



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1204, 1230, and 1232

[DOCKET NUMBER: NASA 2013-0004]

Removal of Redundant Regulations

RIN: 2700-AE11

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes nonsubstantive changes by removing redundant regulatory language that is already captured in statutes that govern NASA activities related to delegation of authority of certain civil rights functions, protection of human subjects, and care and use of animals in the conduct of NASA activities. Therefore, NASA regulations will be streamlined to make reference to those statutes.

DATES: This direct final rule is effective on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments are 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-AE11 and may be sent to NASA via the Federal E-Rulemaking Portal: <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.

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

SUPPLEMENTARY INFORMATION:

Direct Final Rule Adverse Comments:

NASA has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes to remove redundant regulatory language in 14 CFR 1204.508 and Parts 1230 and 1232 that is already captured in statutes and regulations that govern NASA activities related to delegation of authority of certain civil rights functions, protection of human subjects, and care and use of animals in the conduct of NASA activities. Therefore, Section 1204.508 and Parts 1230 and 1232 will be streamlined to make reference to the governing statutes and regulations. 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 Executive Order 13563, Improving Regulation 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 Section 1204.508, Delegation of Authority of Certain Civil Rights functions to Department of Health, Education, and Welfare, Part 1230, Protection of Human Subjects, and Part 1232, Care and Use of Animals in the Conduct of NASA Activities, are redundant to governing statutes and regulations, and therefore need to be streamlined.

Section 1204.508, Delegation of Authority of Certain Civil Rights functions to Department of Health, Education, and Welfare - The Civil Rights Act of 1964 (Pub. L. 88-352) prohibited discrimination in a host of areas, including employment and Federally-assisted programs and activities. To comply with this Act, NASA promulgated section 1204.508 [32 FR 3883] on March 9, 1967. Additionally, to implement the provisions of this Act, the Agency promulgated internal policies and requirements, as well as entered into a memorandum of understanding (MOU) with the Department of Education (DOED) on November 12, 1987. Because Section 1204.508 is redundant to the Act and the Act alone sufficiently governs NASA activities related to delegation of authority of certain civil rights functions, Section 1204.508 will be streamlined to make reference to this Act, as well as NASA internal policies and requirements and the MOU with the DOED.

Part 1230, Protection of Human Subjects – 45 CFR Part 46, Protection of Human Subjects, applies to all research involving human subjects conducted, supported, or otherwise subject to regulation by any Federal department or agency which takes appropriate administrative action to make the policy applicable to such research. To comply with Part 46, NASA promulgated Part 1230 [56 FR 28012] on June 18, 1991. Additionally, to implement the provisions of Part 46, the Agency promulgated internal policies and requirements. Because Part 1230 is redundant to (couldn't get the below line to move up)Part 46 and this regulation alone sufficiently governs NASA activities related to human research subjects, Part 1230 will be streamlined to make reference to Part 46, as well as NASA's internal policies and requirements.

Part 1232, Care and Use of Animals in the Conduct of NASA Activities – The Animal Welfare Act of 1966 (Pub. L. 89-544) requires that minimum standards of care and treatment be provided for certain animals bred for use in research. To comply with this Act, NASA promulgated Part 1232 [54 FR 35870] on August 30, 1989. Additionally, to implement the provision of this Act, the Agency promulgated internal policies and requirements. Because

Part 1232 is redundant to this Act and the Act alone sufficiently governs NASA activities related to care and use of animals, Part 1232 will be streamlined to make reference to this Act, as well as NASA's internal policies and requirements.

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 605). This rule removes redundant regulatory language in one section and two parts 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 Parts 1204, 1230, and 1232.

Federal buildings and facilities, human research subjects, animal welfare, and research.

For reasons set forth in the preamble, NASA amends 14 CFR Parts 1204, 1230, and 1232 as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

1. The authority citation for part 1204, subpart 5 continues to read as follows:

Authority: 51 U.S.C. 20113.

§1204.508 [Revised]

2. Revise § 1204.508 as follows:

§1204.508 Delegation of authority of certain civil rights functions to Department of Education.

It is the National Aeronautics and Space Administration's (NASA) policy to comply with the Civil Rights Act of 1964 (Pub. L. 88-352) that prohibits discrimination in a host of areas,

including employment and Federally-assisted programs and activities. To implement the provisions of this Act, NASA promulgated the following internal policies and requirements, and entered into a memorandum of understanding (MOU) with the Department of Education to ensure compliance:

(a) NASA Policy Directive (NPD) 2081.1, Nondiscrimination in Federally Assisted and Conducted Programs of NASA, describes the Agency's policy to ensure nondiscrimination in Federally-assisted and conducted programs of NASA, nondiscrimination in Federally-conducted education and training programs, and access for individuals with disabilities to Federal electronic and information technology. NPD 2081.1 is accessible at <http://nodis3.gsfc.nasa.gov/>;

(b) NASA Procedural Requirements (NPR) 2081.1, Nondiscrimination in Federally Assisted and Conducted Programs, describes the requirements for processing complaints of discrimination, conducting civil rights compliance reviews, and internal functional equal opportunity reviews. NPR 2081.1 is accessible at <http://nodis3.gsfc.nasa.gov/>; and

(c) Memorandum of Understanding between NASA and the Department of Education delegates both the agencies as responsible for specific civil rights compliance duties with respect to elementary and secondary schools, and institutions of higher education. The MOU can be accessed at http://odeo.hq.nasa.gov/documents/DOEd-NASA_MOU.pdf.

3. Revise Part 1230 to read as follows:

PART 1230 – PROTECTION OF HUMAN SUBJECTS

Sec.

1230.101 Scope.

1230.102 Applicability.

1230.103 Policy.

Authority: 5 U.S.C. 301; 45 CFR part 46.

§ 1230.101 Scope.

This Part establishes general policy for the protection of human subjects, which is of primary importance in the conduct of any human research, as specified under 5 U.S.C. 301; 45 CFR part 46, subpart A.

§ 1230.102 Applicability.

This Part applies to NASA Headquarters and NASA Centers, including Component Facilities, and Technical and Service Support Centers for all research involving humans subjects conducted, supported, or otherwise subject to regulations by any Federal department or agency which takes appropriate administrative action to make the policy applicable to such research.

§ 1230.103 Policy.

It is the National Aeronautics and Space Administration's (NASA) policy to comply with 45 CFR part 46, subpart A, Protection of Human Subjects, which applies to all research conducted involving human subjects. To implement the provisions of 45 part 46, subpart A, NASA promulgated the following internal policies and requirements:

- (a) NPD 7100.8, Protection of Human Research Subjects, describes the Agency's policy for human research conducted or supported, whether on the ground, in aircraft, or in space. NPD 7100.8 can be accessed at <http://nodis3.gsfc.nasa.gov/>; and
- (b) NPR 7100.1, Protection of Human Research Subjects, describes the requirements for the Agency to conduct or support research involving human subjects. NPR 7100.1 can be accessed at <http://nodis3.gsfc.nasa.gov/>.

4 Revise Part 1232 to read as follows:

PART 1232 – CARE AND USE OF ANIMALS IN THE CONDUCT OF NASA ACTIVITIES

Sec.

1232.100 Scope.

1232.101 Applicability.

1232.102 Policy.

Authority: 51 U.S.C. 20102, 51 U.S.C. 20113; Pub. L. 89-544, as amended; 7 U.S.C. 2131; 39 U.S.C. 3001; and Pub. L. 99-158, Sec. 495.

§ 1232.100 Scope.

This part establishes general policy for the care and use of vertebrate animals in the conduct of NASA activities.

§ 1232.101 Applicability.

This part applies to NASA Headquarters and NASA Centers, including Component Facilities, and Technical and Service Support Centers and will be followed in all activities using animal subjects that are supported by NASA and conducted in NASA facilities, aircraft, or spacecraft, or activities, using animal subject conducted under a contract, grant, cooperative agreement, memorandum of understanding, or joint endeavor agreement entered into by NASA and another Government agency, private entity, non-Federal public entity, or foreign entity which are included within the scope of this part.

§ 1232.102 Policy.

It is the National Aeronautics and Space Administration's (NASA) policy to comply with the Animal Welfare Act of 1966 (Pub. L. 89-544) which requires that minimum standards of care and treatment be provided for certain animals bred for use in research. To implement the provisions of this Act, NASA promulgated the following internal policies and requirements:

(a) NASA Policy Directive (NPD) 8910.1, Care and Use of Animals, describes the policy and responsibilities for conducting activities involving vertebrate animals. NPD 8910.1 is accessible at <http://nodis3.gsfc.nasa.gov/>; and

(b) NASA Procedural Requirements (NPR) 8910.1, Care and Use of Animals, delineates the responsibilities and implements requirements for the Agency's use of animals in research,

testing, teaching, and hardware development activities. NPR 8910.1 is accessible is access at <http://nodis3.gsfc.nasa.gov/>.

Charles F. Bolden, Jr.
Administrator

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