

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 73**

[DA 00-2885; MM Docket No. 98-155; RM-9082; RM-9133]

**Radio Broadcasting Services; Alva,
Mooreland, Tishomingo, Tuttle and
Woodward, OK**

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of FM 92 Broadcasters, Inc., allots Channel 283C1 to Mooreland, OK, as the community's first local aural service. This action also denies the request of Ralph Tyler to reallot Channel 259C3 from Tishomingo, OK, to Tuttle, OK, as its first local aural service, modify the license of Station KTSH accordingly, with accommodating changes of channels at Alva and Woodward, Oklahoma. See 63 FR 46979, September 3, 1998. Channel 283C1 can be allotted to Mooreland in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 36°26'18" NL; 99°12'18" WL. A filing window for Channel 283C1 at Mooreland will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective February 5, 2001.

FOR FURTHER INFORMATION CONTACT:
Leslie K. Shapiro, Mass Media Bureau,
(202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98-155, adopted December 13, 2000, and released December 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

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—RADIO BROADCAST
SERVICES**

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Mooreland, Channel 283C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00-33212 Filed 12-27-00; 8:45 am]

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**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 1807, 1813, 1816, 1835,
1842, 1845, 1852, and 1872****Acquisition Regulations;
Miscellaneous Changes**

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to make miscellaneous administrative and editorial changes.

EFFECTIVE DATE: December 28, 2000.

FOR FURTHER INFORMATION CONTACT:
Celeste Dalton, NASA Headquarters,
Office of Procurement, Contract
Management Division (Code HK),
Washington, DC 20546, telephone: (202)
358-1645; email: cdalton@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule (1) provides guidance on what should be addressed in NASA's Governmentwide purchase card training for purchase cardholders and approving officials; (2) deletes the NASA coverage for addressing contract bundling in acquisition plans which is duplicative of FAR coverage contained in Federal Acquisition Circular 97-15; (3) clarifies guidance on NASA's external audit follow-up system; and (4) makes technical corrections in Parts 1816, 1835, 1842, 1845, 1852, and 1872.

B. 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.*

C. 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 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 1807,
1813, 1816, 1835, 1842, 1845, 1852, and
1872**

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1807, 1813, 1816, 1835, 1842, 1845, 1852, and 1872 are amended as follows:

1. The authority citation for 48 CFR Parts 1807, 1813, 1816, 1835, 1842, 1845, 1852, and 1872 continues to read as follows:

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

PART 1807—ACQUISITION PLANNING**1807.105 [Amended]**

2. Remove paragraph (b)(1) in section 1807.105.

**PART 1813—SIMPLIFIED ACQUISITION
PROCEDURES**

3. Add section 1813.301-71 to read as follows:

1813.301-71 Training.

All cardholders and approving officials must complete training prior to receiving a purchase card. Training will address the responsibilities of the cardholder and approving official, prohibited purchases, purchase limitations, and sources of supply.

PART 1816—TYPES OF CONTRACTS

4. In section 1816.203-4, revise paragraph (a) to read as follows:

1816.203-4 Contract clauses.

(a) In addition to the approval requirements in the prescriptions at FAR 52.216-2 through 52.216-4, the contracting officer shall coordinate with the installation's Deputy Chief Financial Officer (Finance) before exceeding the ten-percent limit in paragraph (c)(1) of the clauses at FAR 52.216-2 and 52.216-3 and paragraph (c)(4) of the clause at 52.216-4.

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PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING**1835.017-71 [Amended]**

5. In section 1835.016-71, amend the first sentence of paragraph (b)(2) by removing “and 1805.201”.

PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

6. Revise section 1842.1501 to read as follows:

1842.1501 General.

Communications with contractors are vital to improved performance and this is NASA's primary objective in evaluating past performance. Other objectives include providing data for future source selections. While the evaluations must reflect both shortcomings and achievements during performance, they should also elicit from the contractors their views on impediments to improved performance emanating from the Government or other sources.

7. Revise section 1842.7301 to read as follows:

1842.7301 NASA external audit follow-up system.

(a) This section implements OMB Circular No. A-50 and NASA Policy Directive (NPD) 1200.10 “Internal Management Controls and Audit Liaison and Followup”, which provide more detailed guidance. Recommendations from external audits (OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Institutions) shall be resolved by formal review and approval procedures analogous to those at 1815.406-171.

(b) The external audit followup system tracks all contract and OMB Circular No. A-133 audits where NASA has resolution and disposition authority. The objective of the tracking system is to ensure that audit recommendations are resolved within 6 months after receipt of the audit report and corrected as expeditiously as possible.

(c)(1) The identification and tracking of contract audit reports under NASA cognizance are accomplished in cooperation with the DCAA.

(2) Identification and tracking of OMB Circular No. A-133 audit reports are accomplished in cooperation with the NASA Office of the Inspector General (OIG).

(d)(1) All reportable contract audit reports as defined by Chapter 15, Section 6, of the DCAA Contract Audit Manual (CAM) shall be reported

quarterly to the Headquarters Office of Procurement (Code HK); and

(2) Only OMB Circular No. A-133 audit reports involving the following shall be reported quarterly to Code HK:

(i) A significant management control issue; or

(ii) Questioned costs of \$10,000 or more due to an audit finding (see Subpart E-Auditor, paragraph 510 of OMB Circular No. A-133).

(3) NASA contracting officers will maintain a dialogue with DOD Administrative Contracting Officers (ACO) who have been delegated activities on NASA contracts. A review will be conducted no less frequently than semiannually, and the status and disposition of significant audit findings will be documented in the contract file. During this review, NASA contracting officers should discuss with the ACO both prime and subcontract audit reports that have been delegated to DOD. Should these reports contain any findings or recommendations, the NASA contracting officer should obtain their status and document the contract file accordingly.

(e)(1) The terms “resolution” and “disposition” are defined in as follows:

(i) Resolution—The point at which the IG and Management agree on the action to be taken on audit report findings and recommendations.

(ii) Corrective action—Management action responsive to an agreed upon audit recommendation.

(2) The resolution and disposition of OMB Circular No. A-133 audits are handled as follows:

(i) Audit findings pertaining to an individual NASA award are the responsibility of the procurement officer administering that award.

(ii) Audit findings having a Governmentwide impact are the responsibility of the cognizant Federal agency responsible for oversight. For organizations subject to OMB Circular No. A-133, there is either a cognizant agency or an oversight agency. The cognizant agency is the Federal agency that provides the predominant amount of direct funding to the recipient organization unless OMB makes a specific cognizant agency for audit assignment. To provide for the continuity of cognizance, the determination of the predominant

amount of direct funding will be based on the direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. When there is no direct funding, the Federal agency with the predominant indirect funding is to assume the oversight responsibilities. In cases where NASA is the cognizant or

oversight Federal agency, audit resolution and disposition is the responsibility of the procurement officer for the Center having the largest amount of direct funding, or, if there is no direct funding, the largest amount of indirect funding for the audited period. A copy of the memorandum dispositions the findings shall be provided by each Center having resolution responsibility for the particular report to the Headquarters OIG office and Code HK.

PART 1845—GOVERNMENT PROPERTY

8. In section 1845.7101-1, revise paragraph (c) to read as follows:

1845.7101-1 Property classification.

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(c) *Buildings.* Includes costs of buildings, improvements to buildings, and fixed equipment required for the operation of a building which is permanently attached to and a part of the building and cannot be removed without cutting into the walls, ceilings, or floors. Contractors shall report buildings with a unit acquisition cost of \$100,000 or more. Examples of fixed equipment required for functioning of a building include plumbing, heating and lighting equipment, elevators, central air conditioning systems, and built-in safes and vaults.

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PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**1852.247-73 Shipment by Government Bills of Lading.**

9. Amend the date of the clause at section 1852.247-73 by removing “(MARCH 1997)” and adding “(OCTOBER 2000)” in its place.

PART 1872—ACQUISITIONS OF INVESTIGATIONS**1872.305 [Amended]**

10. Amend section 1872.305 by removing “Appendix A” in paragraph (b).

1872.306 [Amended]

11. Amend section 1872.306 by removing “Appendix B” and adding “1872.705-2” in its place.

12. Revise section 1872.307 to read as follows:

1872.307 Guidelines for proposal preparation.

While not all of the guidelines outlined in 1872.705-2 will be applicable in response to every AO, the investigator should be informed of the

relevant information required. The proposal may be submitted on a form supplied by the Program Office. However, the proposal should be submitted in at least two sections:

(a) Investigation and Technical Plan; and

(b) Management and Cost Plan as described in 1872.705–2.

1872.705 [Amended]

13. Amend Part VI of section 1872.705 by removing “Appendix C” in paragraph (b)(5) and adding “Appendix B” in its place and removing “General Instructions and Provisions” in paragraphs (d) and (e) and adding “Guidelines for Proposal Preparation” in its place.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 001213348-0366-02; I.D. 121100A]

RIN 0648-AO44

Fisheries of the Exclusive Economic Zone Off Alaska; Removal of Groundfish Closure

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

ACTION: Final rule.

SUMMARY: NMFS revises an existing closure to commercial fishing for Pacific cod within critical habitat designated for Steller sea lions in the exclusive economic zone (EEZ) off Alaska west of 144° W. long. through December 31, 2000. The revision of the existing closure is necessary to permit relatively small-scale, fixed-gear fisheries for Pacific cod to continue for a limited period of time. The revised closure is intended to ensure that Steller sea lions are adequately protected based on conclusions in a biological opinion issued November 30, 2000, while mitigating short-term social and economic effects on fixed-gear fisheries for Pacific cod.

DATES: Effective December 22, 2000 through December 31, 2000.

ADDRESSES: Copies of the Endangered Species Act, Section 7 Consultation Biological Opinion and Incidental Take Statement on Authorization of the

Bering Sea and Aleutian Islands groundfish fisheries based on the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Authorization of the Gulf of Alaska groundfish fisheries, based on the Fishery Management Plan for Groundfish of the Gulf of Alaska, including the reasonable and prudent alternative (BiOp), may be obtained by contacting the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, or Room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. The 2000 BiOp is also available on the Alaska Region home page at <http://www.fakr.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7228 or jay.ginter@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries in the EEZ of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) under the fishery management plans (FMPs) for groundfish in the respective areas. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries appear at 50 CFR part 600.

NMFS also has statutory authority to promulgate regulations governing the groundfish fisheries under the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* The ESA requires that each Federal agency ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or to result in the destruction or adverse modification of critical habitat of such species.

On August 7, 2000, the United States District Court for the Western District of Washington issued an order that granted a motion for a partial injunction on the North Pacific groundfish fisheries. *Greenpeace v. NMFS*, No. C98-4922 (W.D. Wash.). This motion requested injunctive relief until NMFS issues a legally adequate BiOp addressing the combined, overall effects of the North Pacific groundfish fisheries on Steller sea lions and their critical habitat pursuant to the ESA. The population of Steller sea lions west of 144° W. long. (hereafter western population) is listed under the ESA as endangered, while the

population of Steller sea lions east of 144° W. long. is listed as threatened.

To comply with the Court's August 7, 2000, Order, NMFS, pursuant to the ESA, issued an interim rule prohibiting fishing for groundfish with trawl gear in Steller sea lion critical habitat (65 FR 49766, August 15, 2000). The critical habitat areas closed by the interim rule were defined in regulations codified at 50 CFR 226.202, and in Tables 1 and 2 to 50 CFR part 226.

On November 30, 2000, NMFS issued a BiOp, which is comprehensive in scope and considers the fisheries and the overall management framework established by the BSAI and GOA FMPs. After analyzing the cumulative, direct and indirect effects of the groundfish fisheries authorized by the BSAI and GOA FMPs on listed species, NMFS concluded in the BiOp that the fisheries for pollock, Pacific cod, and Atka mackerel, as currently prosecuted, jeopardize the continued existence of the western population of Steller sea lions and adversely modify their critical habitat. NMFS reached this conclusion based on information that the pollock, Pacific cod, and Atka mackerel fisheries and the Steller sea lions compete for the same species, that this competition causes reduced availability of prey for the Steller sea lions, that reduced availability of prey leads to nutritional stress, and that nutritional stress, especially of juveniles and to a lesser extent adult females, is the leading hypothesis to explain the continued decline of the western population of Steller sea lions.

On December 5, 2000, the United States District Court for the Western District of Washington issued an order dissolving the injunction issued on August 7, 2000. Based on that Order, NMFS issued a final rule on December 14, 2000 (65 FR 79784, December 20, 2000) revoking the closure of all groundfish trawl fishing in designated critical habitat that was published on August 15, 2000 (65 FR 49766). However, because the BiOp concluded that the fisheries for Pacific cod, along with pollock and Atka mackerel, as currently prosecuted, jeopardize the continued existence of the western population of Steller sea lions and adversely modify their critical habitat, and because only Pacific cod was still available for harvest in certain fisheries, the December 20, 2000, final rule prohibited commercial fishing for Pacific cod in designated critical habitat through December 31, 2000. Commercial fisheries for pollock and Atka mackerel were not included in the final rule because fisheries for those species already were prohibited through