

of 4/06/09. Therefore, we are proposing to correct the identification of plan table in 40 CFR 52.1820(e) accordingly.

#### V. Section 110(l)

Under section 110(l) of the CAA, EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS or any other applicable requirement of the Act. As described in section III, above, most of the revisions we are proposing to approve conform the North Dakota SIP to relevant CAA requirements. In particular, the State revised shutdown and malfunction provisions to comport with CAA requirements. The other changes we are proposing to approve are minor and will not interfere with attainment or reasonable further progress toward attainment of the NAAQS<sup>3</sup> or any other CAA requirements.

#### VI. Proposed Action

EPA is proposing to approve revisions to the North Dakota SIP that the Governor of North Dakota submitted with a letter dated April 6, 2009 and that were State-effective April 1, 2009. Specifically, EPA is proposing to approve North Dakota's revisions to the following portions of the North Dakota Administrative Code: Chapter 33-15-01, "General Provisions," sections 33-15-01-04, 33-15-01-05, and 33-15-01-13; Chapter 33-15-02, "Ambient Air Quality Standards," section 33-15-02, Table 1; Chapter 33-15-05, "Emissions of Particulate Matter Restricted," subsection 33-15-05-03.2.2; Chapter 33-15-14, "Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate," subsection 33-15-14-01.14; and Chapter 33-15-23, "Fees," section 33-15-23-03. See section III of this action, above, for a description of these revisions.

In addition, EPA is proposing administrative corrections to the regulatory text for North Dakota that will appear in the Code of Federal Regulations. Specifically, we are proposing to change the identification of plan table that will appear at 40 CFR 52.1820(e) as follows:

a. We will change the first portion of the explanation for item (1) in the table to read, "Excluding subsequent revisions, as follows: Chapters 6, 11, and 12; Sections 2.11, 3.7, 6.10, 6.11, 6.13, and 8.3; and Subsections 3.2.1,

5.2.1, 7.8.1.A, 7.8.1.B, 7.8.1.C, and 8.3.1."

b. We will change the submittal dates for items (21) and (22) in the table to read, "4/06/09."

See section IV of this action, above, for further information regarding these corrections.

#### VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 27, 2011.

**Judith Wong,**

*Acting Regional Administrator, Region 8.*  
[FR Doc. 2011-10995 Filed 5-4-11; 8:45 am]

**BILLING CODE 6560-50-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Part 1809

RIN 2700-AD54

#### Responsibility; Suspension and Debarment

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** NASA is revising the NASA FAR Supplement (NFS) to update internal processing procedures related to suspension and debarment. Although the procedures do not impact the public and will not be codified in the Code of Federal Regulations, one related change does impact the public and that is a new requirement for contracting officers to notify prospective contractors if they are found to be non-responsible. Notification provides the prospective contractor with the opportunity to take corrective action prior to future solicitations.

**DATES:** Interested parties should submit comments to NASA at the address below on or before July 5, 2011 to be considered in formulation of the final rule.

**ADDRESSES:** Interested parties may submit comments, identified by RIN number 2700-AD54, using either of the following methods: (1) Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking

<sup>3</sup>North Dakota has no nonattainment areas. Thus, CAA part D requirements, including the requirement to make reasonable further progress toward attainment, do not apply in North Dakota.

portal by inputting RIN 2007–AD64 under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “RIN 2007–AD54.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “RIN 2700–AD54” on your attached document. (2) E-mail: [leigh.pomponio@nasa.gov](mailto:leigh.pomponio@nasa.gov). Include RIN 2007–AD54 in the subject line of the message.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:**  
Leigh Pomponio, NASA, Office of Procurement, (202) 358–0592; e-mail: [leigh.pomponio@nasa.gov](mailto:leigh.pomponio@nasa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

NASA is proposing to amend the NASA FAR Supplement to include a requirement for contracting officers to notify prospective contractors if they are found non-responsible for award. Such notification permits potential contractors to improve their opportunities for future awards by addressing the non-responsibility issues. This proposed rule is consistent with FAR 9.104–6, Federal Awardee Performance and Integrity Information System (FAPIIS). Because contracting officers use FAPIIS to obtain pre-award information, and to enter determinations of non-responsibility for public display, it is a good practice to personally notify contractors of non-responsibility findings and the basis of the finding in an effort to afford potential contractors an opportunity to improve the underlying causes for a non-responsibility determination and to promote maximum competition for future awards.

**B. Executive Order 12866 and Executive Order 13563**

Executive Orders 13563 and 12866 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of

reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has NOT been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. This is not a major rule under 5 U.S.C. 804.

**C. Regulatory Flexibility Act**

This final rule is not expected to 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 it does not impose any new requirements on small entities. This rule only imposes requirements on Government personnel; the impact on the public, including small entities, is the receipt of additional information.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act (Pub. L. 104–13) is not applicable because the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Part 1809**

Government procurement.

**William P. McNally,**  
*Assistant Administrator for Procurement.*

Accordingly, 48 CFR Part 1809 is amended as follows:

1. The authority citation for 48 CFR Part 1809 continues to read as follows:

**Authority:** 42 U.S.C. 2455(a), 2473(c)(1)

**PART 1809—CONTRACTOR QUALIFICATIONS**

2. Section 1809.105–2 is added to Subpart 1809.1 to read as follows:

**1809.105–2 Determinations and documentation.**

(a) The contracting officer shall provide written notification to a prospective contractor determined not responsible, which includes the basis for the determination. Notification provides the prospective contractor with the opportunity to take corrective action prior to future solicitations.

[FR Doc. 2011–10919 Filed 5–4–11; 8:45 am]

**BILLING CODE 7510–01–P**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1812, 1828, and 1852**

**RIN 2700–AD55**

**Cross-Waiver of Liability Clauses**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed rule.

**SUMMARY:** NASA proposes to revise the NASA FAR Supplement (NFS) to consolidate and make changes to three currently-existing cross-waiver of liability clauses. The changes include consolidation of the three clauses into two clauses and retitling the two clauses to more closely align the clauses with current mission programs including International Space Station (ISS) activities, and Science or Space Exploration activities unrelated to the ISS. The existing Expendable Launch Vehicle (ELV) clause will be broadened to apply to contracts and subcontracts related to a launch of any kind other than one involving the International Space Station. The International Space Station (ISS) activities cross-waiver of liability clause is revised and its applicability broadened to include Space Shuttle activities related to the ISS. Accordingly, the Space Shuttle services clause will be deleted in its entirety with all Space Shuttle activity falling under one of the two remaining clauses. These proposed changes to the NFS are being made to align contract clauses with the regulatory authority established by a final rule published February 26, 2008, which established NASA’s cross-waiver of liability authority in two categories of NASA agreements.

**DATES:** Interested parties should submit comments on or before July 5, 2011 to be considered in formulation of the final rule.

**ADDRESSES:** Interested parties may submit comments, identified by RIN number 2700–AD55, via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to R. Todd Lacks (Mail Stop 5J75), NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by e-mail to [todd.lacks@nasa.gov](mailto:todd.lacks@nasa.gov).

**FOR FURTHER INFORMATION CONTACT:** R. Todd Lacks, NASA, Office of Procurement, Contract Management Division (Suite 5J75); (202) 358–0799; e-mail: [todd.lacks@nasa.gov](mailto:todd.lacks@nasa.gov).