

text that must be used in the consumer disclosure at the point of sale.

On January 22, 2010, the Commission requested emergency approval of the information collection requirements from the Office of Management and Budget (OMB).³ On February 17, 2010, the Commission received OMB approval. The OMB control number for this collection is 3060-1135. This information collection will be used to ensure that these microphones do not continue to be used or continue to be made available for use in the United States in the 700 MHz Band, in contravention of the steps taken by the Commission to make the 700 MHz Band available for use by public safety entities and commercial licensees, and to provide them a home in the core TV spectrum.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

[FR Doc. 2010-4265 Filed 2-25-10; 4:15 pm]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10-36, MB Docket No. 07-163, RM-11385, RM-11416]

FM Table of Allotments, Markham, Ganado, and Victoria, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The staff grants a rulemaking petition filed by Katherine Pyeatt to allot Channel 283A to Markham, Texas, as a second local service. The staff also grants a counterproposal filed by Fort Bend Broadcasting Company, licensee of Station KHTZ(FM), Ganado, Texas, to upgrade Station KHTZ(FM) from Channel 284C2 to Channel 235C and to modify its license accordingly.

DATES: Effective March 15, 2010.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MB Docket No. 07-163, adopted January 27, 2010, and released

³ See Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested, 75 FR 3731 (January 22, 2010).

January 29, 2010. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, 800-378-3160 or via the company's website, <<http://www.bcpiweb.com>>.

The Notice of Proposed Rule Making in this proceeding proposed the allotment of Channel 235A at Markham, Texas. As described above, Fort Bend Broadcasting proposed the upgrade of its Station KHTZ(FM), Ganado, Texas, from Channel 284C2 to Channel 235C at a new transmitter site and the modification of its license to specify operation on non-adjacent Channel 235C. The document explains that it was not necessary to compare these conflicting proposals because an alternate channel is available for allotment at Markham. Specifically, the document allots Channel 283A at Markham in lieu of Channel 235A. Because the conflict was resolved, the document also grants Fort Bend's counterproposal to upgrade Station KHTZ(FM) to Channel 235C. To accommodate this upgrade, the document substitutes Channel 284C3 for Channel 236C3 at Victoria, Texas, and modifies the license for Station KVIC(FM), Victoria, to specify operation on Channel 284C3. Finally, because Fort Bend's counterproposal involves licensed stations, the channel substitutions for Station KHTZ(FM) at Gandado, Texas, and for KVIC(FM), Victoria, Texas, will be updated in the Commission's Consolidated Data Base System [CDBS].

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of the Report & 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).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 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, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Markham, Channel 283A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010-4131 Filed 2-26-10; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 217

Defense Federal Acquisition Regulation Supplement; Additional Requirements Applicable to Multiyear Contracts (DFARS Case 2008-D023)

AGENCY: Defense Acquisition Regulations System. Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD is issuing this interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 811 of the National Defense Authorization Act (NDAA) for Fiscal Year 2008. Section 811 is applicable to multiyear contracts for the procurement of major systems of DoD. This interim rule also implements section 8008 of the Fiscal Year 2007 Defense Appropriations Act, and the same language in subsequent DoD appropriations acts. Section 8008 specifically addresses multiyear procurement of aircraft.

DATES: Effective March 1, 2010. Comments on the interim rule should be submitted to the address shown below on or before April 30, 2010 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2008-D023, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *E-mail:* dfars@osd.mil. Include DFARS Case 2008–D023 in the subject line of the message.

○ *Fax:* (703) 602–0350.

○ *Mail:* Defense Acquisition Regulations Council, Attn: Ms. Meredith Murphy, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, 703–602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

Section 811 of the National Defense Authorization Act (NDAA) for Fiscal Year 2008 amends 10 U.S.C. 2306b and is applicable to multiyear contracts for the procurement of major systems of DoD. Section 811 imposes several additional requirements applicable to multiyear contracts for the acquisition of property, including deletion of one requirement, but the addition of six new requirements that the Secretary of Defense must certify in writing in the year he requests legislative authority to enter into a multiyear contract. Section 811 requires the Secretary of Defense to certify in writing, by no later than March 1 of the year in which the Secretary requests legislative authority to enter into a multiyear contract with respect to Major Defense Acquisition Programs (MDAPs), that the Secretary of Defense has made certain cost savings determinations with regard to such contract.

DoD has revised DFARS 217.1 accordingly. The revision to the DFARS does not include 2306b(a)(1)–(5), which was not revised by Section 811, and which is covered at Federal Acquisition Regulation (FAR) 17.105–1(b). These FAR paragraphs remain applicable to DOD, National Aeronautics and Space Administration, and the Coast Guard.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this 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 the rule relates primarily to internal operating procedures of DoD and will not have a significant cost or administrative impact on contractors or offerors. Therefore, DoD has not performed an initial regulatory flexibility analysis.

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

DoD 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 (DFARS Case 2008–D023) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any 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 217

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 217 is amended as follows:

■ 1. The authority citation for 48 CFR part 217 continues to read as follows:

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

PART 217—SPECIAL CONTRACTING METHODS

■ 2. Section 217.170 is amended by
 ■ a. Redesignating existing paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively; and
 ■ b. Adding new paragraph (b) to read as follows:

217.170 General.

* * * * *

(b) Any requests for increased funding or reprogramming for procurement of a major system under a multiyear contract authorized under this section shall be accompanied by an explanation of how the request for increased funding affects the determinations made by the Secretary of Defense under 217.172(e)(2) (10 U.S.C. 2306b(i)(1)).

* * * * *

■ 3. Section 217.172 is amended by:

■ a. Redesignating paragraphs (c) through (h) as paragraphs (d) through (i);
 ■ b. Adding new paragraph (c); and

■ c. Revising newly redesignated paragraphs (d) and (f).

The addition and revisions read as follows:

217.172 Multiyear contracts for supplies.

* * * * *

(c) The head of the agency shall not enter into a multiyear contract unless—

(1) The Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract; and

(2) In the case of a contract for procurement of aircraft, the budget request includes full funding of procurement funds for production beyond advance procurement activities of aircraft units to be produced in the fiscal year covered by the budget.

(d)(1) The head of the agency must not enter into or extend a multiyear contract that exceeds \$500 million (when entered into or extended until the Secretary of Defense identifies the contract and any extension in a report submitted to the congressional defense committees (10 U.S.C. 2306b(1)(5)).

(2) In addition, for contracts equal to or greater than \$500 million, the head of the contracting activity must determine that the conditions required by paragraphs (f)(2)(i) through (vii) of this section will be met by such contract, in accordance with the Secretary's certification and determination required by paragraph (e)(2) of this section (10 U.S.C. 2306b(a)(1)(7)).

* * * * *

(f) The head of the agency shall ensure that the following conditions are satisfied before awarding a multiyear contract under the authority described in paragraph (b) of this section:

(1) The multiyear exhibits required by DoD 7000.14–R, Financial Management Regulation, are included in the agency's budget estimate submission and the President's budget request.

(2) The Secretary of Defense certifies to Congress in writing, by no later than March 1 of the year in which the Secretary requests legislative authority to enter into such contracts, that each of the conditions in paragraphs (f)(2)(i) through (vii) of this section are satisfied (10 U.S.C. 2306b(i)(1)(A)–(G)).

(i) The Secretary has determined that each of the requirements in FAR 17.105, paragraphs (b)(1) through (6) will be met by such contract and has provided the basis for such determination to the congressional defense committees (10 U.S.C. 2306b(i)(1)(A)).

(ii) The Secretary's determination under paragraph (f)(2)(i) of this section was made after the completion of a cost analysis performed by the Cost Assessment and Program Evaluation

(CAPE) of the Department of Defense and such analysis supports the findings (10 U.S.C. 2306b(i)(1)(B)).

(iii) The system being acquired pursuant to such contract has not been determined to have experienced cost growth in excess of the critical cost growth threshold pursuant to section 10 U.S.C. 2433(d) within 5 years prior to the date the Secretary anticipates such contract (or a contract for advance procurement entered into consistent with the authorization for such contract) will be awarded (10 U.S.C. 2306b(i)(1)(C)).

(iv) A sufficient number of end items of the system being acquired under such contract have been delivered at or within the most current estimates of the program acquisition unit cost or procurement unit cost for such system to determine that current estimates of such unit costs are realistic (10 U.S.C. 2306b(i)(1)(D)).

(v) During the fiscal year in which such contract is to be awarded, sufficient funds will be available to perform the contract in such fiscal year, and the future-years defense program for such fiscal year will include the funding required to execute the program without cancellation (10 U.S.C. 2306b(i)(1)(E)).

(vi) The contract is a fixed price type contract (10 U.S.C. 2306b(i)(1)(F)).

(vii) The proposed multiyear contract provides for production at not less than minimum economic rates, given the existing tooling and facilities. The head of the agency shall submit to USD(C)(P/B) information supporting the agency's determination that this requirement has been met (10 U.S.C. 2306b(i)(1)(G)).

(viii) The head of the agency shall submit information supporting this certification to USD(C)(P/B) for transmission to Congress through the Secretary of Defense.

(ix) In the case of a contract with a cancellation ceiling in excess of \$100 million, if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract—

(A) The head of the agency shall, as part of this certification, give written notification to the congressional defense committees of—

(1) The cancellation ceiling amounts planned for each program year in the proposed multiyear contract, together with the reasons for the amounts planned;

(2) The extent to which costs of contract cancellation are not included in the budget for the contract; and

(3) A financial risk assessment of not including the budgeting for costs of

contract cancellation (10 U.S.C. 2306b(g)); and

(B) The head of the agency shall provide copies of the notification to the Office of Management and Budget at least 14 days before contract award in accordance with the procedures at PGI 217.1.

(3) If the value of a multiyear contract for a particular system or component exceeds \$500 million, use of a multiyear contract is specifically authorized by—

(i) An appropriations act (10 U.S.C. 2306b(l)(3)); and

(ii) A law other than an appropriations act (10 U.S.C. 2306b(i)(3)).

(4) The contract is for the procurement of a complete and usable end item (10 U.S.C. 2306b(i)(4)(A)).

(5) Funds appropriated for any fiscal year for advance procurement are obligated only for the procurement of those long-lead items that are necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law (10 U.S.C. 2306b(i)(4)(b))).

(6) The Secretary may make the certification under paragraph (f)(2) of this section notwithstanding the fact that one or more of the conditions of such certification are not met if the Secretary determines that, due to exceptional circumstances, proceeding with a multiyear contract under this section is in the best interest of the Department of Defense and the Secretary provides the basis for such determination with the certification (10 U.S.C. 2306b(i)(5)).

(7) The Secretary of Defense may not delegate this authority to make the certification under 217.172(f)(2) or the determination under 217.172(f)(6) to an official below the level of the Under Secretary of Defense for Acquisition, Technology, and Logistics (10 U.S.C. 2306b(i)(6)).

(8) The Secretary of Defense shall send a notification containing the findings of the agency head under FAR 17.105(b), and the basis for such findings, 30 days prior to the award of a multiyear contract or a defense acquisition program that has been specifically authorized by law ((10 U.S.C. 2306b(i)(7)).

(9) All other requirements of law are met and there are no other statutory restrictions on using a multiyear contract for the specific system or component (10 U.S.C. 2306b(i)(2)). One such restriction may be the achievement of specified cost savings. If the agency

finds, after negotiations with the contractor(s), that the specified savings cannot be achieved, the head of the agency shall assess the savings that, nevertheless, could be achieved by using a multiyear contract. If the savings are substantial, the head of the agency may request relief from the law's specific savings requirement. The request shall—

(i) Quantify the savings that can be achieved;

(ii) Explain any other benefits to the Government of using the multiyear contract;

(iii) Include details regarding the negotiated contract terms and conditions; and

(iv) Be submitted to OUSD (AT&L) DPAP for transmission to Congress via the Secretary of Defense and the President.

[FR Doc. 2010-2703 Filed 2-26-10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 090206140-91414-04]

RIN 0648-AX39

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 29 Supplement

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to supplement the regulations implementing Amendment 29 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). Amendment 29 established a multi-species individual fishing quota (IFQ) program for the grouper and tilefish component of the commercial sector of the reef fish fishery in the Gulf of Mexico (Gulf) exclusive economic zone. This final rule removes several measures constraining harvest of shallow-water grouper species that were inadvertently not removed in the final rule for Amendment 29, further clarifies existing criteria for approval of new landing locations for both the red snapper IFQ program and grouper and tilefish IFQ program, and provides a