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By Facsimile

Fax your comments to (202) 566-1741, Attention Docket ID. No. OAR-2003-0095.

Dated: March 4, 2004.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1827, 1828, 1829, 1830, 1831, 1832, and 1833

RIN 2700-AC68

Re-Issuance of NASA FAR Supplement Subchapter E

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the NASA FAR Supplement (NFS) by removing from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. This change is consistent with the guidance and policy in FAR Part 1 regarding what comprises the Federal Acquisition Regulations System and requires publication for public comment. The NFS document will continue to contain both information requiring codification in the CFR and internal Agency guidance in a single document that is available on the Internet. This change will reduce the administrative burden and time associated with maintaining the NFS by only publishing in the **Federal Register** for codification in the CFR material that is subject to public comment.

DATES: Comments should be submitted on or before May 11, 2004 to be considered in formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700-AC86, via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments can also be submitted by e-mail to:

Celeste.M.Dalton@nasa.gov.

FOR FURTHER INFORMATION CONTACT:

Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358-1645; e-mail: *Celeste.M.Dalton@nasa.gov*

SUPPLEMENTARY INFORMATION:

A. Background

Currently the NASA FAR Supplement (NFS) contains information to implement or supplement the FAR. This information contains NASA's policies, procedures, contract clauses, solicitation provisions, and forms that govern the contracting process or otherwise control the relationship between NASA and contractors or prospective contractors. The NFS also contains information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. Regardless of the nature of the information, as a policy, NASA has submitted to the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) and published in the **Federal Register** all changes to the NFS. FAR 1.101 states in part that the "Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR. The FAR System does not include internal agency guidance of the type described in 1.301(a)(2)." FAR 1.301(a)(2) states in part "an agency head may issue or authorize the issuance of internal agency guidance at any organizational level (e.g., designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements)." Further, FAR 1.303 states that issuances under FAR 1.301(a)(2) need not be published in the **Federal Register**. Based on the foregoing, NASA is not required to publish and codify internal Agency guidance.

This proposed rule will modify the existing practice by only publishing those regulations which may have a

significant effect beyond the internal operating procedures of the Agency or have a significant cost or administrative impact on contractors or offerors. The NFS will continue to integrate into a single document both regulations subject to public comments and internal Agency guidance and procedures that do not require public comment. Those portions of the NFS that require public comment will continue to be amended by publishing changes in the **Federal Register**. NFS regulations that require public comment are issued as Chapter 18 of Title 48, CFR. Changes to portions of the regulations contained in the CFR, along with changes to internal guidance and procedures, will be incorporated into the NASA-maintained Internet version of the NFS through Procurement Notices (PNs). The single official NASA-maintained version of the NFS will remain available on the Internet. NASA personnel must comply with all regulatory and internal guidance and procedures contained in the NFS.

This change will result in savings in terms of the number of rules subject to publication in the **Federal Register** and provide greater responsiveness to internal administrative changes.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601. *et seq.*, because this proposed rule would only remove from the CFR information that is considered internal Agency administrative procedures and guidance. The information removed from the CFR will continue to be made available to the public via the Internet.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements 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 1827 through 1833.

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR parts 1827 through 1833 are amended as follows:

1. The authority citation for 48 CFR parts 1827 through 1833 continue to read as follows:

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

PART 1827—PATENTS, DATA, AND COPYRIGHTS

2. Amend part 1827 by removing sections 1827.305–3, 1827.305–370, 1827.305–371, paragraphs (d), (e), (f), (g)(3)(B), (g)(3)(C), (g)(3)(D), (h), and (i) in section 1827.404, sections 1827.405, 1827.406, 1827.408, and paragraphs (b), (c), (d), and (e) in section 1827.409.

PART 1828—BONDS AND INSURANCE

3. Amend part 1828 by removing sections 1828.106, 1828.106–6, Subpart 1828.2, and sections 1828.307, 1828.307–1, 1828.307–2, and 1828.307–70.

PART 1829—TAXES

4. Remove part 1829.

PART 1830—COST ACCOUNTING STANDARDS ADMINISTRATION

5. Amend part 1830 by removing Subpart 1830.2 and removing and reserving sections 1830.7001–1, 1830.7001–2, and 1830.7001–3.

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

6. Amend part 1831 by removing sections 1831.205–6, 1831.205–670, and 1831.205–32, and removing the phrase “under 1831.205–32” in section 1831.205–70.

PART 1832—CONTRACT FINANCING

7. Amend part 1832 by—
(a) Removing sections 1832.006–2, 1832.007;

(b) Removing “(see 1832.402)” in paragraph (b)(6) of section 1832.202–1; and

(c) Removing sections 1832.402, 1832.406, 1832.407, 1832.409, 1832.409–1, 1832.409–170, 1832.410, 1832.501–2, 1832.502, 1832.502–2, 1832.503, 1832.503–5, 1832.504, 1832.702, 1832.702–70, 1832.704, 1832.704–70, Subpart 1832.9, and sections 1832.1001, 1832.1004, paragraph (b)(2) in section 1832.1005, and paragraph (c) in section 1832.1110.

PART 1833—PROTESTS, DISPUTES, AND APPEALS

8. Amend part 1833 by removing paragraph (f) in section 1833.103, and sections 1833.104, 1833.106, 1833.209, 1833.210, and 1833.211.

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