although coverage is added to clarify that NASA policy on use of PBC is not limited to service contracts. In addition, the following changes are made:

1. New guidance is added regarding the use of incentives in performance-based contracts. Included in this guidance is the addition of new sections discussing the use of a CPAF contract type for PBC requirements and the use of performance incentives. Previous restrictions on the use of CPAF for PBC requirements are deleted.

2. The requirement in 1806.302–470(b) for competition advocate approval of a memorandum justifying not preparing a justification for other than full and open competition pursuant to FAR 6.302–4, International Agreement, is deleted to reflect a statutory change made by section 841(b) of the Defense Authorization Act for Fiscal Year 1998.

3. Miscellaneous editorial changes are made to align the NFS with FAR section titles and numbers.

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.

List of Subjects in 48 CFR Parts 1806, 1807, 1816, 1819, and 1837

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1806, 1807, 1816, 1819, and 1837 are amended as follows:

1. The authority citation for 48 CFR Parts 1806, 1807, 1816, 1819, and 1837 continues to read as follows:

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

PART 1806—COMPETITION REQUIREMENTS

1806.302–470 [Amended]

2. In section 1806.302–470, paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b).

PART 1807—ACQUISITION PLANNING

1807.105 [Amended]

3. In the introductory text to section 1807.105, the following sentence is added to the end of the paragraph to read as follows:

1807.105 Contents of written acquisition plans.

* * * The requirements in FAR 7.105 regarding performance-based contracting methods shall not be limited to acquisition plans for service contracts.

PART 1816—TYPES OF CONTRACTS

Subpart 1816.1—[Added]

4. Subpart 1816.1 is added to read as follows:

Subpart 1816.1—Selecting Contract Types

1816.104 Factors in selecting contract types.

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

(a) PBC is defined in FAR 37.101 and discussed in FAR 37.6. Although FAR part 37 primarily addresses services contracts, PBC is not limited to these contracts. PBC is the preferred way of contracting for all supplies and services at NASA. Generally, when contract performance risk under a PBC specification can be fairly shifted to the contractor to allow for the operation of objective incentives, a contract type with objectively measurable incentives (e.g., FFP, FPIF, or CPIF) is appropriate. However, when contractor performance (e.g., cost control, schedule, or quality/technical) is best evaluated subjectively using quantitative measures, a CPAF contract may be used.

(b) A level-of-effort contract is not PBC.

1816.402, 1816.402–2, 1816.402–70 [Amended]

5. Sections 1816.402 and 1816.402–2 and the first sentence in paragraph (a) to section 1816.402–70 are revised to read as follows:

1816.402 Application of predetermined, formula-type incentives. (NASA paragraphs 1, 2 and 3).

When considering the use of a quality, performance, or schedule incentive, the following guidance applies.

(1) A positive incentive is generally not appropriate unless—

(i) Performance above the target (or minimum, if there are no negative incentives) level is of significant value to the Government;

(ii) The value of the higher level of performance is worth the additional cost/fee;

(iii) The attainment of the higher level of performance is clearly within the control of the contractor; and

(iv) An upper limit is identified, beyond which no further incentive is earned.

(2) A negative incentive is generally not appropriate unless—

(i) A target level of performance can be established, which the contractor can reasonably be expected to reach with a diligent effort, but a lower level of performance is also minimally acceptable;

(ii) The value of the negative incentive is commensurate with the lower level of performance and any additional administrative costs; and

(iii) Factors likely to prevent attainment of the target level of