

The affected sources covered by Kentucky's Stage II vapor recovery requirements are sources of VOC. Other criteria pollutants (carbon monoxide, sulfur dioxide, nitrogen dioxide, particulate matter, and lead) are not emitted by gasoline dispensing facilities and will not be affected by the removal of Stage II controls.

The proposed revisions to 401 KAR 59:174 include that gasoline dispensing facilities located in Boone, Campbell and Kenton Counties shall decommission and remove the systems no later than December 31, 2018. Kentucky noted in its submission that the decommissioning procedures in the revised version of 401 KAR 59:174 follow Petroleum Equipment Institute (PEI) guidance, "Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Refueling Sites," PEI/RP300-09.

EPA is proposing to determine that Kentucky's technical analysis is consistent with EPA's guidance on removing Stage II requirements from a SIP, including as it relates to the decommissioning and phasing out of the Stage II requirements for the Northern Kentucky Area. EPA is also making the preliminary determination that Kentucky's SIP revision is consistent with the CAA and with EPA's regulations related to removal of Stage II requirements from the SIP and that these changes will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA, and therefore satisfy section 110(l).

#### IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Kentucky Regulation 401 KAR 59:174—*Stage II controls at gasoline dispensing facilities*, effective March 4, 2016. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER**

the UST. Unless it is lost as a fugitive emission, any tank pressure in excess of the rating of the pressure/vacuum valve is vented to the atmosphere over the course of a day. See EPA, Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, EPA-457/B-12-001 (Aug. 7, 2012), available at: <https://www.epa.gov/ozone-pollution/ozone-stage-two-vapor-recovery-rule-and-guidance>. Thus, as ORVR technology is phased in, the amount of emission control that is gained through Stage II systems decreases.

**INFORMATION CONTACT** section of this preamble for more information).

#### V. Proposed Action

EPA is proposing to approve the Commonwealth of Kentucky's May 3, 2016, SIP revision that changes Kentucky's Stage II rule, 401 KAR 59:174, to allow for the removal of the Stage II requirement and the orderly decommissioning of Stage II equipment. EPA is proposing this approval because the Agency has made the preliminary determination that the Commonwealth of Kentucky's May 3, 2016, SIP revision related to the Commonwealth's Stage II rule is consistent with the CAA and with EPA's regulations and guidance.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 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 CAA. Accordingly, this proposed action merely proposes to approve 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" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) 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 CAA; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: August 8, 2016.

**Heather McTeer Toney,**

*Regional Administrator, Region 4.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1801, 1815, and 1852

RIN 2700-AE35

#### Remove NASA FAR Supplement Clause, Engineering Change Proposals (2016-N030)

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

**ACTION:** Proposed rule.

**SUMMARY:** National Aeronautics and Space Administration (NASA) is proposing to amend the NASA FAR Supplement (NFS) to remove NFS clause 1852.243-70, Engineering Change Proposals (ECPs) basic clause with its Alternate I & II and associated information collection from the NFS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before October 17, 2016 to be considered in formulation of the final rule.

**ADDRESSES:** Submit comments identified by NFS Case 2016-N030, using any of the following methods:

○ *Regulations.gov*: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "NFS Case 2016–N030" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "NFS Case 2016–N030." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "NFS Case 2016–N030" on your attached document.

○ *Email*: [andrew.orourke@nasa.gov](mailto:andrew.orourke@nasa.gov). Include NFS Case 2016–N030 in the subject line of the message.

○ *Fax*: (202) 358–3082.

○ *Mail*: National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: Andrew O'Rourke, LP–011, Suite 5L32, 300 E. Street SW., Washington, DC 20546–0001.

**FOR FURTHER INFORMATION CONTACT:** Andrew O'Rourke, NASA, Office of Procurement, Contract and Grant Policy Division, Suite 5L32, 300 E. Street SW., Washington, DC 20546–0001. Telephone (202) 358–4560; facsimile (202) 358–3082; email: [andrew.orourke@nasa.gov](mailto:andrew.orourke@nasa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

NASA FAR Supplement clause 1852.243–70, Engineering Change Proposals, requires NASA contractors and vendors to submit contract change proposal information. The Office of Management and Budget (OMB) has approved the collection of this information via OMB Control Number 2700–054 that expires on September 30, 2017. In processing the request for renewal of this information collection under OMB Control Number 2700–054 and as part of NASA's continuing retrospective review of existing regulations to reduce unnecessary, outdated and/or burdensome requirements, NASA Office of Procurement (OP) surveyed its procurement offices to ascertain whether or not NFS clause 1852.243–70, Engineering Change Proposals, was necessary. The results of the review indicated that NFS clause 1852.243–70 was no longer utilized in procurements. Instead, the FAR Changes clauses (FAR 52.243–1 through 52.243–5) were being utilized to process engineering change proposals in lieu of this NFS clause. Thus, NASA is proposing to delete NFS clause 1852.243–70, Engineering Change Proposals, with its Alternate I & II and the corresponding information

collection under OMB Control Number 2700–054.

##### **II. Discussion**

NASA is proposing the following revisions to eliminate unnecessary NFS requirements:

- Delete NFS segment 1843 and OMB Control Number 2700–054 from 1801.106–1.
- Remove the prescription at NFS 1843.205–70(a).
- Delete NFS clause 1852.243–70, Engineering Change Proposals.

##### **III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

##### **IV. Regulatory Flexibility Act**

NASA does not expect this proposed rule 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 we are removing a NFS clause and its associated information collection requirements for contractors. By removing this clause, the information collection requirement on contractors will be eliminated, thus providing all entities, both large and small, with a positive benefit. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

In preparing the request for renewal of this information collection under OMB Control Number 2700–054 and as part of NASA's continuing retrospective review of existing regulations to reduce unnecessary, outdated and/or burdensome requirements, NASA Office of Procurement its procurement offices to ascertain whether or not NFS clause 1852.243–70, Engineering Change Proposals, was necessary. The results of the review indicated that NFS clause 1852.243–70 was no longer utilized in procurements. Instead, the FAR changes clauses were being utilized to process

engineering change proposals in lieu of this NFS clause. Thus, NASA is proposing to delete NFS clause 1852.243–70, Engineering Change Proposals, with its Alternate I & II and the corresponding information collection under OMB Control Number 2700–054. This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses. The proposed rule does not duplicate, overlap, or conflict with any other Federal rules. No alternative approaches were considered.

NASA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NFS case 2016–N030) in correspondence.

##### **C. Paperwork Reduction Act**

The rule contains information collection requirements that require the approval of the OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35); however, the proposed changes to the NFS would remove the information collection requirements previously approved under OMB Control Number 2700–0054, entitled NFS 1843 Contract Modifications for Engineering Change Proposals (ECP).

##### **List of Subjects in 48 CFR Parts 1801, 1843, and 1852**

Government procurement.

##### **Manuel Quinones,**

*NASA FAR Supplement Manager.*

Accordingly, 48 CFR parts 1801, 1843, and 1852 are proposed to be amended as follows:

- 1. The authority citation for parts 1801, 1843 and 1852 continues to read as follows:

**Authority:** 51 U.S.C. 20113(a) and 48 CFR chapter 1.

##### **PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM**

- 2. Revise Section 1801.106 to read as follows:

##### **1801.106 OMB approval under the Paperwork Reduction Act.**

The following OMB control numbers apply:

NFS segment	OMB Control No.
1823 .....	2700-0089
1827 .....	2700-0052
1852.223-70 .....	2700-0160
NF 533 .....	2700-0003
NF 1018 .....	2700-0017

**PART 1843—CONTRACT MODIFICATIONS**

■ 3. Revise Section 1843.205-70 to read as follows:

**1843.205-70 NASA contract clauses.**

The contracting officer may insert a clause substantially as stated at 1852.243-72, Equitable Adjustments, in solicitations and contracts for—

- (a) Dismantling, demolishing, or removing improvements; or
- (b) Construction, when the contract amount is expected to exceed the simplified acquisition threshold and a fixed-price contract is contemplated.

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

**1852.243-70 [Removed and reserved]**

■ 4. Section 1852.243-70 is removed and reserved.

**1852.243-72 [Amended]**

■ 5. Amend section 1852.243-72 by removing “1843.205-70(b)” and adding “1843.205-70” in its place in the introductory text.

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