proceeding had raised, and we did not discuss, whether we had the authority to continue the pioneer's preference program beyond the date specified in section 309(j)(13)(F) for preference requests filed on or before September 1, 1994. It is clear, however, that we retained no such authority. The GATT legislation required the termination of the entire pioneer's preference program by a date certain, September 30, 1998. That we retained the discretion to terminate the program with respect to earlier-filed preference requests (but chose not to exercise that discretion) does not imply that we had discretion to continue the program in any respect beyond the date set forth in the legislation. Our actions in the Order dismissing QUALCOMM's preference request and terminating the pioneer's preference program as of the date set forth in section 309(j)(13)(F) as amended by the Budget Act, August 5, 1997, are thus fully consistent with our actions in the Second R&O.

17. Finally, we note that in comments filed November 12, 1997, Global Broadcasting Company, Inc. requests that we ''consider on the merits'' the pioneer's preference request filed by Web SportsNet, Inc. and Gregory D. Deieso but also dismissed in our Order. We are dismissing these comments as an improperly late-filed petition for reconsideration of our action dismissing the preference request, but also note that we have no authority to grant the relief requested.

Ordering Clauses

18. Accordingly, *it is ordered* that the petition for reconsideration filed on October 20, 1997 by QUALCOMM Incorporated *is denied*. This action is taken pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

19. *It is further ordered* that the comments filed on November 6, 1997 by QUALCOMM Incorporated and on November 12, 1997 by Global Broadcasting Company, Inc. *are dismissed*. This action is taken pursuant to section 1.429(d) of the Commission's rules.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–11616 Filed 4–30–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

48 CFR Parts 5243 and 5252

RIN 0703–AA34

Adjustments to Prices Under Shipbuilding Contracts

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DON) is removing certain regulations for adjustments to prices under shipbuilding contracts contained in the Navy Acquisition Procedures Supplement (48 CFR part 5243, §§ 5252.243–9000 and 5252.243–9001). The National Defense Authorization Act of Fiscal Year 1998 eliminated the statutory authority for these rules. Such rules are now unnecessary and are removed immediately. Providing for a comment period before final action in this case would be unnecessary, impracticable, and contrary to public interest. However, DON will accept and consider comments from interested persons in evaluating the effect of this action.

DATES: *Effective Date of Removal:* May 1, 1998.

Comment Date: Comments on this removal action should be submitted in writing to the address shown below on or before June 30, 1998.

ADDRESSES: Interested parties should submit written comments to Department of the Navy, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition) Acquisition and Business Management, 2211 South Clark Place, Arlington, Virginia, 22244–5104.

FOR FURTHER INFORMATION CONTACT: Mr. Michael G. Shaffer, (703)602–1263.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Defense Authorization Act, 1985 (Pub. L. 98–525 § 1234(a), 98 Stat. 2604, Oct. 19, 1984) established certain limitations on price adjustments made to shipbuilding contracts, which were codified at 10 U.S.C. 2405. The DON published proposed rules to implement the requirements of 10 U.S.C. 2405 in the **Federal Register** on Nov. 16, 1989 (54 FR 47689). A correction and extension of the public comment period was published in the **Federal Register** on Feb. 2, 1990 (55 FR 3603). Revised proposed rules and notice of additional public comment period and public hearing were published in the **Federal Register** on Jun. 29, 1990 (55 FR 26708). Extension of the public comment period and rescheduling of the public hearing were published in the **Federal Register** on Aug. 16 and Oct. 26, 1990 (55 FR 33541 and 43150). An interim rule and request for comments was published in the **Federal Register** on Dec. 5, 1991 (56 FR 63664). This interim rule added to title 48 of the Code of Federal Regulations a new Part 5243, as well as new §§ 5252.243–9000 and 5252.243–9001, and was made effective on Dec. 5, 1991. No final rule was published.

Section 810 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85, 111 Stat. 1839, Nov. 18, 1997) repealed 10 U.S.C. 2405, making the Navy's implementing regulations contained in 48 CFR parts 5243 and 5252 unnecessary. For this reason, the Navy is now removing and reserving 48 CFR part 5243 in its entirety, as well as §§ 5252.243–9000 and 5252.243–9001.

While the Navy is removing part 5243 in its entirety from the Code of Federal Regulations, information and policy statements regarding contract modifications remain in part 5243 of the Navy Acquisition Procedures Supplement (''NAPS''), which may be accessed at www.abm.rda.hq.navy.mil/naps, or by contacting the office listed in the **ADDRESSES** block.

B. Determination To Remove Without Prior Public Comment

This removal action is being issued as a final rule without a public comment period as an exception to the DON's standard practice of soliciting comments during the rulemaking process. Providing a period for public comment in this case would be unnecessary, impracticable, and contrary to the public interest. This determination is based on two factors. First, removal of these rules is entirely administrative and corrective in nature, not requiring the exercise of agency discretion. Second, to allow these rules to remain in the Code of Federal Regulations any longer may mislead and confuse the public regarding statutory requirements relating to adjustments of any price under a shipbuilding contract for the amount set forth in a claim, request for equitable adjustment, or demand for payment.

C. Matters of Regulatory Procedure

Executive Order 12866, Regulatory Planning and Review

Removal of these rules does not meet the definition of ''significant regulatory action'' for purposes of E.O. 12866.

Regulatory Flexibility Act

Removal of these rules will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

Removal of these rules will not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR Part 1320).

List of Subjects in 48 CFR Parts 5243 and 5252

Government procurement.

Dated: April 22, 1998.

Michael I. Quinn,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

Under the authority of Sec. 810 of Pub. L. 105–85, and for the reasons set forth in the preamble, remove and reserve part 5243 and Sections 5252.243–9000 and 5252.243–9001 of title 48 of the Code of Federal Regulations.

[FR Doc. 98–11592 Filed 4–30–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[FRA Docket No. PB–9, Notice No. 11]

RIN 2130–AB22

Two-Way End-of-Train Telemetry Devices and Certain Passenger Train Operations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA is revising the regulations regarding the use and design of two-way end-of-train telemetry devices (two-way EOTs) to specifically address certain passenger train operations where multiple units of freight-type equipment, material handling cars, or express cars are part of a passenger train's consist. Trains of this nature are currently being operated by the National Railroad Passenger Corporation (Amtrak), and these revisions are intended to clarify and address the applicability of the two-way EOT requirements to these types of operations.

EFFECTIVE DATE: This rule is effective May 1, 1998.

ADDRESSES: Any petition for reconsideration should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: James Wilson, Motive Power and Equipment Division, Office of Safety, RRS–14, FRA, 400 Seventh Street, S.W., Stop 25, Washington, D.C. 20590 (telephone 202–632–3367), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC–12, FRA, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590 (telephone 202–632–3178).

SUPPLEMENTARY INFORMATION:

Background

On January 2, 1997, FRA published a final rule amending the regulations governing train and locomotive power braking systems at 49 CFR part 232 to add provisions pertaining to the use and design of two-way end-of-train telemetry devices (two-way EOTs). *See* 62 FR 278. The purpose of the revisions was to improve the safety of railroad operations by requiring the use of two-way EOTs on a variety of trains pursuant to 1992 legislation, and by establishing minimum performance and operational standards related to the use and design of the devices. *See* Pub. L. No. 102–365 (September 3, 1992); 49 U.S.C. 20141.

The regulations published on January 2, 1997, regarding two-way EOTs, provided an exception from the requirements for ''passenger trains with emergency brakes.'' *See* 49 CFR 232.23(e)(9). The language used in this exception was extracted in total from the statutory exception contained in the statutory provisions mandating that FRA develop regulations addressing the use and operation of two-way EOTs or similar technology. *See* 49 U.S.C. 20141(c)(2). A review of the legislative history reveals that there was no discussion by Congress as to the precise meaning of the phrase ''passenger trains with emergency brakes.'' Consequently, FRA is required to effectuate Congress' intent based on the precise language used in that and the other express exceptions and based on the overall intent of the statutory mandate. *See* 49 U.S.C. 20141(c)(1)–(c)(5). Furthermore, any exception contained in a specific statutory mandate should be narrowly construed. *See Chesapeake & Ohio Ry.* v. *United States,* 248 F. 85 (6th Cir. 1918) *cert. den.,* 248 U.S. 580; *DRG R.R.* v. *United States,* 249 F. 822 (8th Cir. 1918); *United States* v. *ATSF Ry.,* 156 F.2d 457 (9th Cir. 1946).

The intent of the statutory provisions related to two-way EOTs was to ensure that trains operating at a speed over 30 mph or in heavy grade territory were equipped with the technology to effectuate an emergency application of the train's brakes starting from both the front and rear of the train. The specific exceptions contained in the statute were aimed at trains (i) that do not operate within the express parameters or (ii) that are equipped or operated in a fashion that provides the ability to effectuate an emergency brake application that commences at the rear of the train without the use of a two-way EOT. *See* 49 U.S.C. 20141(c)(1)–(c)(5). Based on the intent of the statute and based upon a consistent and narrow construction of the specific language used by Congress in the express exceptions, FRA believes it is clear that Congress did not intend the phrase ''passenger trains with emergency brakes'' to constitute a blanket exception for all passenger trains. If that was Congress' intent, it would not have added the qualifying phrase ''with emergency brakes.''

In FRA's view, this language limits the specific statutory exception to passenger trains equipped with a separate emergency brake valve in each car throughout the train and, thus, to passenger trains possessing the ability to effectuate an emergency application of the train's brakes from the rear of the train. Therefore, passenger trains that include RoadRailers®, auto racks, express cars, or other similar vehicles designed to carry freight that are placed at the rear of the train, that are not equipped with emergency brake valves, would not fall within the specific statutory or regulatory exception as they are incapable of effectuating an emergency brake application that commences at the rear of the train. Further, FRA does not believe that Congress envisioned a significant number of express or intermodal cars being hauled at the rear of passenger trains when the specific exception was included in the statute.

FRA believes that Congress intended to except only those trains traditionally considered to be passenger trains, which would include passenger trains containing baggage and mail cars as these have consistently been considered passenger equipment with emergency brakes. However, passenger trains which operate with numerous inaccessible baggage or mail cars attached to the rear of the train that lack any ability to effectuate an emergency brake application from the rear of the