

above health-based levels, five-year reviews of the previous response actions will be required pursuant to the NCP. These reviews will be conducted in conjunction with site-wide five-year reviews. The Second Five Year Review Report for California Gulch, signed in September of 2001, concluded that the remedy for OU 9 currently protects human health and the environment. The next five-year review at the California Gulch Site is scheduled for completion in September of 2006.

Community Involvement

The Draft Mine waste Engineering Evaluation and Cost Analysis (EE/CA) was issued for public comment. A public meeting was held on December 19, 1995 to discuss the Removal Action for the mine waste piles located within OU 9. The EPA notified the citizens of Leadville by the release of and acceptance of public comment concerning the Mine Waste EE/CA for OU 9.

In November of 1998, EPA issued a Proposed Plan describing the Agency's preferred alternative to address risks to residents from lead in soils and other sources within OU 9. A public meeting to discuss the Proposed Plan was held in Leadville on November 19, 1998. Public comment on the Proposed Plan was accepted from November 12, 1998 through December 14, 1998. EPA then issued a Record of Decision for OU 9 presenting the selected remedy for the Residential Populated Areas of OU 9, California Gulch Superfund Site.

The State of Colorado, through the Colorado Department of Health and Environment, submitted a proposal for the deletion of subunits A and B within OU 9 on November 3, 2000. The petition of partial deletion requested EPA proceed with preparation of the Notice of Intent for Partial Deletion (NOIPD).

Public Participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the partial deletion from the NPL are available to the public in the information repositories.

V. Partial Deletion Action

The EPA, with concurrence of the State of Colorado, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than five-year reviews, are necessary. Therefore, EPA is deleting subunits A and B, residential waste rock piles, and the parks and playgrounds within OU 9, California Gulch Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective April 22, 2002 unless EPA receives adverse comments by March 22, 2002. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the

effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 30, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by revising the entry under Colorado for "California Gulch" to read as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes ¹
CO	California Gulch	Leadville	P

1 * * *

P=Sites with partial deletion(s).

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[FR Doc. 02–3919 Filed 2–19–02; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1816 and 1852

RIN 2700–AC33

Major Breach of Safety or Security

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) by revising the Major Breach of Safety or Security clause to more clearly state that a major breach of security is an act or omission by the contractor that results in various outcomes (compromise of classified information; illegal technology transfer, etc.); to clarify that two of the outcomes are equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000; and to correctly identify the Occupational Safety and Health Administration (OSHA). In addition, the guidance for award fee evaluation factors is revised to be consistent with

the Major Breach of Safety or Security clause.

EFFECTIVE DATE: February 20, 2002.

FOR FURTHER INFORMATION CONTACT: Jeff Cullen, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546; 202–358–1784; e-mail: jcullen@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule revises 1852.223–75, Major Breach of Safety or Security. The current major breach of security description contained in paragraph (b) of the clause includes outcomes that

may result in a major breach of security. However, the description does not clearly state that to be a major breach of security, the outcomes must result from an act or omission by the contractor. Revising the clause to clearly state that a major breach of security is an act or omission by the contractor that results in the various outcomes (compromise of classified information, illegal technology transfer, etc.) would make the major breach of security paragraph consistent with paragraph (a) (major breach of safety) of the clause.

Additionally, the clause states that a major breach of security may arise from damage or loss greater than \$250,000 to the Government, but it is not clear if this outcome is a standalone provision or if it applies to other outcomes in the clause (e.g., does a major breach occur if illegal technology transfer or theft occurs, and the result is damage or loss greater than \$250,000 to the Government). This revision will remove the reference to damage or loss greater than \$250,000 to the Government, but also clarify that two of the outcomes are equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.

Also, the definition of major breach of safety or security in 1816.405–274, Award Fee Evaluation Factors, will be revised to make it consistent with the revised 1852.223–75, Major Breach of Safety or Security definition.

Lastly, OSHA is corrected to read as the Occupational Safety and Health Administration in 1852.223–75, Major Breach of Safety or Security clause and in 1816.405–274, Award Fee Evaluation Factors.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Parts 1816 and 1852 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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 1816 and 1852

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR parts 1816 and 1852 are amended as follows:

1. The authority citation for 48 CFR parts 1816 and 1852 continues to read as follows:

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

PART 1816—TYPES OF CONTRACTS

2. In section 1816.405–274, revise paragraphs (c)(2) and (c)(3) to read as follows:

1816.405–274 Award fee evaluation factors.

* * * * *

(c) * * *

(2) A major breach of safety must be related directly to the work on the contract. A major breach of safety is an act or omission of the Contractor that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than \$1 million; or in any “willful” or “repeat” violation cited by the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.

(3) A major breach of security may occur on or off Government installations, but must be directly related to the work on the contract. A major breach of security is an act or omission by the contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.

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PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 1852.223–75 is amended by revising the clause date; deleting “Occupational Health and Safety Administration” and adding “Occupational Safety and Health Administration” in its place in the last sentence of paragraph (a); and revising paragraph (b) to read as follows:

1852.223–75 Major Breach of Safety or Security.

* * * * *

Major Breach of Safety or Security (February 2002)

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(b) Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination for default. A major breach of security may occur on or off Government installations, but must be related directly to the work on the contract. A major breach of security is an act or omission by the Contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1832

RIN 2700–AC33

Limitation on Incremental Funding and Deobligations

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule amends the NASA FAR Supplement (NFS) to revise the criteria for incrementally funding contracts and establish dollar thresholds for incremental funding and deobligations under contracts. These changes will further limit the number of contracts eligible to be incrementally funded and the number of incremental funding and deobligation modifications.

EFFECTIVE DATE: February 20, 2002.

FOR FURTHER INFORMATION CONTACT: Ron Lentz, NASA Headquarters (Code HK), Washington, DC, (202) 358–0416, e-mail: rlentz@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Currently, NFS 1832.702–70 limits the incremental funding of cost-reimbursement and fixed-price contracts. In spite of these restrictions, numerous incremental funding modifications are being issued against