

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[UT10-1-6700a; UT-001-0014a; UT-001-0015a; FRL-6340-1]

**Approval and Promulgation of Air Quality Implementation Plans; Utah; Foreword and Definitions, Revision to Definition for Sole Source of Heat and Emissions Standards, Nonsubstantive Changes; General Requirements, Open Burning and Nonsubstantive Changes; and Foreword and Definitions, Addition of Definition for PM<sub>10</sub> Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** On March 26, 1999, EPA published a direct final rule (64 FR 14620) approving, and an accompanying proposed rule (62 FR 26463) proposing to approve, revisions submitted by the Governor of the State of Utah on July 11, 1994, February 6, 1996 and July 9, 1998. These revisions contain requirements for residential solid fuel burning and open burning, and add a definition for "PM<sub>10</sub> Nonattainment Area" to the SIP. We are withdrawing this final rule due to adverse comment received from the Utah Petroleum Association on the portion of this action approving the "PM<sub>10</sub> Nonattainment Area" definition. In a subsequent final rule, we will summarize and respond to the comment received and take final rulemaking action on this requested Utah SIP revision.

**DATES:** As of May 11, 1999, we withdraw the direct final rule published on March 26, 1999.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202.

**FOR FURTHER INFORMATION CONTACT:** Cindy Rosenberg, EPA, Region VIII, (303) 312-6436.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 30, 1999.

**Patricia D. Hull,**

*Acting Regional Administrator, Region VIII.*  
[FR Doc. 99-11829 Filed 5-10-99; 8:45 am]

BILLING CODE 6560-50-P

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 1815, 1816, 1819, and 1852**

**Small Disadvantaged Business Participation Evaluation and Incentives**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This final rule conforms the NASA FAR Supplement (NFS) to recent changes made to the Federal Acquisition Regulation (FAR) regarding the evaluation and incentive for small disadvantaged business (SDB) participation in competitive negotiated acquisitions. Specifically, this rule requires that evaluation of SDB participation be limited to SDBs in the Major SIC Groups designated by the Department of Commerce, and that it be accomplished normally as a subfactor under the NASA Mission Suitability evaluation factor. This rule also limits incentives for use of SDB firms to an award fee provision or the designated FAR incentive clause provision. Moreover, both incentives are limited to use of SDBs in the designated Major SIC Groups. This rule also makes editorial revisions to reflect recent FAR terminology and clause title changes associated with implementation of the Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program. Finally, editorial changes are made to correct a NASA official's title and to eliminate an erroneous designation of the NASA Mentor-Protege program as a pilot program.

**EFFECTIVE DATE:** May 11, 1999.

**FOR FURTHER INFORMATION CONTACT:** Tom O'Toole, NASA Headquarters, Code HK, Washington, DC 20546, telephone: (202) 358-0478; email: [thomas.otoole@hq.nasa.gov](mailto:thomas.otoole@hq.nasa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Federal Acquisition Circular 97-07 revised the FAR to prescribe procedures for the evaluation and incentive of SDB participation in Government contracts. With respect to evaluation, it required that the proposed participation of SDBs in the Department of Commerce designated Major SIC Groups be evaluated in unrestricted competitive negotiations expected to exceed \$500,000 (\$1,000,000 for construction). In addition, two forms of post-award incentives for use of SDBs in the designated SIC Major Groups were prescribed: the clause at 52.219-26,

Small Disadvantaged Business Participation Program—Incentive Subcontracting, or an award fee provision. NASA procedures for award fee already required evaluation of SDB utilization, but needed revision to limit evaluation to SDBs in the designated Major SIC Groups.

**Impact***Regulatory Flexibility Act*

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for comments is not required. However, comments from small business entities concerning the affected NFS coverage will be considered in accordance with 5 U.S.C. 610. Such comments may be submitted separately and should cite 5 U.S.C. 601, *et seq.*

*Paperwork Reduction Act*

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public 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 Parts 1815, 1816, 1819, and 1852**

Government procurement.

**Tom Luedtke,**

*Acting Associate Administrator for Procurement.*

Accordingly, 48 CFR Parts 1815, 1816, 1819, and 1852 are amended as follows:

**PART 1815—CONTRACTING BY NEGOTIATION**

1. The authority citation for 48 CFR Parts 1815, 1816, 1819, and 1852 continues to read as follows:

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

2. In section 1815.304, the section heading is revised and paragraph (c) is added to read as follows:

**1815.304 Evaluation factors and significant subfactors. (NASA supplements paragraph (c))**

(c)(4)(A) The extent of participation of small disadvantaged business (SDB) concerns shall be evaluated as a subfactor under the Mission Suitability factor. If a Mission Suitability factor is not used, the SDB participation shall be evaluated as a separate factor or subfactor, as appropriate.

(B) SDB concerns that choose the FAR 19.11 price evaluation adjustment shall receive the lowest possible score/rating under the FAR 15.304(c)(4) evaluation.

3. In section 1815.304-70, paragraph (b)(2) is revised to read as follows:

**1815.304-70 NASA evaluation factors.**

\* \* \* \* \*

(b) \* \* \*

(2) The Mission Suitability factor may identify evaluation subfactors to further define the content of the factor. Each Mission Suitability subfactor shall be weighted and scored. The adjectival rating percentages in 1815.305(a)(3)(A) shall be applied to the subfactor weight to determine the point score. The number of Mission Suitability subfactors is limited to five. The Mission Suitability evaluation subfactors and their weights shall be identified in the RFP.

\* \* \* \* \*

4. In section 1815.404-470, paragraph (c)(5) is revised to read as follows:

**1815.404-470 NASA structured approach for profit or fee objective.**

\* \* \* \* \*

(c) \* \* \*

(5) Federal socioeconomic programs. In addition to rewarding contractors for unusual initiative in supporting Government socioeconomic programs, failure or unwillingness on the part of the contractor to support these programs should be viewed as evidence of poor performance for the purpose of establishing this profit/fee objective factor. However, this factor does not apply to utilization of small disadvantaged businesses. Incentives for use of these firms may only be structured according to FAR 19.1203 and 19.1204(c).

\* \* \* \* \*

**PART 1816—TYPES OF CONTRACTS**

5. In section 1816.405-274, paragraph (f) is revised to read as follows:

**1816.405-274 Award fee evaluation factors.**

\* \* \* \* \*

(f)(1) The contractor's performance against the subcontracting plan incorporated in the contract shall be evaluated. Emphasis may be placed on the contractor's accomplishment of its goals for subcontracting with small business, HUBZone small business, and women-owned small business concerns.

(2) The contractor's performance against the contract target for participation as subcontractors by small disadvantaged business concerns in the SIC Major Groups designated by the Department of Commerce (see FAR 19.201(c)) shall also be evaluated if the clause at FAR 52.219-26, Small Disadvantaged Business Participation—Incentive Subcontracting, is not

included in the contract (see FAR 19.1204(c)).

(3) The contractor's achievements in subcontracting high technology efforts as well as the contractor's performance under the Mentor-Protégé Program, if applicable, may also be evaluated.

(4) The evaluation weight given to the contractor's performance against the considerations in paragraphs (f)(1) through (f)(3) of this section should be significant (up to 15 percent of available award fee). The weight should motivate the contractor to focus management attention to subcontracting with small, HUBZone, and women-owned small business concerns, and with small disadvantaged business concerns in designated SIC Major Groups to the maximum extent practicable, consistent with efficient contract performance.

\* \* \* \* \*

**PART 1819—SMALL BUSINESS PROGRAMS**

6. In section 1819.201, the section heading and paragraph (a) are revised and paragraph (f)(1) is added to read as follows:

**1819.201 General Policy. (NASA supplements paragraphs (a), (c), (d), and (f))**

(a)(i) NASA is committed to providing to small, HUBZone, small disadvantaged, and women-owned small business concerns, maximum practicable opportunities to participate in Agency acquisitions at the prime contract level. The participation of NASA prime contractors in providing subcontracting opportunities to such entities is also an essential part of the Agency's commitment. The participation of these entities is particularly emphasized in high-technology areas where they have not traditionally dominated.

(ii) NASA annually negotiates Agency small, HUBZone, small disadvantaged, and women-owned small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). In addition, NASA has the following statutory goals based on the total value of prime and subcontract awards:

(A) Under Public Laws 101-144, 101-507, and 102-389, an annual goal of at least 8 percent for prime and subcontract awards to small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs), minority institutions (MIs), and women-owned small businesses (WOSBs) (see 1819.7000); and

(B) Under 10 U.S.C. 2323, an annual goal of 5 percent for prime and

subcontract awards to SDBs, HBCUs, and WOSBs.

\* \* \* \* \*

(f)(1) The NASA Ombudsman, the Deputy Associate Administrator for Procurement (Code H), is the designated official for determining whether the use of the SDB mechanism in FAR subpart 19.11 has resulted in an undue burden on non-SDB firms in the Department of Commerce designated SIC Major Groups, or is otherwise inappropriate.

**1819.202-170 [Amended]**

7. In the last sentence to section 1819.202-170, the word "(Technical)" is removed.

**1819.705-470 [Amended]**

8. In the last sentence to section 1819.705-470, the word "HUBZone," is added before the phrase "and women-owned small business concerns".

9. Section 1819.708-70 is revised to read as follows:

**1819.708-70 NASA solicitation provision and contract clause.**

(a) The contracting officer shall insert the provision at 1852.219-73, Small Business Subcontracting Plan, in invitations for bids containing the clause at FAR 52.219-9 with its Alternate I. Insert in the last sentence the number of calendar days after request that the offeror must submit a complete plan.

(b) The contracting officer shall insert the clause at 1852.21975, Small Business Subcontracting Reporting, in solicitations and contracts containing the clause at FAR 52.219-9, except for contracts covered by an approved commercial plan.

**PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

10. In section 1852.219-73, the section title, date, and paragraph (b) are revised to read as follows:

**1852.219-73 Small Business Subcontracting Plan.**

As prescribed in 1819.708-70(a), insert the following provision:

**Small Business Subcontracting Plan**

May 1999

\* \* \* \* \*

(b) The contract expected to result from this solicitation will contain FAR clause 52.219-9, "Small Business Subcontracting Plan." The apparent low bidder must submit the complete plan within [Insert number of days] calendar days after request by the Contracting Officer.  
(End of provision)

11. In section 1852.219-75, the section title and date are revised to read as follows:

**1852.219-75 Small Business Subcontracting Reporting.**

\* \* \* \* \*

**Small Business Subcontracting Reporting**

May 1999

\* \* \* \* \*

**1852.219-77 [Amended]**

12. In section 1852.219-77, the date is revised to read "May 1999" and in paragraph (d), the word "pilot" is removed.

[FR Doc. 99-11885 Filed 5-10-99; 8:45 am]

BILLING CODE 7510-01-P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Notice of Reclassification of *Lesquerella stonensis* (Stones River bladderpod)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of candidate taxa reclassification.

**SUMMARY:** In this document, we explain the changes in the status of *Lesquerella stonensis* (Stones River bladderpod), a plant that is under review for possible addition to the List of Endangered and Threatened Plants under the Endangered Species Act of 1973, as amended (Act). We are removing this species from candidate status at this time.

**ADDRESSES:** You may submit questions concerning this notice to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop 452 ARLSQ, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Chief, Division of Endangered Species (see **ADDRESSES** section) (telephone: 703/358-2171).

**SUPPLEMENTARY INFORMATION:**

**Background**

Candidate taxa are those taxa for which we have on file sufficient information to support issuance of a proposed rule to list under the Act. In addition to our annual review of all candidate taxa, we have an on-going review process, particularly to update taxa whose status may have changed markedly. This notice provides the

specific explanation for the reclassification of this species.

It is important to note that candidate assessment is an ongoing function and changes in status should be expected. We may restore species to candidate status that are removed from the candidate list if additional information supporting such a change becomes available. We most recently requested such information in the plant and animal candidate notice of review published in the **Federal Register** on September 19, 1997 (62 FR 49398).

**Finding**

*Lesquerella stonensis* Rollins (Stones River bladderpod), a small winter annual plant, occurs in three populations found in the floodplain of the Stones River, Rutherford County, Tennessee. The three populations are divided among 20 sites located on U.S. Army Corps of Engineers' (COE) lands, Tennessee Department of Environment and Conservation's (TDEC) lands, and privately owned lands. Over half of the known populations are on lands managed by the COE and the TDEC. This species requires annual disturbance in order to complete its life cycle. Historically, natural events such as flooding maintained its habitat by removing perennial grasses and woody plants that quickly invade the floodplain without regular natural or artificial disturbance. Annual crop production is currently the primary means of artificially maintaining *L. stonensis*' habitat, provided there is no fall planting and herbicide use is limited.

The Smithsonian Institution's January 9, 1975, report to Congress on those plants considered to be endangered, threatened, or extinct (House Document No. 94-51) included *Lesquerella stonensis*. We first designated *Lesquerella stonensis* as a candidate species in the December 15, 1980, Notice of Review (45 FR 82480). In designating this species a candidate, we considered the encroachment of more competitive vegetation and the loss of habitat through conversion of land to uses other than cultivation of annual crops as the primary threats to the species. In 1994, we entered into cooperative agreements with TDEC and the Tennessee Wildlife Resources Agency (TWRA) to determine the management regimes needed to protect and to maintain healthy, viable populations of *Lesquerella stonensis*. This information provided the basis for the 1998 Cooperative Management Agreement (CMA) among the Service, TWRA, TDEC, and COE for the conservation of *L. stonensis*. Under the

CMA, appropriate agricultural management techniques will provide the disturbance required for the species. We believe that the CMA secures into the foreseeable future the 14 sites where the species occurs on public conservation lands. These populations are distributed over the historic range of the species. The TDEC will continue to work with the owners of the six privately owned sites to gain appropriate management for these sites and to obtain long-term protection for them. We conclude that habitat loss and modification are not likely to cause *L. stonensis* to become endangered or to be in danger of extinction in the foreseeable future over all or a significant portion of its range; therefore, neither the issuance of a proposed rule nor continuation of candidate status for this species is warranted.

**Author**

Staff biologists in our regional and field offices prepared the evaluation summarized in this document by Scott Hicks, Division of Endangered Species (see **ADDRESSES** section).

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: April 14, 1999.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 99-11746 Filed 5-10-99; 8:45 am]

BILLING CODE 4310-55-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 990304063-9063-01; I.D. 050599B]

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processors using Trawl Gear in the Bering Sea and Aleutian Islands**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for Pacific cod by catcher processors using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the portion of the