

Industries Association, the Independent Petroleum Association of America, and the American Petroleum Institute requested a 60-day extension of the comment period to allow time for a complete and extensive analysis of the impact of adoption of this proposal on normal and planned activities by the oil and gas industry onshore and offshore, particularly in light of the Bureau of Land Management's (BLM's) proposed rulemaking published in the **Federal Register** on October 17, 1996. Finally, by letter dated November 24, 1997, Senator Frank H. Murkowski, Senator Larry E. Craig, and Senator Craig Thomas of the United States Senate Committee on Energy and Natural Resources, strongly urged the Director of OHA to extend the comment period for an additional 60 days, to allow the Committee to host a meeting with constituents to discuss the proposed change to 43 CFR 4.21 and the material requested by RMOGA under the Freedom of Information Act, as well as BLM's proposed rule to modify its appeal regulation.

The OHA has determined that an extension of time to obtain additional comments on the proposed rule is warranted and, therefore, the requested extension is granted. This notice announces that 60-day extension to the comment period.

Dated: December 2, 1997.

Barry E. Hill,

Director.

[FR Doc. 97-31963 Filed 12-5-97; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1843 and 1852

Equitable Adjustments Under Contracts for Construction, Dismantling, Demolishing, or Removing Improvements

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a proposed rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to set forth a clause that may be used for equitable adjustments under contracts for construction, and dismantling, demolishing, or removing improvements that are contemplated to be fixed-price and exceed the simplified acquisition threshold.

DATES: Comments must be received on or before February 6, 1998.

ADDRESSES: Submit comments to Mr. Joseph Le Cren, NASA Headquarters, Code HK, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Telephone: (202) 358-0444.

SUPPLEMENTARY INFORMATION:

Background

Some NASA field installations have used clauses containing ceilings on indirect costs and profit as a means for handling equitable adjustments under construction contracts. Instead of each installation using its own clause, there is a consensus that it would be in both NASA's and the contractors' interests to have a standard clause to establish greater consistency throughout the agency. The proposed clause also would reduce the administrative burden associated with the development of an equitable adjustment clause on an installation-by-installation or contract-by-contract basis.

Neither the use of the proposed clause nor the language contained in it would be mandatory. This flexibility is being provided so that the clause is used only when it is considered appropriate and to allow for differences, such as in terminology, that exist in the construction industry in different parts of the United States. The ceiling indirect cost and profit rates contained in the clause, although not mandatory, are benchmarks as to what is generally considered reasonable. The rates are considered reasonable based on NASA's experience with equitable adjustments for construction. In addition, the ceiling rates contained in the proposed clause are the same as those that have been used for many years by both the General Services Administration and the Department of Veterans Affairs. The rates used by these agencies have significance since they have much larger construction budgets than NASA.

Impact

NASA certifies that this proposed regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1843 and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1843 and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1843 and 1852 continues to read as follows:

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

PART 1843—CONTRACT MODIFICATIONS

1843.205-70 [Amended]

2. In section 1843.205-70, the designated paragraphs (a), (b), and (c) are redesignated as paragraphs (a)(1), (2) and (3), and a new paragraph (b) is added to read as follows:

1843.205-70 NASA contract clause.

* * * * *

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

- (1) Dismantling, demolishing, or removing improvements; or
- (2) 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

1852.243-72 [Added]

3. Section 1852.243-72 is added to read as follows:

1852.243-72 Equitable Adjustments.

As prescribed in 1843.205-70(b), insert the following clause.

Equitable Adjustments

(a) The provisions of all other clauses contained in this contract which provide for an equitable adjustment, including those clauses incorporated by reference with the exception of the "Suspension of Work" clause (FAR 52.242-14), are supplemented as follows:

Upon written request, the Contractor shall submit a proposal for review by the Government. The proposal shall be submitted to the contracting officer within the time limit indicated in the request or any extension thereto subsequently granted. The proposal shall provide an itemized breakdown of all increases and decreases in the contract for the Contractor and each subcontractor in at least the following detail: material quantities and costs; direct labor hours and rates for each trade; the associated FICA, FUTA, SUTA, and Workmen's Compensation Insurance; and equipment hours and rates.

(b) The overhead percentage cited below shall be considered to include all indirect costs including, but not limited to, field and office supervisors and assistants, incidental

job burdens, small tools, and general overhead allocations. "Commission" is defined as profit on work performed by others. The percentages for overhead, profit,

and commission are negotiable according to the nature, extent, and complexity of the work involved, but in no case shall they exceed the following ceilings:

| | Overhead (percent) | Profit (percent) | Commission (percent) |
|---|--------------------|------------------|----------------------|
| To Contractor on work performed by other than its own forces | | | 10 |
| To first tier subcontractor on work performed by its subcontractors | | | 10 |
| To Contractor and/or subcontractors on work performed with their own forces | 10 | 10 | |

(c) Not more than four percentages for overhead, profit, and commission shall be allowed regardless of the number of subcontractor tiers.

(d) The Contractor or subcontractor shall not be allowed overhead or commission on the overhead, profit, and/or commission received by its subcontractors.

(e) Equitable adjustments for deleted work shall include credits, limited to the same percentages for overhead, profit, and commission in paragraph (b) of this clause.

(f) On proposals covering both increases and decreases in the amount of the contract, the application of the overhead, profit, and commission shall be on the net change in direct costs for the Contractor or the subcontractor performing the work.

(g) After receipt of the Contractor's proposal, the contracting officer shall act within a reasonable period, provided that when the necessity to proceed with a change does not permit time to properly check the proposal, or in the event of a failure to reach an agreement on a proposal, the contracting officer may order the Contractor to proceed on the basis of the price being determined at the earliest practicable date. In such a case, the price shall not be more than the increase or less than the decrease proposed.

(End of clause)

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA-97-3144]

RIN 2127-AG74

Side Impact Anthropomorphic Test Dummy

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes specifications and qualification requirements for a newly-developed anthropomorphic test dummy. The dummy would be used in compliance testing under an earlier companion proposal to amend the standard on head impact protection. The earlier proposal would facilitate the introduction of

dynamic side impact protection devices by permitting vehicle manufacturers to comply with alternative performance requirements. To demonstrate compliance with those requirements, that proposal specifies a dynamic crash test which uses the new dummy.

DATES: Comment closing date:

Comments on this notice must be received by NHTSA no later than January 22 1998.

ADDRESSES: Any comments should refer to the docket and notice number of this notice and be submitted (preferably in 10 copies) to: U.S. Department of Transportation, Docket Management Room PL-401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590:

For non-legal issues: Stan Backaitis, Office of Crashworthiness Standards, NPS-11, telephone (202) 366-4912, facsimile (202) 366-4329, electronic mail "sbackaitis@nhtsa.dot.gov".

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC-20, telephone (202) 366-5253, facsimile (202) 366-3820, electronic mail "omatheke@nhtsa.dot.gov".

SUPPLEMENTARY INFORMATION:

I. Background

This proposal supplements an earlier proposal previously published in the **Federal Register** that would amend Federal Motor Vehicle Safety Standard (FMVSS) No. 201, Head Impact Protection. [62 FR 45202] The earlier companion proposal would facilitate the introduction of dynamic side impact protection devices by permitting vehicle manufacturers to comply with alternative performance requirements. To demonstrate compliance with those requirements, that proposal specifies a dynamic crash test. In the test, a vehicle would be propelled sideways at a speed of 29 km/h (18 mph) into a 254 mm (10 inch) rigid pole. An anthropomorphic test dummy would be in the outboard front seat on the struck side of the

vehicle. This notice proposes the specifications and calibration requirements for that test dummy.

The dummy proposed in this notice is based on two existing dummies, the part 572, subpart F anthropomorphic test device (Side Impact Dummy or SID) that is used in testing under FMVSS 214, Side Impact Protection, and the part 572, subpart E anthropomorphic test device (Hybrid III or HIII) that is used in testing under FMVSS 208, Occupant Crash Protection. The proposed dummy would combine the head and neck of the Hybrid III (HIII) with the torso and extremities of the Side Impact Dummy (SID) through the use of a redesigned neck bracket. The agency tentatively concludes that the resulting SID/HIII dummy would be operational and adequate for use in the proposed rule.

II. Agency Proposal

The specifications for the proposed side impact dummy would consist of (1) a drawing package containing all of the technical details of the neck bracket used for mating the SID torso with the HIII head and neck assembly, (2) a parts list, and (3) a SID/HIII user manual containing instructions for inspection, assembly, disassembly, use, and adjustments of dummy components. These drawings and specifications would ensure that the dummies would be the same in their construction. The performance calibration tests proposed in this NPRM would serve to assure that the SID/HIII responses are within the established biomechanical corridors and further assure the uniformity of dummy assembly, structural integrity, and adequacy of instrumentation. As a result, the repeatability of the dummy's performance in dynamic testing would be ensured.

The dummy would be instrumented with an accelerometer array for measurement of accelerations in the head during impacts. The rule would specify the manner and location of installation of sensors to reduce variability in their measurements that might otherwise result from differences in location and mounting.