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#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 97-5354 Filed 3-4-97; 8:45 am]

BILLING CODE 6712-01-P

#### 47 CFR Part 73

[MM Docket No. 96-176; RM-8851]

#### Radio Broadcasting Services; Greensboro, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 256A to Greensboro, Alabama, as that community's first local aural transmission service, in response to a petition for rule making filed by Autaugaville Radio, Inc. See 61 FR 47471, September 8, 1996. Coordinates used for Channel 256A at Greensboro, Alabama, are 32-47-22 and 87-34-39. With this action, the proceeding is terminated.

**DATES:** Effective April 14, 1997. The window period for filing applications for Channel 256A at Greensboro, Alabama, will open on April 14, 1997, and close on May 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 256A at Greensboro, Alabama, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 96-176, adopted February 21, 1997, and released February 28, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy

contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Greensboro, Channel 256A.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 97-5357 Filed 3-4-97; 8:45 am]

BILLING CODE 6712-01-P

#### 47 CFR Part 73

[MM Docket No. 96-205; RM-8862]

#### Radio Broadcasting Services; Hobe Sound and Jupiter, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action in this document substitutes Channel 288C2 for Channel 288C3 at Jupiter, Florida, reallots the channel to Hobe Sound, Florida, and modifies the construction permit for Station WTPX(FM) to specify operation on Channel 288C2 at Hobe Sound. See 61 FR 54404, October 18, 1996. The coordinates for Channel 288C2 at Hobe Sound are 27-16-03 and 80-12-10. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** April 14, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 96-205, adopted February 21, 1997, and released February 28, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's

copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857-3800.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 288C3 at Jupiter and adding Hobe Sound, Channel 288C2.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 97-5359 Filed 3-4-97; 8:45 am]

BILLING CODE 6712-01-P

#### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 234, 242, and 252

[DFARS Case 96-D024]

#### Defense Federal Acquisition Regulation Supplement; Earned Value Management Systems

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to adopt industry-standard "Guidelines for Earned Value Management Systems" in lieu of the cost/schedule control systems criteria that are unique to DoD contracts.

**DATES:** Effective date: March 5, 1997.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 5, 1997 to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. Michael Pelkey, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350.

Please cite DFARS Case 96-D024 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:**  
Michael Pelkey, (703) 602-0131.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On August 19, 1996, the National Security Industrial Association, Aerospace Industries Association, American Shipbuilding Association, Shipbuilders Council of America, and Electronic Industries Association proposed that DoD recognize industry-standard "Guidelines for Earned Value Management Systems (EVMS)" as an alternative to DoD-unique cost/schedule control systems. On December 14, 1996, the Under Secretary of Defense for Acquisition and Technology directed that these guidelines be adopted for use as the criteria by which the acceptability of DoD contractors' management control systems will be evaluated. Since DoD's cost/schedule control systems criteria are considered to be equivalent to EVMS, contractors' previously approved cost/schedule control systems are considered to be acceptable under the EVMS criteria.

**B. Regulatory Flexibility Act**

The interim rule is not expected 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 the rule only applies to contractors for certain major defense programs, and eliminates the requirement that such contractors use a unique management control system for DoD contracts. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with Section 610 of the Act. Such comments should be submitted separately and should cite DFARS Case 96-D024 in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**D. Determination to Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Urgent and compelling reasons exist to

promulgate this rule without prior opportunity for public comment. This interim rule implements the December 14, 1996, direction from the Under Secretary of Defense for Acquisition and Technology that DoD recognizes industry-standard "Guidelines for Earned Value Management Systems" as an alternative to DoD-unique cost/schedule control systems. Immediate implementation is necessary to preclude incurring unnecessary costs to create or maintain DoD-unique cost/schedule control systems at DoD contractors' facilities where acceptable earned value management systems exist. However, comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 234, 242, and 252

Government procurement.  
Michele P. Peterson,  
*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 234, 242, and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 234, 242, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

**PART 234—MAJOR SYSTEM ACQUISITION**

2. Section 234.005-70 is revised to read as follows:

**234.005-70 Earned value management systems.**

When an offeror provides an earned value management system (EVMS) plan as part of its proposal in accordance with the provision at 252.234-7000, the contracting officer shall forward a copy of the plan to the cognizant administrative contracting officer (ACO). The procuring contracting officer shall obtain the assistance of the ACO in determining the adequacy of the proposed EVMS plan.

3. Section 234.005-71 is added to read as follows:

**234.005-71 Solicitation provision and contract clause.**

When the Government requires contractor compliance with DoD earned value management system criteria—

(a) Use the provision at 252.234-7000, Notice of Earned Value Management System, in solicitations; and

(b) Use the clause at 252.234-7001, Earned Value Management Systems, in solicitations and contracts.

**PART 242—CONTRACT ADMINISTRATION**

4. Section 242.302 is amended by revising paragraph (a)(41) to read as follows:

**242.302 Contract administration functions.**

(a) \* \* \*

(41) The Defense Contract Management Command (DCMC) has responsibility for reviewing earned value management system (EVMS) plans and verifying initial and continuing contractor compliance with DoD EVMS criteria.

\* \* \* \* \*

5. Section 242.1107-70 is revised to read as follows:

**242.1107-70 Solicitation provision and contract clause.**

(a) Use the clause at 252.242-7005, Cost/Schedule Status Report, in solicitations and contracts for other than major systems that require cost-schedule status reporting (i.e., the Contract Data Requirements List includes DI-MGMT-81467).

(b) Use the provision at 252.242-7006, Cost/Schedule Status Report Plans, in solicitations for other than major systems that require cost/schedule status reporting.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

6. Section 252.234-7000 is revised to read as follows:

**252.234-7000 Notice of earned value management system.**

As prescribed in 234.005-71, use the following provision:

Notice of Earned Value Management System (Mar 1997)

(a) The offeror shall provide documentation that the cognizant Administrative Contracting Officer (ACO) has recognized that the proposed earned value management system (EVMS) complies with the EVMS criteria of DoD 5000.2, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems, or that the proposed cost/schedule control system has been accepted by the Government.

(b) If the offeror proposes to use a system that does not meet the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS criteria.

(1) The plan shall—

(A) Describe the EVMS the offeror intends to use in performance of the contract;

(B) Distinguish between the offeror's existing management system and modifications proposed to meet the criteria;

(C) Describe the management system and its application in terms of the 32 EVMS criteria;

(D) Describe the proposed procedure for administration of the criteria as applied to subcontractors; and

(E) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with EVMS criteria.

(2) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(3) The Government will review the offeror's plan for EVMS before contract award.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontractors have not been selected, planned for application of the criteria. The prime contractor and the Government shall agree to subcontractors selected for application of the EVMS criteria. (End of provision)

7. Section 252.234-7001 is revised to read as follows:

**252.234-7001 Earned value management system.**

As prescribed in 234.005-71, use the following clause:

Earned Value Management System (Mar 1997)

(a) In the performance of this contract, the Contractor shall use an earned value management system (EVMS) meeting the criteria provided in DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems.

(b) If the Contractor has an EVMS that has been recognized by the cognizant Administrative Contracting Officer (ACO) as complying with the EVMS criteria (or an existing cost/schedule control system (C/SCS) that has been accepted by the Government), the Contractor shall apply the system to this contract within 60 calendar days after contract award or as otherwise agreed to by the parties.

(c) If the Contractor does not have an EVMS that has been recognized by the cognizant ACO as complying with EVMS criteria (or does not have an existing C/SCS that has been accepted by the Government), the Contractor shall be prepared to demonstrate to the ACO that the EVMS complies with the EVMS criteria referenced in paragraph (a) of this clause.

(d) The Government may require an integrated baseline review within 180 calendar days after (1) contract award, (2) the exercise of significant contract options, or (3) the incorporation of major modifications. The purpose of the integrated baseline review is for the Government and the Contractor to jointly assess areas, such as the Contractor's planning, to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

(e) Unless a waiver is granted by the ACO, Contractor proposed EVMS changes require approval of the ACO prior to implementation. The ACO shall advise the Contractor of the acceptability of such changes within 30 calendar days after receipt

of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the ACO, the Contractor shall disclose EVMS changes to the ACO at least 14 calendar days prior to the effective date of implementation.

(f) The Contractor agrees to provide access to all pertinent records and data requested by the ACO or duly authorized representatives. Access is to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the criteria referenced in paragraph (a) of this clause.

(g) The Contractor shall require those subcontractors specified in the contract for application of the EVMS criteria to comply with the requirements of this clause.

(End of clause)

8. Section 252.242-7005 is revised to read as follows:

**252.242-7005 Cost/Schedule Status Report.**

As prescribed in 242.1107-70(a), use the following clause:

Cost/Schedule Status Report (Mar 1997)

(a) The Contractor shall use management procedures in the performance of this contract that provide for—

(1) Planning and control of costs;

(2) Measurement of performance (value for completed tasks); and

(3) Generation of timely and reliable information for the cost/schedule status report (C/SSR).

(b) As a minimum, these procedures must provide for—

(1) Establishing the time-phased budgeted cost of work scheduled (including work authorization, budgeting, and scheduling), the budgeted cost for work performed, the actual cost of work performed, the budget at completion, the estimate at completion, and provisions for subcontractor performance measurement and reporting;

(2) Applying all direct and indirect costs and provisions for use and control of management reserve and undistributed budget;

(3) Incorporating changes to the contract budget base for both Government directed changes and internal replanning;

(4) Establishing constraints to preclude subjective adjustment of data to ensure performance measurement remains realistic. Unless the Contracting Officer provides prior written approval, in no case shall the total allocated budget exceed the contract budget base. For cost-reimbursement contracts, the contract budget base shall exclude changes for cost growth increases, other than for authorized changes to the contract scope; and

(5) Establishing the capability to accurately identify and explain significant cost and schedule variances, both on a cumulative basis and projected at completion basis.

(c) The Contractor may use a cost/schedule control system that has been recognized by the cognizant Administrative Contracting Officer (ACO) as complying with the earned value management system criteria provided in DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems.

(d) The Government may require an integrated baseline review within 180 calendar days after (1) contract award, (2) the exercise of significant contract options, or (3) the incorporation of major modifications. The purpose of the integrated baseline review is for the Government and the Contractor to jointly assess areas, such as the Contractor's planning, to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks. The Contractor shall provide necessary documents and data which describe the methods of planning, control and data generation in actual operation and satisfy the requirements of paragraph (a) of this clause.

(e) The Contractor shall provide access to all pertinent records, company procedures, and data requested by the ACO, or authorized representative, to—

(1) Show proper implementation of the procedures generating the cost and schedule information being used to satisfy the C/SSR contractual data requirements to the Government; and

(2) Ensure continuing application of the accepted company procedures in satisfying the C/SSR data item.

(f) The Contractor shall submit any substantive changes to the procedures and their impact to the ACO for review.

(g) The Contractor shall require a subcontractor to furnish C/SSR in each case where the subcontract is other than firm-fixed-price, is 12 months or more in duration, and has critical or significant tasks related to the prime contract. Critical or significant tasks shall be defined by mutual agreement between the Government and Contractor. Each subcontractor's reported cost and schedule information shall be incorporated into the Contractor's C/SSR.

(End of clause)

9. Section 252.242-7006 is added to read as follows:

**252.242-7006 Cost/Schedule Status Report Plans.**

As prescribed in 242.1107-70(b), use the following provision:

Cost/Schedule Status Report Plans (Mar 1997)

(a) The offeror shall submit a written summary of the management procedures it will establish, maintain, and use in the performance of any resultant contract to comply with the requirements of the clause at 252.242-7005, Cost/Schedule Status Report.

(b) If the offeror proposes to use a cost/schedule control system that has been recognized by the cognizant Administrative Contracting Officer as complying with the earned value management system criteria of DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information Systems, the offeror may submit a copy of the documentation of such recognition instead of the written summary required by paragraph (a) of this provision.

(End of provision)

[FR Doc. 97-5362 Filed 3-4-97; 8:45 am]

BILLING CODE 5000-04-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 649

[Docket No. 970219034-7034-01; I.D. 021097D]

RIN 0648-XX81

#### American Lobster Fishery; Technical Amendment

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** NMFS issues this final rule to add a provision allowing vessels issued Maine state lobster permits to fish in designated waters of the Federal exclusive economic zone (EEZ). This technical amendment conforms the American lobster regulations to existing statutory language, as amended by the Sustainable Fisheries Act.

**EFFECTIVE DATE:** February 28, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mary Tokarcik, Fisheries Management Specialist, 508-281-9326.

**SUPPLEMENTARY INFORMATION:** On October 11, 1996, the Sustainable Fisheries Act (SFA) was signed into law. The SFA amended, among other statutes, the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 *et seq.*) to allow fishing for lobster by vessels issued Maine State American lobster permits in designated areas of the EEZ. These areas are often referred to as Maine pocket waters. The SFA provides that any person holding a valid permit issued by the State of Maine may engage in lobster fishing in these pocket waters, if such fishing is in accordance with all other applicable Federal and State regulations. These pocket waters are small areas of the EEZ that lie between two areas of State waters, created by islands near the coast of Maine. This technical amendment changes § 649.8, modifying the prohibitions to allow for this provision. It also adds § 649.24 to designate areas of the EEZ in which State-permitted vessels may harvest American lobster.

#### Classification

This rule only conforms to an existing set of regulations to a recently enacted

statutory provision for which the agency has no discretion. As such, under authority at 5 U.S.C. 553(b)(B), there is good cause to waive the requirement to provide prior notice and an opportunity for public comment as such procedures are unnecessary. Similarly, as the statute is already effective, there is good cause under authority at 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

This rule is exempt from review under E.O. 12866.

#### List of Subjects in 50 CFR Part 649

Fisheries.

Dated: February 27, 1997.

Charles Karnella,

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Part 649 is amended as follows:

#### PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.8, paragraphs (a) introductory text, (b), (c) introductory text, (c)(1)(iv), (c)(2), and (c)(4) are revised and (c)(1)(v) is added to read as follows.

##### § 649.8 Prohibitions.

(a) In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal American lobster permit under § 649.4 or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 649.24 to do any of the following:

\* \* \* \* \*

(b) In addition to the prohibitions specified in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel that has not been issued a limited access American lobster permit as described under § 649.4(b) or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the area designated under § 649.24, to possess on board a vessel or land American lobsters unless the vessel is a party, charter, or dive boat and there are six or fewer American lobsters per person on such boats, and the lobster are not sold, traded or bartered, or unless the vessel is a recreational vessel, or a vessel

fishing for American lobsters exclusively in State waters.

(c) In addition to the general prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraphs (a) and (b) of this section, it is unlawful for any person to do any of the following:

(1) \* \* \*

(iv) The American lobsters were harvested by a recreational fishing vessel; or

(v) The American lobsters were harvested by a vessel or person holding a valid State of Maine American lobster permit or license that is fishing under the provisions of and in the areas designated in § 649.24.

(2) Sell, barter or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer for a commercial purpose, any American lobsters from a vessel, unless the vessel had been issued a valid Federal American lobster permit under § 649.4, the American lobsters were harvested by a vessel without a Federal lobster permit that fishes for lobsters exclusively in State waters or unless the vessel or person holds a valid State of Maine American lobster permit or license and is fishing under the provisions of and in the areas designated in § 649.24.

\* \* \* \* \*

(4) Purchase, possess, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a Federal American lobster permit under § 649.4 or one holding or owned or operated by one holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the areas designated in § 649.24, unless the American lobsters were harvested by a vessel without a Federal American lobster permit and that fishes for American lobster exclusively in state waters.

\* \* \* \* \*

3. Section 649.24 is added to subpart B to read as follows:

##### § 649.24 Exempted waters for Maine State American lobster permits.

A person or vessel holding a valid permit or license issued by the State of Maine that lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobsters in the following areas designated as EEZ, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations: