[c](1), shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.''

During a meeting of the ICAO Council on March 3, 2014, Council members adopted Amendment 172 to Annex 1, Personnel Licensing. The amendment removes the requirement in Standard 2.1.10 to pair a pilot in command over age 60 with a pilot under age 60. Without the pairing requirement, all pilots on multi-pilot crews serving in international air transport commercial operations may continue to serve as long as they have not reached 65 years of age.[2] The Council anticipates implementation of Amendment 172 to Annex 1, Personnel Licensing, to be November 13, 2014.[3] Accordingly, on November 13, 2014, the pilot pairing limitation in 49 U.S.C. 44729(c)(1) ceases to be effective.

''Part 121 Pilot Age Limit'' Final Rule

On July 15, 2009, the Federal Aviation Administration (FAA) published the ''Part 121 Pilot Age Limit'' final rule (74 FR 34229) to conform FAA regulations to the statutory requirements in the Fair Treatment for Experienced Pilots Act (codified at 49 U.S.C. 44729). Based on the statutory authority in 49 U.S.C. 44729, the 2009 final rule raised the pilot age limitation from 60 to 65 and added the pilot pairing requirement for pilots conducting part 121 operations and other multi-pilot operations between or over the territory of more than one country using U.S. registered airplanes.[4]

In the final rule preamble, the agency stated that it believed that the Fair Treatment for Experienced Pilots Act intended to harmonize FAA regulations with the ICAO standard pertaining to pilot age limitations and pilot pairing requirements, which would encompass international operations in addition to the part 121 operations identified by the Act. *See* 74 FR 34229, 34230 (July 15, 2009). The ICAO standard pertaining to pilot age limitations and pilot pairing applies to pilots serving in operations between his or her home state and another country as well as between two territories outside of his or her home state. Accordingly, to harmonize the agency's regulations with the ICAO standard and further the intent of the Act, the 2009 final rule added the pilot age limitations and pilot pairing requirement for pilots conducting operations between two international territories using U.S. registered airplanes.[5] As a result, for multi-pilot operations, the final rule increased the maximum age for a pilot to serve and added the pilot pairing requirement for part 121 operations and certain other international air service and air transportation operations using airplanes on the U.S. registry (14 CFR 121.383(d) and (e), 61.3(j) and 61.77(g)).

Effect of ICAO Amendment and Sunset of 49 U.S.C. 44729(c)(1) on Enforcement of FAA Regulations

As discussed previously, 49 U.S.C. 44729(c)(2) states that the pilot pairing requirement in 49 U.S.C. 44729(c)(1) ceases to be effective when ICAO amends its standard to remove the pilot pairing limitation. Once the pilot pairing limitation of 49 U.S.C. 44729(c)(1) ceases to be effective, the statutory basis for pilot pairing in §§ 121.383(d)(2), 121.383(e)(2), 61.3(j)(2) and 61.77(g) of title 14 of the Code of Federal Regulations will no longer exist and those regulations will be contrary to 49 U.S.C. 44729. For this reason, beginning on the date the ICAO amendment is implemented, the FAA will no longer enforce the crew pairing requirements contained in14 CFR 121.383(d)(2), 121.383(e)(2), 61.3(j)(2) and 61.77(g).

The FAA has initiated a rulemaking to conform applicable relevant regulations to the statute and anticipates publication of a final rule in 2015.[6]

Issued in Washington, DC, on November 5, 2014.

Reginald C. Govan,

Chief Counsel.

[FR Doc. 2014–26783 Filed 11–12–14; 8:45 am]

BILLING CODE 4910–13–P

[2] Amendment 172 to Annex 1, Personnel Licensing, does not affect the maximum age permitted for pilots of engaged in single-pilot operations. Pilots serving in single-pilot operations must be below 60 years of age.

[3] On March 25, 2014, ICAO notified the FAA that the date of implementation is anticipated to be November 13, 2014, to the extent the majority of ICAO contracting States have not registered their disapproval before July 14, 2014. On October 1, 2014, the FAA confirmed that ICAO has not amended the implementation date of November 13, 2014.

[4] The 2009 final rule implemented the crew pairing requirements by amending part 121 as well as the regulations applicable to pilots with certificates issued under part 61, including a special purpose pilot authorization issued in accordance with § 61.77. As discussed in footnote 5, foreign air carrier operations and certain other operations conducted with U.S. registered aircraft solely outside of the U.S. must comply with ICAO standards in Annex 1 to the Convention on International Civil Aviation without further agency action.

[5] The agency notes that in accordance with 14 CFR 129.5(b), ''Each foreign air carrier conducting operations within the United States must conduct its operations in accordance with the Standards contained in Annex 1 (Personnel Licensing), Annex 6 (Operation of Aircraft), Part I (International Commercial Air Transport—Aeroplanes) or Part III (International Operations—Helicopters), as appropriate, and in Annex 8 (Airworthiness of Aircraft) to the Convention on International Civil Aviation.'' Additionally, in accordance with 14 CFR 129.1(b), operations of U.S. registered aircraft solely outside of the U.S. in common carriage by a foreign person or a foreign air carrier must also be in compliance with the ICAO Standards identified in 14 CFR 129.5(b). Accordingly, for these operations, the ICAO amendment to the crew pairing limitation applies without further change to title 14 of the Code of Federal Regulations. The FAA further notes that beginning on the date of the ICAO amendment implementation, as an ICAO member state, no foreign air carrier conducting operations under part 129 may conduct operations to or from the United States with any pilot who has reached 65 years of age. This same limitation applies to operations covered by 14 CFR 129.1(b).

[6] The FAA expects to make conforming changes to 14 CFR 61.3(j), 61.77(g) and 121.383(d)(2) and (e)(2).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

RIN 2700–AD79

Profit and Fee Under Federal Financial Assistance Awards

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is revising the NASA Grant & Cooperative Agreement Handbook to clarify that NASA does not pay profit or fee on Federal Financial Assistance awards, i.e. grants and cooperative agreements, to non-profit organizations. This rule makes changes to NASA regulations to reflect that revision.

DATES: Effective December 15, 2014.

FOR FURTHER INFORMATION CONTACT: William Roets, NASA Office of Procurement, Contract Management Division, Suite 5K34, 202–358–4483, *william.roets-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NASA published a proposed rule for Profit and Fee under Financial Assistance Awards in the **Federal Register** on January 11, 2012 (77 FR 1657). The public comment period closed on March 11, 2012. By the end of the established comment period, NASA received comments from one entity. However, those comments were subsequently determined to have been submitted to the incorrect docket and were not applicable to the proposed rule. After the specified end date for the

submission of comments had passed, three organizations submitted late comments to the proposed rule. NASA accepted the late comments. Based on the comments received and subsequent revisions to the proposed rule, NASA published a second proposed rule in the **Federal Register** on February 25, 2014 (79 FR 10346). The public comment period closed on April 28, 2014. By the end of the established comment period, NASA received comments from three entities. After the specified end date for the submission of comments had passed, one organization submitted supplementary comments to their original comments. NASA accepted these late comments.

II. Discussion and Analysis

Historically, NASA has discouraged the payment of profit or fee under its Federal Financial Assistance awards because payment in excess of costs is inconsistent with the intent of grants and cooperative agreements which provide funding in the form of financial assistance to recipients for their performance of a public purpose. For commercial firms, payment of profit or fee is specifically prohibited under NASA grants and cooperative agreements (See NASA Grant and Cooperative Handbook, Subpart 1274.204). Because this prohibition does not include non-profit organizations, NASA's policy has been misinterpreted and inconsistent application has occurred.

Therefore, this final rule extends the prohibition on the payment of profit or fee to all recipients of NASA grants and cooperative agreements, alleviating the misinterpretation and inconsistent application of the policy.

Based on a review of the public comments discussed below, NASA has concluded that no change to the second proposed rule is necessary. NASA received comments from three respondents. New comments, not already addressed in response to the first proposed rule, are discussed below. Comments that were received in response to the first proposed rule were addressed in the second proposed rule at 79 FR 10346, February 25, 2014.

Comment 1: Respondent inquired if this rule impacts NASA Grant and Cooperative Handbook, Subpart 1274.204(f), profit applicability, which allows profit in some cases.

Response: This rule does not impact NASA Grant and Cooperative Handbook, Subpart 1274.204(f). Profit associated with cooperative agreements awarded to commercial firms may be paid by the recipient to subcontractors in accordance with Subpart 1274.204(f).

Comment 2: Respondent inquired as to whether profit or fee can be paid in the situation where a private consultant might be hired to help inform the effort. Private consultant's hourly rate could have profit or fee built into the rate and we may not have visibility into the components (direct and indirect costs, profit, etc. . . .) that comprise the hourly rate.

Response: This rule does not impact this situation. In this case, the hourly rate would invariably represent a commercial market rate for these services where a detailed cost breakdown of the hourly rate by cost element would not be required. Thus, profit or fee analysis would not be required.

Comment 3: Prohibiting the payment of profit or fee to non-profit organizations will have a devastating and large detrimental effect on non-profit organizations and their partners.

Response: NASA continues to support non-profit entities and the valuable contributions they supply to the NASA mission. NASA has historically discouraged the payment of profit or fee to non-profit entities. The intent of this rule is to clarify this point that NASA will not pay for profit or fee where profit or fee is defined as the amount above allowable costs. Management fees that are allowable costs within the guidelines established in OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Chapter I, Chapter II, Parts 200, 215, 220, 225, and 230) will continue to be paid.

Comment 4: Management fee is intended to provide a non-profit entity with a modest source of funds to meet business expenses that are not reimbursable. Non-profits have many costs that are not allowable under government regulations but must be paid by non-profit entities in order to keep operating. Without management fee, non-profits would find it impossible to continue operations.

Response: NASA pays for business expenses/costs that are reimbursable in accordance with the guidelines in OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Chapter I, Chapter II, Parts 200, 215, 220, 225, and 230). Paying business expenses/costs that are not reimbursable through a management fee would be circumventing these OMB guidelines, and inappropriate for financial assistance instruments.

Comment 5: Respondent stated that NASA's interpretation of statutory authorities was too narrowly focused and that NASA has the statutory authority to pay a management fee to non-profit entities.

Response: NASA agrees that the Space Act of 1958 (42 U.S.C. 2473(c)(5)) provides NASA with broad authority and discretion to award grants and cooperative agreements to fulfill its mission. However, these authorities do not expressly or explicitly allow for the payment of profit or fee, sometimes referred to as a management fee, when such fee is defined as the amount above allowable costs. The payment of profit or fee under Federal Financial Assistance awards is inconsistent with the intent of grants and cooperative agreements which provide funding in the form of financial assistance to recipients for their performance of a public purpose and therefore should not be allowed.

Comment 6: Respondent took issue with the NASA statement that ''Federal agencies are only authorized to pay for allowable, allocable, reasonable, and necessary costs'' stating that there is no cost principle that requires that a cost must be ''necessary'' to the performance of a cooperative agreement.

Response: Pursuant to OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, section 200.403, Factors affecting allowability of costs, ''necessary'' is part of the general criteria that a cost must meet in order to be allowable under Federal awards.

Comment 7: Respondent took issue with NASA statement that ''grant and cooperative agreement regulation is incomplete in its coverage of profit and fee in that it fails to address non-profit organizations''. Respondent stated that this statement is inaccurate. NASA Grant Information Circular (GIC) 99–1 is specific regulatory action regarding payment of management fees on grants and cooperative agreements to non-profit entities.

Response: NASA Grant Information Circulars (GICs) are non-regulatory, internal guidance and the grant and cooperative agreement regulation referred to was the NASA Grant and Cooperative Agreement Handbook which is codified beginning at 14 CFR part 1260.

Comment 8: Respondent stated that the final OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Chapter I, Chapter II, Parts 200, 215, 220, 225, and 230) rule provides NASA the authority to authorize fee or profit under an award. Specifically, the guidance states that ''the non-Federal entity may not earn or keep any profit resulting from Federal financial

assistance, unless expressly authorized by the terms and conditions of the Federal award''.

Response: In implementing the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Chapter I, Chapter II, Parts 200, 215, 220, 225, and 230), it is NASA policy to not pay profit or fee under grant and cooperative agreement awards. NASA maintains that it is inappropriate to pay profit and fee under its Federal Financial Assistance awards because payment in excess of costs is inconsistent with the intent of grant and cooperative agreements which provide funding in the form of financial assistance to recipients for their performance of a public purpose.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule does not impose any additional requirements on small entities and currently less than 1 percent of recipients of NASA grants and cooperative agreements receive profit or management fees.

V. Paperwork Reduction Act

The Paper Reduction Act (Pub. L. 104–13) is not applicable because the prohibition on payment of profit and management fees by NASA does not require the submission of any information by recipients that requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 14 CFR 1260

Colleges and universities, Business and Industry, Grant programs, Grants administration, Cooperative agreements, State and local governments, Non-profit organizations, Commercial firms, Recipients.

Cynthia Boots,

Alternate Federal Register Liaison

Accordingly, 14 CFR Part 1260 is amended as follows:

PART 1260–GRANTS AND COOPERATIVE AGREEMENTS

■ 1. The authority citation for 14 CFR 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, et seq.), and OMB Circular A–110.

■ 2. In § 1260.4, paragraph (b)(2) is revised to read as follows:

§ 1260.4 Applicability.

* * * * *

(b) * * *

(2) Payment of fee or profit is consistent with an activity whose principal purpose is the acquisition of goods and services for the direct benefit or use of the United States Government, rather than an activity whose principal purpose is assistance. Therefore, the grants officer shall use a procurement contract, rather than assistance instrument, in all cases where fee or profit is to be paid to the recipient of the instrument or the instrument is to be used to carry out a program where fee or profit is necessary to achieving program objectives. Grants and cooperative agreements shall not provide for the payment of fee or profit to the recipient.

* * * * *

■ 3. In § 1260.10, paragraph (b)(1)(iv) is added to read as follows:

§ 1260.10 Proposals.

* * * * *

(b) * * *

(1) * * *

(iv) Payment of fee or profit is consistent with an activity whose principal purpose is the acquisition of goods and services for the direct benefit or use of the United States Government, rather than an activity whose principal purpose is assistance. Therefore, the grants officer shall use a procurement contract, rather than assistance instrument, in all cases where fee or profit is to be paid to the recipient of the instrument or the instrument is to be used to carry out a program where fee or profit is necessary to achieving program objectives. Grants and cooperative agreements shall not provide for the payment of fee or profit to the recipient.

* * * * *

■ 4. In § 1260.14, paragraph (e) is added to read as follows:

§ 1260.14 Limitations.

* * * * *

(e) Payment of fee or profit is consistent with an activity whose principal purpose is the acquisition of goods and services for the direct benefit or use of the United States Government, rather than an activity whose principal purpose is assistance. Therefore, the grants officer shall use a procurement contract, rather than assistance instrument, in all cases where fee or profit is to be paid to the recipient of the instrument or the instrument is to be used to carry out a program where fee or profit is necessary to achieving program objectives. Grants and cooperative agreements shall not provide for the payment of fee or profit to the recipient.

[FR Doc. 2014–26856 Filed 11–12–14; 8:45 am]

BILLING CODE 7510–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2009–0038]

RIN 096–AH03

Revised Medical Criteria for Evaluating Genitourinary Disorders; Correction

AGENCY: Social Security Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a misspelling in the regulatory language of our final rulemaking published in the **Federal Register** on Friday, October 10, 2014, titled Revised Medical Criteria for Evaluating Genitourinary Disorders.

DATES: Effective December 9, 2014.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Medical Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: On October 10, 2014 we published a final rulemaking in the **Federal Register** at 79 FR 61221. The final rulemaking contained an incorrect spelling of exstrophic. We are correcting that misspelling.