

the changes. See 69 FR 77976, December 29, 2004. Channel 248C is reallocated at Mont Belvieu at Station KRWP(FM)'s license site 50.1 kilometers (31.1 miles) east of the community at coordinates 29-41-52 NL and 94-24-09 WL.

**DATES:** Effective March 23, 2006.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 04-426 adopted February 2, 2006, and released February 6, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

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

Radio, Radio broadcasting.

■ 47 CFR part 73 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 Texas, is amended by removing Channel 248C1 at Beaumont and adding Mont Belvieu, Channel 248C.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 06-1526 Filed 2-21-06; 8:45 am]

**BILLING CODE 6712-01-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1823 and 1852

**RIN 2700-AD12**

#### Safety and Health—Alternate I to Major Breach of Safety or Security Clause

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

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final, with a minor editorial change, the proposed rule published in the *Federal Register* (70 FR 33726-33727) on June 9, 2005. This final rule amends the NASA FAR Supplement (NFS) to add Alternate I to the "Major Breach of Safety or Security" clause. Alternate I deletes references to termination for default and makes other changes to be consistent with the FAR termination clauses prescribed for use with educational or nonprofit institutions performing research and development work on a nonprofit or no-fee basis, and in contracts for commercial items.

**EFFECTIVE DATE:** February 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Carl Weber, Office of Procurement, Contract Management Division, (202) 358-1784, e-mail: [carl.c.weber@nasa.gov](mailto:carl.c.weber@nasa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Since July 13, 2000, NFS has required the Major Breach of Safety or Security clause (1852.223-75) in new solicitations and contracts with an estimated value over \$500,000. The clause declares the Government's right to terminate for default in the event of a major breach of safety or security. However, contracts for commercial items procured under FAR Part 12 and certain contracts with educational or nonprofit institutions do not provide the Government the right to terminate for "default". Commercial contracts provide rights to terminate for convenience and "cause", and contracts with educational or nonprofit institutions provide the right to terminate for convenience.

NASA Procurement Information Circular (PIC 02-11) issued June 24, 2002, provided a class deviation to use an Alternate I to the clause, which deleted references to termination for default, under certain circumstances.

This final rule adds the Alternate I to the Major Breach of Safety or Security clause at 1852.223-75, eliminating the need for PIC 02-11 and the class deviation. Use of the clause with its Alternate I in contracts for commercial

items procured under FAR Part 12, and contracts for research and development work with educational or nonprofit institutions on a nonprofit or no-fee basis will be consistent with FAR termination clauses prescribed for use in such contracts. NASA published a proposed rule in the *Federal Register* (70 FR 33726-33727) on June 9, 2005. No comments were received, and the proposed rule is being adopted with a minor editorial change to 1823.7001(d)(2)(ii) that simplifies the clause prescription to require it when FAR 52.212-4 is included in a solicitation or contract. This is not a significant regulatory action, and therefore, is not subject to Office of Management and Budget review under section 6(b), of Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

##### B. Regulatory Flexibility Act

NASA certifies that this final rule does not have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, since it only clarifies agency regulations so they are employed consistently with FAR termination provisions.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose any new recordkeeping or information collection requirements which 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 1823 and 1852

Government Procurement.

**Tom Luedtke,**

*Assistant Administrator for Procurement.*

■ Accordingly, 48 CFR parts 1823 and 1852 are amended as follows:

#### PART 1823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 1. The authority citation for 48 CFR parts 1823 and 1852 continues to read as follows:

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

■ 2. Amend section 1823.7001 by revising paragraph (d) to read as follows:

#### 1823.7001 NASA solicitation provisions and contract clauses.

\* \* \* \* \*

(d)(1) The contracting officer shall insert the clause at 1852.223-75, Major Breach of Safety or Security, in all solicitations and contracts with estimated values of \$500,000 or more, unless waived at a level above the contracting officer with the concurrence of the project manager and the installation official(s) responsible for matters of security, export control, safety, and occupational health.

(2) Insert the clause with its Alternate I if—

(i) The solicitation or contract is with an educational or other nonprofit institution and contains the termination clause at FAR 52.249-5; or

(ii) The solicitation or contract is for commercial items and contains the clause at FAR 52.212-4.

(3) For contracts with estimated values below \$500,000, use of the clause is optional.

\* \* \* \* \*

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

■ 3. Amend section 1852.223-75 by adding Alternate I to read as follows:

**1852.223-75 Major Breach of Safety or Security.**

\* \* \* \* \*

**Alternate I**

(FEB 2006)

As prescribed in 1823.7001(d)(2), substitute the following paragraphs (a) and (b) for paragraphs (a) and (b) of the basic clause:

(a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. Safety is essential to NASA and is a material part of this contract. NASA's safety priority is to protect: (1) The public; (2) astronauts and pilots; (3) the NASA workforce (including contractor employees working on NASA contracts); and (4) high-value equipment and property. A major breach of safety may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination. A major breach of safety must be related directly to the work on the contract. A major breach of safety is an act or omission of the Contractor that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than \$1 million; or in any "willful" or "repeat" violation cited by

the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.

(b) Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination. A major breach of security may occur on or off Government installations, but must be related directly to the work on the contract. A major breach of security is an act or omission by the Contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.

[FR Doc. 06-1572 Filed 2-21-06; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 222 and 223**

[Docket No. 050922245-6038-06; I.D. 020906A]

**RIN 0648-AT89**

**Sea Turtle Conservation; Shrimp Trawling Requirements**

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

**ACTION:** Temporary rule.

**SUMMARY:** NMFS issues this 30-day temporary rule to allow shrimp fishermen to continue to use limited tow times as an alternative to Turtle Excluder Devices (TEDs) in inshore and offshore waters from the Florida/Alabama border, westward to the Louisiana/Texas border, and extending offshore 10 nautical miles. The previous 30-day variances of the TED requirements were from September 23 through October 24, 2005; October 11 through November 10, 2005; October 24 through November 23, 2005; November 23 through December 23, 2005; and from December 23, 2005, through January 23, 2006, for waters affected by Hurricanes Katrina and Rita. These variances were initially for 50 nautical

miles, while the most recent variance was for 20 nautical miles. After an investigation, the Alabama Department of Conservation and Natural Resources (ALDCNR), Mississippi Department of Marine Resources (MDMR), and the Louisiana Department of Wildlife and Fisheries (LADWF) have determined that excessive debris is still affecting fishermen's ability to use TEDs effectively in an area extending approximately 10 nm offshore. This action is necessary because environmental conditions resulting from Hurricanes Katrina and Rita persist on the fishing grounds, preventing some fishermen from using TEDs effectively.

**DATES:** Effective from February 16, 2006 through 11:59 p.m., local time, March 20, 2006.

**ADDRESSES:** Requests for copies of the Environmental Assessment on this action should be addressed to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Michael Barnette, 727-551-5794.

**SUPPLEMENTARY INFORMATION:**

**Background**

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in