

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 3, 1998.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.380 is amended by revising paragraph (a) to read as follows:

§ 180.380 Vinclozolin; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide vinclozolin (3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione) and its metabolites containing the 3,5-dichloroaniline moiety in or on the food commodities in the table below. There are no U.S. registrations for Belgian endive, tops, cucumbers, grapes (wine), kiwi, pepper (bell) as of July 30, 1997. The tolerances will expire and are revoked on the date(s) listed in the following table:

Commodity	Parts per million	Expiration/Revocation Date
Beans, succulent	2.0	10/1/99
Belgian endive, tops ...	5.0	None
Cucumbers	1.0	None
Grapes, (wine)	6.0	None
Kiwifruit	10.0	None
Lettuce, head	10.0	None

Commodity	Parts per million	Expiration/Revocation Date
Lettuce (leaf)	10.0	None
Onions (dry bulb)	1.0	None
Peppers (bell)	3.0	None
Raspberries ...	10.0	None
Stonefruits, except plums/fresh prunes	25.0	None
Strawberries ..	10.0	None

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[FR Doc. 98-3748 Filed 2-12-98; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97-47; RM-8992]

Radio Broadcasting Services; Westley, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 238A to Westley, California, as that community's first local aural transmission service, in response to a petition filed on behalf of Westley-Grayson Broadcasting Company. See 62 FR 6927, February 14, 1997. Coordinates used for Channel 238A at Westley are 37-28-13 and 121-11-14. With this action, the proceeding is terminated.

DATES: *Effective March 23, 1998.* A filing window for Channel 238A at Westley, California, 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 separate Order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97-47, adopted January 28, 1998, and released February 6, 1998. 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 contractor, International Transcription Service,

Inc., 1231 20th Street, NW., Washington, DC 20036, (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 reads 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 California, is amended by adding Westley, Channel 238A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98-3736 Filed 2-12-98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 97-D313]

Defense Federal Acquisition Regulation Supplement; Restructuring Costs

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 implement Section 8092 of the National Defense Appropriations Act for Fiscal Year 1998 and Section 804 of the National Defense Authorization Act for Fiscal Year 1998 concerning the reimbursement of external restructuring costs associated with a business combination.

DATES: *Effective date:* February 13, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before April 14, 1998, to be considered in the formulation of the final rule.

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

E-mail comments submitted over the Internet should be addressed to: dfarsacq.osd.mil

Please cite DFARS Case 97-D313 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97-D313 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin, (703) 602-0131.
SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS 231.205-70, External restructuring costs, to implement Section 8092 of the National Defense Appropriations Act for Fiscal Year 1998 (Public Law 105-56), and Section 804 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85).

Section 8092 of Pub. L. 105-56 restricts DoD from using fiscal year 1998 funds to reimburse external restructuring costs associated with a business combination undertaken by a defense contractor unless certain conditions are met. These conditions include that either (1) the audited savings for DoD resulting from the restructuring will exceed the costs allowed by a factor of at least two to one; or (2) the savings for DoD resulting from the restructuring will exceed the costs allowed and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

Section 804 of Pub. L. 105-85 (1) specifies that similar conditions be met before DoD reimburses contractors for restructuring costs; (2) codifies this limitation on payment of restructuring costs under defense contracts at 10 U.S.C. 2324; and (3) repeals Section 818(a) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 2324 note). Section 818(a) required an official of DoD at the level of Assistant Secretary of Defense or above to certify in writing that projections of future cost savings resulting from the business combination were based on audited cost data and should result in overall reduced costs to DoD, prior to DoD reimbursing contractors for restructuring costs.

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 most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis, and do

not require application of the cost principle contained in this rule. 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 subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97-D313 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any information collection requirements that require Office of Management and Budget approval 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 that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This rule implements Section 8092 of the National Defense Appropriations Act for Fiscal Year 1998 (Pub. L. 105-56), which was effective upon enactment on October 8, 1997; and Section 804 of the National Defense Authorizations Act for Fiscal Year 1998 (Pub. L. 105-85), which was effective upon enactment on November 18, 1997. These sections restrict the reimbursement of restructuring costs associated with a business combination of a defense contractor unless certain conditions are met. 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 Part 231

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 231 is amended as follows:

1. The authority citation for 48 CFR part 231 continues to read as follows:

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

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 231.205-70 is revised to read as follows:

231.205-70 External restructuring costs.

(a) *Scope.* This subsection prescribes policies and procedures for allowing contractor external restructuring costs

when savings would result for DoD. This subsection also implements 10 U.S.C. 2325, Section 818 of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337) (10 U.S.C. 2324 note), Section 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208), and Section 8092 of the National Defense Appropriations Act for Fiscal Year 1998 (Pub. L. 105-56).

(b) *Definitions.* As used in this subsection:

(1) *Business combination* means a transaction whereby assets or operations of two or more companies not previously under common ownership or control are combined, whether by merger, acquisition, or sale/purchase of assets.

(2) *External restructuring activities* means restructuring activities occurring after a business combination that affect the operations of companies not previously under common ownership or control. They do not include restructuring activities occurring after a business combination that affect the operations of only one of the companies not previously under common ownership or control, or, when there has been no business combination, restructuring activities undertaken within one company. External restructuring activities are a direct outgrowth of a business combination. They normally will be initiated within 3 years of the business combination.

(3) *Restructuring activities* means nonroutine, nonrecurring, or extraordinary activities to combine facilities, operations, or workforce, in order to eliminate redundant capabilities, improve future operations, and reduce overall costs. Restructuring activities do not include routine or ongoing repositionings and redeployments of a contractor's productive facilities or workforce (e.g., normal plant rearrangement or employee relocation), nor do they include other routine or ordinary activities charged as indirect costs that would otherwise have been incurred (e.g., planning and analysis, contract administration and oversight, or recurring financial and administrative support).

(4) *Restructuring costs* means the costs, including both direct and indirect, of restructuring activities. Restructuring costs that may be allowed include, but are not limited to, severance pay for employees, employee retraining costs, relocation expense for retained employees, and relocation and rearrangement of plant and equipment. For purposes of this definition, if restructuring costs associated with

external restructuring activities allocated to DoD contracts are less than \$2.5 million, the costs shall not be subject to the audit, review, certification, and determination requirements of paragraph (c)(1) of this subsection; instead, the normal rules for determining cost allowability in accordance with FAR part 31 shall apply.

(5) *Restructuring savings* means cost reductions, including both direct and indirect cost reductions, that result from restructuring activities. Reassignments of cost to future periods are not restructuring savings.

(c) *Limitations on cost allowability.* (1) Restructuring costs associated with external restructuring activities shall not be allowed unless—

(i) Such costs are allowable in accordance with FAR part 31 and DFARS part 231;

(ii) An audit of projected restructuring costs and restructuring savings is performed;

(iii) The cognizant administrative contracting officer (ACO) reviews the audit report and the projected costs and projected savings, and negotiates an advance agreement in accordance with paragraph (d)(8) of this subsection; and

(iv) For business combinations that occur—

(A) Prior to October 1, 1996, the Under Secretary of Defense (Acquisition & Technology) or the Principal Deputy certifies that projections of future restructuring savings resulting for DoD from the business combination are based on audited cost data and should result in overall reduced costs for DoD.

(B) October 1, 1996, through November 18, 1997, the Under Secretary of Defense (Acquisition & Technology) or the Principal Deputy—

(1) Certifies that projections of future restructuring savings resulting for DoD from the business combination are based on audited cost data and should result in overall reduced costs for DoD; and

(2) Determines in writing that the audited projected savings for DoD resulting from the restructuring will exceed either—

(i) The costs allowed by a factor of at least two to one; or

(ii) The costs allowed, and the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

(C) After November 18, 1997, the Under Secretary of Defense (Acquisition & Technology) or the Principal Deputy determines in writing that the audited projected savings for DoD resulting from restructuring will exceed either—

(1) The costs allowed by a factor of at least two to one; or

(2) The costs allowed, and the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

(2) The audit, review, certification, and determination required by paragraph (c)(1) of this subsection shall not apply to any business combination for which payments for restructuring costs were made before August 15, 1994, or for which the cognizant ACO executed an advance agreement establishing cost ceilings based on audit/negotiation of detailed cost proposals for individual restructuring projects before August 15, 1994.

(d) *Procedures and ACO responsibilities.* As soon as it is known that the contractor will incur restructuring costs for external restructuring activities, the cognizant ACO shall:

(1) Promptly execute a novation agreement, if one is required, in accordance with FAR subpart 42.12 and DFARS subpart 242.12 and include the provision at DFARS 242.1204(e).

(2) Direct the contractor to segregate restructuring costs and to suspend these amounts from any billings, final contract price settlements, and overhead settlements until the certification, or determination, or both, as applicable, in paragraph (c)(1)(iv) of this subsection is obtained.

(3) Require the contractor to submit an overall plan of restructuring activities and an adequately supported proposal for planned restructuring projects. The proposal must include a breakout by year by cost element, showing the present value of projected restructuring costs and projected restructuring savings.

(4) Notify major buying activities of contractor restructuring actions and inform them about any potential monetary impacts on major weapons programs, when known.

(5) Upon receipt of the contractor's proposal, as soon as practicable, adjust forward pricing rates to reflect the impact of projected restructuring savings. If restructuring costs are included in forward pricing rates prior to execution of an advance agreement in accordance with paragraph (d)(8) of this subsection, the contracting officer shall include a repricing clause in each fixed-price action that is priced based on the rates. The repricing clause must provide for a downward price adjustment to remove restructuring costs if the certification, or determination, or both, as applicable, required by paragraph (c)(1)(iv) of this subsection is not obtained.

(6) Upon receipt of the contractor's proposal, immediately request an audit review of the contractor's proposal.

(7) Upon receipt of the audit report, determine if restructuring savings will exceed restructuring costs on a present value basis. However, for business combinations that occur on or after October 1, 1996, the audited projected savings for DoD must exceed the costs allowed by a factor of at least two to one on a present value basis, unless the determination in paragraph (c)(1)(iv)(B) (2)(ii) or (c)(1)(iv)(C) (2) of this subsection applies.

(8) Negotiate an advance agreement with the contractor setting forth, at a minimum, a cumulative cost ceiling for restructuring projects and, when necessary, a cost amortization schedule. The costs may not exceed the amount of projected restructuring savings on a present value basis. The advance agreement shall not be executed until the certification, or determination, or both, as applicable, required by paragraph (c)(1)(iv) of this subsection is obtained.

(9) Submit to the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition & Technology), ATTN: OUSD (A&T) DP/CPF, a recommendation for certification, or determination, or both, as applicable. Include the information described in paragraph (e) of this subsection.

(10) Consult with the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition & Technology), when paragraph (c)(1)(iv)(B) (2)(ii) or (c)(1)(iv)(C) (2) of this subsection applies.

(e) *Information needed to obtain certification and determination.* (1) The novation agreement (if one is required).

(2) The contractor's restructuring proposal.

(3) The proposed advance agreement.

(4) The audit report.

(5) Any other pertinent information.

(6) The cognizant ACO's recommendation for certification, or determination, or both, as applicable. This recommendation must clearly indicate one of the following, consistent with paragraph (c)(1)(iv) of this subsection:

(i) Contractor projections of future cost savings resulting for DoD from the business combination are based on audited cost data and should result in overall reduced costs for the Department.

(ii) The audited projected savings for DoD will exceed the costs allowed by a factor of at least two to one.

(iii) The business combination will result in the preservation of a critical capability that might otherwise be lost

to DoD, and the audited projected savings will exceed the costs allowed.

[FR Doc. 98-3714 Filed 2-12-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 10

[Docket No. OST-96-1472]

RIN: 2105-AC68

Privacy Act; Implementation

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations [OST-96-1472] which were published on Wednesday, January 28, 1998 (63 FR 4195). The regulations related to implementing the Privacy Act of 1974 to exempt from certain provisions of the Act the Coast Guard's Marine Safety Information System.

DATES: Effective: February 15, 1998.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of General Counsel, C-10, Department of Transportation, Washington, DC 20590, telephone (202) 366-9156, FAX (202) 366-9170.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction amends Title 49 of the Code of Federal Regulations to exempt from certain provisions of the Privacy Act of 1974 the Coast Guard's Marine Safety Information System. This rule has no substantive effect on the regulated public.

Need for Correction

As published, the final regulation contains an incorrect effective date, which is later than the February 15, 1998, statutory deadline for implementing the Coast Guard's new Vessel Identification System (VIS), into which the Coast Guard's Marine Safety Information System is being integrated. This correction will change the date to February 15, 1998.

Correction to Publication

Accordingly, the final regulation [OST-96-1472] published on January 28, 1998, which was the subject of FR Doc. 98-1823, is corrected as follows:

Dates Section [Corrected]

1. On page 4195, in the third column, in the Dates section, "February 27,

1998" is corrected to read "February 15, 1998".

Issued in Washington, DC on February 9, 1998.

Nancy E. McFadden,

General Counsel.

[FR Doc. 98-3770 Filed 2-12-98; 8:45 am]

BILLING CODE 4910-62-M

NATIONAL RAILROAD PASSENGER CORPORATION

49 CFR Part 701

Revision of the Freedom of Information Act Regulations and Implementation of the Electronic Freedom of Information Act Amendments of 1996

AGENCY: National Railroad Passenger Corporation (Amtrak).

ACTION: Final rule.

SUMMARY: This revision to the rules of the National Railroad Passenger Corporation (Amtrak) provides substantive and administrative changes to conform to requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C. 552, as amended by Pub. L. 104-231 and reflects recent developments in case law. Amtrak also took this opportunity to streamline its rules and include updated cost figures to be used in calculating and charging fees.

EFFECTIVE DATE: Effective February 13, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Medaris Oliveri; National Railroad Passenger Corporation; Freedom of Information Office; 60 Massachusetts Avenue, N.E.; Washington, D.C. 20002 or by telephone at 202/906-2728.

SUPPLEMENTARY INFORMATION: On November 14, 1997, the National Railroad Passenger Corporation (Amtrak) published a Notice of Proposed Rulemaking with a Request for Comments, 49 CFR 61070. No responses were received by the comment deadline of December 15, 1997. The purpose of the present rule is to establish the effective date for the final rule using the same text as the proposed rule with a minor change to reflect the current title of Amtrak's President and Chief Executive Officer in paragraph (l) of § 701.2 definitions and in paragraph (a)(2) of § 701.10 appeals.

List of Subjects in 49 CFR Part 701

Freedom of Information.

Accordingly 49 CFR part 701 is revised to read as follows:

PART 701—AMTRAK FREEDOM OF INFORMATION ACT PROGRAM

Sec.

701.1 General provisions.

701.2 Definitions.

701.3 Policy.

701.4 Amtrak public information.

701.5 Requirements for making requests.

701.6 Release and processing procedures.

701.7 Timing of responses to requests.

701.8 Responses to requests.

701.9 Business information.

701.10 Appeals.

701.11 Fees.

701.12 Other rights and services.

Authority: 5 U.S.C. 552; 49 U.S.C. 24301(e).

§ 701.1 General provisions.

This part contains the rules that the National Railroad Passenger Corporation ("Amtrak") follows in processing requests for records under the Freedom of Information Act (FOIA), Title 5 of the United States Code, section 552. Information routinely provided to the public (*i.e.*, train timetables, press releases) may be obtained without following Amtrak's FOIA procedures. As a matter of policy, Amtrak may make discretionary disclosures of records or information exempt under the FOIA whenever disclosure would not foreseeably harm an interest protected by an FOIA exemption; however, this policy does not create any right enforceable in court.

§ 701.2 Definitions.

Unless the context requires otherwise in this part, masculine pronouns include the feminine gender and "includes" means "includes but is not limited to."

(a) *Amtrak or Corporation* means the National Railroad Passenger Corporation.

(b) *Appeal* means a request submitted to the President of Amtrak or designee for review of an adverse initial determination.

(c) *Business days* means working days; Saturdays, Sundays, and legal public holidays are excluded in computing response time for processing FOIA requests.

(d) *Disclose or disclosure* means making records available for examination or copying, or furnishing a copy of nonexempt responsive records.

(e) *Electronic data* means records and information (including E-mail) that are created, stored, and retrievable by electronic means.

(f) *Exempt information* means information that is exempt from disclosure under one or more of the nine exemptions to the FOIA.

(g) *Final determination* means a decision by the President of Amtrak or