



This document is scheduled to be published in the
Federal Register on 02/07/2014 and available online at
<http://federalregister.gov/a/2014-02591>, and on FDsys.gov

7510-13

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR 1214

[DOCKET NUMBER: 2014-0002]

Space Flight Mission Critical Systems Personnel Reliability Program: Removal of Obsolete
Regulations

RIN: 2700-AD87

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes nonsubstantive changes by removing a regulation that is obsolete and no longer used. The revision to this rule are part of NASA's retrospective plan under Executive Order (EO) 13563 completed in August 2011.

DATES: This direct final rule is effective on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments due on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the Federal Register.

ADDRESSES: Comments must be identified with RIN 2700-AD87 and may be sent to NASA via the [Federal E-Rulemaking Portal: http://www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments. Please note that NASA will post all comments on the Internet with changes, including any personal information provided.

NASA's full plan can be accessed on the Agency's open Government Web site at <http://www.nasa.gov/open/>.

FOR FURTHER INFORMATION CONTACT: Nanette Jennings, 202-358-0819.

SUPPLEMENTARY INFORMATION:

Direct Final Rule Adverse Comments:

NASA has determined that this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes to remove sections from the Code of Federal Regulations that are obsolete and no longer used. No opposition to the changes and no significant adverse comments are expected. However, if the Agency receives a significant adverse comment, it will withdraw this direct final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Background

On January 18, 2011, President Obama signed EO 13563, Improving Regulations and Regulatory Review, directing agencies to develop a plan for a retrospective analysis of existing regulations. NASA developed its plan and published it on the Agency's open Government Web site at <http://www.nasa.gov/open/>. The Agency conducted an analysis of its existing regulations to comply with the Order and determined that subpart 1214.5 of part 1214, entitled "Space Flight Mission Critical Systems Personnel Reliability Program" is obsolete and no longer used.

Subpart 1214.5 of part 1214, Space Flight Mission Critical Systems Personnel Reliability Program, was promulgated December 28, 1990 [55 FR 53289] to ensure that employees assigned to mission-critical positions meet established screening requirements which

was in response to the Carter Administration's determination that the Space Shuttle was a critical national resource and that employees assigned to critical positions that affected the safety of space flight meet the highest standards of integrity and reliability.

In accordance with Title 51 – National and Commercial Space Programs, Subtitle II, Chapter 201, Subchapter III - Sec. 20132 - Security Requirements, the Administrator established security requirements, restrictions, and safeguards as deemed necessary in the interest of the national security. The Administrator also arranged with the Director of the Office of Personnel Management for the conduct of such security or other personnel investigations of the Administration's officers, employees, and consultants, and its contractors and subcontractors and their officers and employees, actual or prospective, as the Administrator deems appropriate. NASA implemented Homeland Security Policy Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors, issued August 27, 2004, to meet this requirement.

In addition, as required by 14 CFR 1203a.100 and 1203a.103, to insure the uninterrupted and successful accomplishment of the NASA mission, certain designated security areas have been established and maintained by NASA Centers and Component Facilities in order to provide appropriate and adequate protection for facilities, property, or classified/proprietary information and material in the possession of NASA or NASA contractors located at NASA Centers and Component Facilities. Only those NASA employees, NASA contractor employees, and visitors who have a need for such access and who meet the criteria may enter these areas.

NASA Center Directors, including Component Facilities and Technical and Service Support Centers, and the Executive Director for Headquarters Operations, NASA Headquarters, may rescind previously granted authorizations to enter a security area when an individual's

access is no longer required, threatens the security of the property, or is disruptive of Government operations.

NASA believes that these regulations provide adequate governance over the Agency's activities for screening and conducting background checks on employees assigned to critical positions.

The Federal Acquisition Regulation, 48 CFR 4, Subpart 4.13 - Personal Identity Verification, requires contractors to comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12) and Office of Management and Budget (OMB) guidance M-05-24.

NASA conducted a survey across all of its Centers, as well as formed a working group with representatives from NASA's Offices of Safety and Mission Assurance, Protective Services, Human Capital Management, Procurement, Chief Health and Medical Officer, and General Counsel who determined that the regulation is obsolete and no longer used.

Statutory Authority:

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113 (a), authorizes the Administrator of the National Aeronautics and Space Administration (NASA) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improving Regulation and Regulation Review

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 rule has been designated as “not significant” under section 3(f) of Executive Order 12866.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 USC 601 et seq.) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency “certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities” (5 USC 603). This rule removes one section from Title 14 of the CFR and, therefore, does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

This direct final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Review Under Executive Order of 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (August 4, 1999) requires regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the Executive Order. Therefore, no Federalism assessment is required.

List of Subjects in 14 CFR Part 1214

Safety, security.

For reasons set forth in the preamble, NASA amends 14 CFR part 1214 as follows:

PART 1214—SPACE FLIGHT

1. The authority citation for part 1214 is revised to read as follows:

Authority: 51 U.S.C. 20113.

Subpart 1214.5 [Removed and Reserved]

2. Subpart 1214.5, consisting of §§ 1214.500 through 1214.505, is removed and reserved.

Charles F. Bolden, Jr.

Administrator.

[FR Doc. 2014-02591 Filed 02/06/2014 at 8:45 am; Publication Date: 02/07/2014]