



This document is scheduled to be published in the Federal Register on 07/01/2016 and available online at <http://federalregister.gov/a/2016-15431>, and on FDsys.gov

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

[Docket No: NASA-2015-0010]

RIN 2700-AD98

Space Flight

AGENCY: National Aeronautics and Space Administration

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is issuing a final rule for its regulations that govern International Space Station crewmembers, mementos aboard Orion and Space Launch System (SLS) missions, and the authority of the NASA Commander, and removes the Agency's policy on space flight participation and other policies that were relevant to the Space Shuttle. The revision to this rule is part of NASA's retrospective plan under Executive Order (EO) 13563 completed in August 2011. NASA's full plan can be accessed on the Agency's open Government Web site at <http://www.nasa.gov/open/>.

DATES: Effective: [INSERT DATE OF 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

Craig Salvas at (202)-358-2330, craig.b.salvas@nasa.gov

SUPPLEMENTAL INFORMATION:

Background

NASA published a proposed rule in the Federal Register at 80 FR 63474 on October 20, 2015, to amend its regulations that govern International Space Station crewmembers, mementos aboard Orion and Space Launch System (SLS) missions, and the authority of the NASA

Commander and removes the Agency's policy on space flight participation and other policies that were relevant to the Space Shuttle. The Space Shuttle Program formally commenced in 1972. After a total of 135 flights, the last of which occurred in July 2011, the Space Shuttle was officially retired after 30 years of operation. During this period, the fleet and its crews carried out a large and varied number of tasks to meet the goals and objectives of the Nation's space program. These included the launch of large interplanetary probes, the performance of scientific experiments under microgravity conditions, the on-orbit servicing of the Hubble Space Telescope, and the assembly and resupply of the International Space Station. Functions previously performed by the Space Shuttle will now be done by many different spacecraft currently flying or in development, including vehicles owned by both the Government and the private sector.

NASA is currently developing a new human-rated spacecraft, the Orion, and launch system, the Space Launch System (SLS). The Orion and SLS are designed to conduct journeys into deep space. With the end of the Space Shuttle Program, many sections of this rule are no longer relevant and will be deleted. However, sections which have current or future application will be maintained and updated or amended as required.

Significant elements of Part 1214, in its current form, govern the use and operation of the Space Shuttle and cover a diverse number of areas including requirements for reimbursement for Space Shuttle services to civil U.S. Government and foreign users, the flight of Payload Specialists and Space Flight Participants on Space Shuttle missions, reimbursement terms, and conditions for use of the Spacelab Module. Also covered in Part 1214 are the rules for the NASA Astronaut Candidate Recruitment and Selection Program, the Code of Conduct for the International Space Station Crew, and the Authority of the Space Shuttle Commander.

The intent of these amendments is to repeal those portions of the regulation that, with the ending of the Space Shuttle Program, are no longer relevant. Sections that remain in effect will be amended because they are outdated. Other sections that are applicable to the Orion and SLS will also be amended. Provisions currently in force relating to approving mementoes for flight and preventing the use of mementoes for economic gain remain relevant and were incorrectly omitted from the proposed rule published on October 20, 2015. These provisions have been reincorporated in the final rule at 14 CFR sections 1214.601 and 1214.602, except for language relating to dimensions and areas specific to the Space Shuttle which have not been retained.

Discussion and Analysis

There were two public comments received in response to the proposed rule. Comments were supportive in nature and do not warrant any changes in the rule's language.

Statutory Authority

Section 1214 is established under the National Aeronautics and Space Act (Space Act) (51 U.S.C. sec. 20101, et seq.).

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, reducing costs, harmonizing rules, and 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 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 updates these sections of the CFR to align with Federal guidelines and does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

This 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:

Government employees, Government procurement, Security measures, Space transportation and exploration.

.

For the reason stated in the preamble, NASA is amending 14 CFR part 1214 as follows:

PART 1214—SPACE FLIGHT

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

Authority: Pub. L. 111-314, sec. 3, 124 Stat. 3328 (51 U.S.C. sec. 20101, et seq.)

Subpart 1214.1—[Removed and Reserved]

2. Remove and reserve subpart 1214.1, consisting of §§1214.100 through 1214.119.

Subpart 1214.2—[Removed and Reserved]

3. Remove and reserve subpart 1214.2, consisting of §§1214.200 through 1214.207 and Appendices A and B.

Subpart 1214.3—[Removed and Reserved]

4. Remove and reserve subpart 1214.300, consisting of §§1214.300 through 1214.306.

Subpart 1214.4—International Space Station Crew

5. The authority citation for subpart 4 is revised to read as follows:

Authority: Pub. L. 111-314, sec. 3, 124 Stat. 3328 (51 U.S.C. sec. 20101, et seq.)

* * * * *

6. Revise subpart 1214.6 to read as follows:

Subpart 1214.6—Mementos Aboard NASA Missions

Sec.

1214.600 Scope.

1214.601 Definitions.

1214.602 Policy.

1214.603 Official Flight Kit.

1214.604 Personal Preference Kit.

1214.605–1214.606 [Reserved]

1214.607 Media and public inquiries.

1214.608 [Reserved]

1214.609 Loss or theft.

1214.610 Violations.

Authority: Pub. L. 111-314, sec. 3, 124 Stat. 3328 (51 U.S.C. sec. 20101, et seq.)

Subpart 1214.6—Mementos Aboard NASA Missions

§ 1214.600 Scope.

This subpart establishes policy and procedures for carrying mementos on the NASA missions, with the exception of mementos and personal effects carried onboard the International Space Station (ISS).

§ 1214.601 Definitions.

Mementos. Flags, patches, insignia, medallions, minor graphics, and similar items of little commercial value, especially suited for display by the individuals or groups to whom they have been presented.

§ 1214.602 Policy.

Premise. Mementos are welcome aboard NASA missions. However, they are flown as a courtesy—not as an entitlement. All mementos must be approved by the Associate Administrator for Human Exploration and Operations and are stowed only in an Official Flight Kit (OFK) or Personal Preference Kit (PPK).

(a) Economic gain. Items carried in an OFK or a PPK will not be sold, transferred for sale, used or transferred for personal gain, or used or transferred for any commercial or fund-raising purpose. Items such as philatelic materials and coins that, by their nature, lend themselves to

exploitation by the recipients, or create problems with respect to good taste; or that are large, bulky, or heavy items will not be approved for flight.

(b) [Reserved]

§ 1214.603 Official Flight Kit.

(a) Purpose. The Official Flight Kit (OFK) on a particular mission allows NASA, and other domestic and friendly foreign countries' organizations with NASA approval, to utilize mementos as awards and commendations or preserve them in museums or archives. No personal items will be carried in the OFK.

(b) Approval of contents. At least 120 days prior to the scheduled launch of a particular mission, an authorized representative of each organization desiring mementos to be carried on a flight in the OFK must submit a letter or request describing the item(s) to be flown and the intended purpose or distribution. Letters should be directed to the Associate Administrator for Human Exploration and Operations, NASA Headquarters, Washington DC 20546.

§ 1214.604 Personal Preference Kit.

(a) Purpose. The Personal Preference Kit (PPK) enables persons on a particular mission to carry personal items for use as mementos. Only those individuals actually accompanying such flights may request authorization to carry personal items as mementos.

(b) Approval of content. At least 60 days prior to the scheduled launch of a particular mission, each person assigned to the flight who desires to carry items in a PPK must submit a proposed list of items and their recipients to the Associate Director, NASA Johnson Space Center. The Associate Director will review the proposed list of items and, if approved, submit the crew members' PPK lists through supervisory channels to the Associate Administrator for Human Exploration and Operations for approval. A signed copy of approval from the Associate

Administrator for Human Exploration and Operations will be returned to the Director, NASA Johnson Space Center, for distribution.

§ 1214.605 – 1214.606 [Reserved]

§ 1214.607 Media and public inquiries.

Information on mementos flown on a particular mission will be routinely released by the Associate Administrator of the Office of Communications to the media and to the public upon their request, but only after they have been approved for flight.

§ 1214.608 [Reserved]

§ 1214.609 Loss or Theft.

(a) Liability. Neither NASA nor the U.S. Government will be liable for the loss or theft of, or damage to, items carried in OFKs or PPKs.

(b) Report of loss or theft. Any person who learns that an item contained in an OFK or a PPK is missing shall immediately report the loss to the Johnson Space Center Security Office and the NASA Inspector General.

§ 1214.610 Violations.

Any items carried in violation of the requirements of this subpart shall become property of the U.S. Government, subject to applicable Federal laws and regulations, and the violator may be subject to disciplinary action, including being permanently prohibited from use of, or if an individual, from flying aboard a NASA mission.

Subpart 1214.7—The Authority of the NASA Commander

7. Revise subpart 1214.7 to read as follows:

Sec.

1214.700 Scope.

1214.701 Definitions.

1214.702 Authority and responsibility of the NASA Commander.

1214.703 Chain of command.

1214.704 Violations.

Authority: Pub. L. 111-314, sec.3, 124 Stat. 3328 (51 U.S.C. sec. 20101, et seq.)

Subpart 1214.7—The Authority of the NASA Commander

§ 1214.700 Scope.

This subpart establishes the authority of the NASA Commander of a NASA mission, excluding missions related to the ISS and activities licensed under Title 51 U.S.C. Chapter 509, to enforce order and discipline during a mission and to take whatever action in his/her judgment is reasonable and necessary for the protection, safety, and well-being of all personnel and on-board equipment, including the spacecraft and payloads. During the final launch countdown, following crew ingress, the NASA Commander has the authority to enforce order and discipline among all on-board personnel. During emergency situations prior to liftoff, the NASA Commander has the authority to take whatever action in his/her judgment is necessary for the protection or security, safety, and well-being of all personnel on board.

§ 1214.701 Definitions.

(a) The flight crew consists of the NASA Commander, astronaut crew members, and [any] other persons aboard the spacecraft.

(b) A mission is the period including the flight-phases from launch to landing on the surface of the Earth - a single round trip. (In the case of a forced landing, the NASA Commander's authority continues until a competent authority takes over the responsibility for the persons and property aboard).

(c) The flight-phases consist of launch, in orbit/transit, extraterrestrial mission, deorbit, entry, and landing, and post-landing back on Earth.

(d) A payload is a specific complement of instruments, space equipment, and support hardware/software carried into space to accomplish a scientific mission or discrete activity.

§ 1214.702 Authority and responsibility of the NASA Commander.

(a) During all flight phases, the NASA Commander shall have the absolute authority to take whatever action is in his/her discretion necessary to:

(1) Enhance order and discipline.

(2) Provide for the safety and well-being of all personnel on board.

(3) Provide for the protection of the spacecraft and payloads.

The NASA Commander shall have authority, throughout the mission, to use any reasonable and necessary means, including the use of physical force, to achieve this end.

(b) The authority of the NASA Commander extends to any and all personnel on board the spacecraft including Federal officers and employees and all other persons whether or not they are U.S. nationals.

(c) The authority of the NASA Commander extends to all spaceflight elements, payloads, and activities originating with or defined to be a part of the NASA mission.

(d) The NASA Commander may, when he/she deems such action to be necessary for the safety of the spacecraft and personnel on board, subject any of the personnel on board to such restraint as the circumstances require until such time as delivery of such individual or individuals to the proper authorities is possible.

§ 1214.703 Chain of command.

(a) The NASA Commander is a trained NASA astronaut who has been designated to serve as commander on a NASA mission and who shall have the authority described in §1214.702 of this part. Under normal flight conditions (other than emergencies or when otherwise designated) the NASA Commander is responsible to the Mission Flight Director.

(b) Before each flight, the other flight crewmembers will be designated in the order in which they will assume the authority of the NASA Commander under this subpart in the event that the NASA Commander is not able to carry out his/her duties.

(c) The determinations, if any, that a crewmember in the chain of command is not able to carry out his or her command duties and is, therefore, to be relieved of command, and that another crewmember in the chain of command is to succeed to the authority of the NASA Commander, will be made by the NASA Administrator or his/her designee.

§ 1214.704 Violations.

(a) All personnel on board the NASA mission are subject to the authority of the NASA Commander and shall conform to his/her orders and direction as authorized by this subpart.

(b) This subpart is a regulation within the meaning of 18 U.S.C. 799, and whoever willfully violates, attempts to violate, or conspires to violate any provision of this subpart or any order or direction issued under this subpart shall be subject to fines and imprisonment, as specified by law.

Subpart 1214.8—[Removed and Reserved]

8. Remove and reserve subpart 1214.8, consisting sections 1214.800 through 1214.813.

* * * * *

Subpart 1214.17—[Removed and Reserved]

9. Remove and reserve subpart 1214.17, consisting of sections 1214.1700 through 1214.1707.

Cheryl E. Parker

Federal Register Liaison Officer.

[FR Doc. 2016-15431 Filed: 6/30/2016 8:45 am; Publication Date: 7/1/2016]