the ALJ will not place program beneficiaries at serious risk and waive the preliminary hearing. Under these circumstances, the exclusion will be stayed pending the decision of the ALJ after a full hearing. the hearing must be held, and a decision reached, within 6 months.

(ii) If the OIG decides to waive the preliminary hearing, the request for the preliminary hearing will be considered a request for a hearing before the ALJ in accordance with paragraph (b) of this section.

(b) *Right to administrative review.* (1) A practitioner or other person dissatisfied with an OIG determination, or an exclusion that results from a determination not being made within 120 days, is entitled to appeal such sanction in accordance with part 1005 of this chapter.

(2) Due to the 120-day statutory requirement specified in § 1004.100(e), the following limitations apply—

(i) The period of time for submitting additional information will not be extended.

(ii) Any material received by the OIG after the 30-day period allowed will not be considered by the ALJ or the DAB.

(3) The OIG's determination continues in effect unless reversed by a hearing.

(c) *Rights to judicial review.* Any practitioner or other person dissatisfied with a final decision of the Secretary may file a civil action in accordance with the provisions of section 205(g) of the Act.

Approved: October 23, 1995.

June Gibbs Brown,

Inspector General.

[FR Doc. 95–30130 Filed 12–11–95; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–76; RM–8611]

Radio Broadcasting Services; Homestead and North Miami Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 239C2 for Channel 239C1 at Homestead, Florida, reallots the channel to North Miami Beach, Florida, and modifies the license for Station WXDJ(FM) accordingly, in response to a petition filed by New Age Broadcasting, Inc. *See* 60 FR 31278, June 14, 1995. The coordinates for Channel 239C2 at North Miami Beach, Florida, are 25–42–55 and 80–09–17. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MM Docket No. 95–76, adopted November 24, 1995, and released December 6, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission'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 contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (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 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 239C1 and adding Channel 239C2 at Homestead, removing Channel 239C2 at Homestead and adding North Miami Beach, Channel 239C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–30218 Filed 12–11–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 90–163; RM–7170]

Radio Broadcasting Services; Bay St. Louis and Poplarville, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 300C from Poplarville, Mississippi to Bay St. Louis and modifies the license for Station WZKX(FM) accordingly, in response to a petition filed by Dowdy and Dowdy Partnership. See 55 FR 1913, April 3, 1990. The coordinates for Channel 300C at Bay St. Louis, MS are 30–44–48 and 89–03–30. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MM Docket No. 90–163, adopted November 25, 1995, and released December 6, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission'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 contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (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 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 300C from Poplarville, Mississippi and adding Bay St. Louis, Channel 300C.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–30219 Filed 12–11–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991–AB08

Acquisition Regulation; Legislative Lobbying Cost Prohibition

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: The Department amends the Department of Energy Acquisition Regulation (DEAR) to clarify its

provision on legislative lobbying cost prohibition. To avoid any misunderstandings or disagreements between contractors and the Department, the criteria for cost allowability are being revised to provide clear direction on when and under what circumstances management and operating contractors will be reimbursed for costs of providing information or expert advice to Congress or a State legislature. While contractors may incur the costs of responding to a request for information from Congressional Members or staff, reimbursement of travel costs will require the additional step of a written request signed by a Member of Congress.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Michael L. Righi, Office of Policy (HR–51), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202–586–8175).

SUPPLEMENTARY INFORMATION:

I. Background
A. Discussion
B. Disposition of Comments
II. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12778
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. National Environmental Policy Act

I. Background

A. Discussion

The proposed rule was published on October 18, 1994, at 59 FR 52505 to amend the DEAR standard clause on legislative lobbying cost prohibition, DEAR 970.5204–17, which is applicable to all DOE management and operating (M&O) contracts. It included a new requirement that the contractor notify the Department as soon as practicable when providing information or expert advice to Congress or a State legislature. It also included a new requirement that the contractor provide a disclaimer that the information or expert advice represents the views of the contractor and not the Department.

Five sets of comments were received from organizations outside of the Department.

B. Disposition of Comments

1. Statutory Treatment of Laboratories (Pub. L. 100–202)

Two of the commenters referred to language contained in Pub. L. 100–202, Section 305 of the Energy and Water Development Appropriation Act for 1988. A variation of the same language was enacted in the National Defense Authorization Act for Fiscal Years 1988 and 1989, Pub. L. 100–180, Section 3131. The language from the authorization act extends beyond treatment of just laboratories and was codified at 42 U.S.C. 7256a(b)(2).

As a practical matter, neither the 1988 Appropriations Act nor the 1988/1989 Defense Authorization Act prohibits the Department from issuing clarifying regulations on the circumstances under which lobbying costs will be reimbursed. In fact, both prohibitions specifically contemplate implementing regulations. Further, neither of these Acts prohibit the Department from defining the parameters for reimbursement or imposing documentation requirements on the contractor for reimbursement of these costs. Rather, these Acts appear simply to prohibit the Department from making a blanket prohibition of unallowability. Since the language in this rulemaking describes the parameters for reimbursement of this category of cost, we do not believe it violates the prohibition contained in 42 U.S.C. 7256a(b)(2).

2. Distinction Between Requests From Congress and State Legislatures

Two of the commenters questioned creating different treatment for costs depending on whether they were incurred in response to a Congressional request or a request from a State legislature. More specifically, unlike Congressional requests, a request for information or expert advice from a State legislator would be required to be written and signed by the legislator (not staff) in advance, in all cases, to justify any reimbursement of costs.

The U.S. Congress has oversight responsibility over the Department and its operations, and appropriates funds for its use. This authority and responsibility are not delegated to, or shared by, the State legislatures. Thus, we believe that the difference in treatment between Congressional requests and requests from State legislatures is justified because of the higher level of responsibility and responsiveness owed by the Department to the U.S. Congress.

3. Deletion of Reference to Congressional Record Notice

One commenter questioned the deletion of the parenthetical reference ''(* * * including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) * * *.'' This language referred to types of requests where the response costs would be allowable.

A general request or invitation for ''interested parties'' to present views or testimony to Congress on a particular issue, such as that appearing in a Congressional Record notice, is open to the public at large and is usually general in nature. Members of the public whose views are specifically sought are individually invited. It is not unreasonable for the Department to require its contractors be specifically invited in writing to testify before providing for reimbursement of travel costs.

4. Record Keeping Requirements and Proposed Deletion of FAR 31.205–22(f)

Two commenters disagreed with the Department's conclusion that the NOPR contained no new record keeping requirements. These commenters felt that the burden under this initiative ran counter to the current streamlining efforts in the Federal government.

The Department believes that the additional documentary burden, compared to that currently imposed on the Department's contractors, is not unreasonable and is consistent with FAR Part 31, generally, and FAR 31.205–22, specifically. It is also consistent with Office of Management and Budget Circular A–21 paragraph 24, and a recently proposed amendment to FAR 31.201–2, Determining allowability (59 FR 47776, September 16, 1994, FAR Case 93–20). The proposal to amend FAR 31.201–2 will make it clear that the contractor is to be responsible for maintaining records to support its cost claims and authorizes the contracting officer to disallow costs which are inadequately supported. While the proposed rulemaking to amend FAR 31.201–2 has not been finalized, 41 U.S.C. 256(f)(2) now provides that the FAR shall require that a contracting officer may not resolve any questioned costs until the contracting officer has obtained adequate documentation, and the opinion of the contract auditor, with respect to such costs. The amendment to 41 U.S.C. 256 resulted from Section 2151 of the Federal Acquisition Streamlining Act of 1994, Pub. L. 103–355.

Another commenter pointed out that the Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) have published a proposal to delete paragraph (f) of FAR 31.205–22 (See 59 FR 47776, September 16, 1994, FAR Case 93–6). Paragraph (f) of the DEAR clause parallels paragraph (f) of FAR 31.205–22. The language proposed for deletion provides that time logs,

calendars and other records shall not be required to be created when the lobbying employee engages in lobbying less than 25% of the employee's compensated hours, or when the contractor has not materially misstated its allowable or unallowable costs, of any nature, within the last 5 years.

When the two proposed rules amending FAR Part 31 discussed above are put together, the result is that the specific requirement of record keeping is no longer stated, but the contractor is made responsible for maintaining adequate records to support its cost claims for all categories of cost. The Department will review the issue of deleting paragraph (f) of the DEAR clause once the rulemaking amending FAR 31.205–22 is finalized.

5. Distinction Between Oral and Written Requests

One commenter objected to the bifurcated system for cost allowability which provides that oral requests are adequate to support some costs while written requests are required to support others. In particular, the rulemaking places a greater burden to support costs associated with travel.

Both FAR 31.205–22 and OMB Circular A–21 paragraph 24 place a higher burden on the contractor to support costs of transportation, lodging and meals. When costs of transportation, lodging or meals are associated with responding to a request for information from Congress or a State legislature, the costs are likely to increase dramatically. Additionally, these are the areas of cost probably most vulnerable to abuse.

6. Advance Notification Requirement

One commenter objected to the bifurcated requirement in the newly proposed paragraph (h). While acknowledging that the contracting officer should be made aware of all requests for information or expert advice regardless of how the request was communicated, the commenter disagreed with the requirement that the contracting officer be notified in advance of responding in the case of a written request. As pointed out by that commenter, the contractor could conceivably receive the request by facsimile or mail with less than a 48-hour turnaround. (There was also some confusion by a different commenter whether the contractor would have to have the contracting officer's acknowledgement before responding to the request for information.)

The commenter recommended deleting the language ''in the case of a written request.'' The language in paragraph (h) is revised to require the contractor to ''advise the contracting officer in advance or as soon as practicable.''

II. Procedural Requirements

A. Review Under Executive Order 12866

The Department of Energy has determined that today's regulatory action is not a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. This final rule will have no preemptive effect; will not have any effect on existing Federal laws; and will only clarify the existing regulations on this subject. The revised clauses apply only to contracts which would be awarded after the effective date of the final rule and, thus, have no retroactive effect. Therefore, DOE certifies that this final rule meets the requirements of Sections 2(a) and (b)(2) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, that requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

This rule will require only an insignificant addition to the data collection required for the Standard Forms 294 and 295. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

E. Review Under Executive Order 12612

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, and in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's final rule will revise certain policy and procedural requirements. However, DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of States.

F. Review Under the National Environmental Policy Act

DOE has concluded that this rule falls into a class of actions that are categorically excluded from the National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331–4335, 4341–4347 (1976)) under 10 CFR Part 1021, Appendix A to Subpart D as rulemakings that are strictly procedural, such as rulemakings establishing contracting practices (Exclusion A6). Therefore, this rule does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

List of Subjects in 48 CFR Part 970

Government procurement.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for Part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254).

2. Section 970.5204–17 is amended by revising clause paragraph (b)(1), redesignating paragraphs (b)(2) and

(b)(3) as (b)(3) and (b)(4), adding a new paragraph (b)(2), and adding paragraph (h) to read as follows:

970.5204–17 Legislative lobbying cost prohibition.

* * * * *

(b) * * *

(1) Providing Members of Congress, their staff members, or staff of cognizant legislative committees, in response to a request (written or oral, prior or contemporaneous) from Members of Congress, their staff members, or staff of cognizant legislative committees, or as otherwise directed by the Contracting Officer, information or expert advice of a factual, technical, or scientific nature, with respect to topics directly related to the performance of the contract or proposed legislation. In providing this information or expert advice, the contractor shall indicate to the recipient that it is not presenting the views of DOE. Reasonable costs for transportation, lodging, or meals incurred by contractor employees for the purpose of providing such information or advice shall also be reimbursable, provided the request for information or expert advice is a prior written request signed by a Member of Congress, and provided such costs also comply with the allowable cost provisions of the contract.

(2) Providing State legislatures or subdivisions thereof, their staff members, or staff of cognizant legislative committees, in response to a prior written request from a State legislator, or as otherwise directed by the Contracting Officer, information or expert advice of a factual, technical, or scientific nature, with respect to topics directly related to the performance of the contract or proposed legislation. In providing this information or expert advice, the contractor shall indicate to the recipient that it is not presenting the views of DOE. Reasonable costs for transportation, lodging, or meals incurred by contractor employees shall also be reimbursable, provided such costs also comply with the allowable costs provision of the contract.

* * * * *

(h) In providing information or expert advice under paragraphs (b)(1) and (b)(2) of this clause, the contractor shall advise the Contracting Officer in advance or as soon as practicable.

[FR Doc. 95–30236 Filed 12–11–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–275]

Organization and Delegation of Powers and Duties Delegations of Authority to the Maritime Administrator

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation (Secretary) hereby delegates to the Maritime Administrator authority to carry out the provisions of sections 10 through 13 of the National Maritime Heritage Act of 1994, Public Law 103–451. These sections authorize the Secretary to convey all rights, title and interests of the United States Government in specified and non-specified vessels, and vessel equipment and spare parts, for various specified purposes and subject to specified conditions which vary among the recipients. This amendment to 49 CFR Part 1 adds a new paragraph 1.66(p) to reflect the delegation of authority to the Maritime Administrator.

EFFECTIVE DATE: December 12, 1995.

FOR FURTHER INFORMATION CONTACT: Linda Somerville, Chief, Division of Vessel Transfer and Disposal, Office of Ship Operations, Maritime Administration, MAR–631, Room 7324, 400 Seventh Street SW, Washington, DC, 20590, (202) 366–5821, or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement (C–50), Department of Transportation, Room 10424, 400 Seventh Street SW, Washington, DC 20590, (202) 366–9306.

SUPPLEMENTARY INFORMATION: Sections 10 through 13 of Public Law 103–451, 108 Stat. 4769, 4778–4782, cited as the ''National Maritime Heritage Act of 1994,'' authorize the Secretary of Transportation to convey a specified vessel, or a vessel of comparable size and class, as well as unneeded vessel equipment, to the Battle of the Atlantic Historical Society; an unspecified vessel, including related spare parts and vessel equipment, to the City of Warsaw, Kentucky; three specified vessels, including related spare parts and vessel equipment, to Assistance International, Inc.; and a specified vessel, as well as unneeded vessel equipment, to the Rio Grande Military Museum. The conveyance of one or more vessels to each specified recipient is for one or more specified purposes, respectively, a merchant marine memorial, historical preservation, and educational activities; the promotion of economic development and tourism; use in emergencies, vocational training, and economic development programs; and use as a military museum. Conveyances to each recipient are subject to specified common financial requirements and other conditions relating to the use and redelivery of the vessels. This amendment to 49 CFR 1.66 adds the subject authority to those already delegated to the Maritime Administrator. Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment are unnecessary, and the rule may become effective in fewer than 30 days after publication in the Federal Register.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organizations and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Pub. L. 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.66 is amended by adding a new paragraph (p), to read as follows:

§ 1.66 Delegations to Maritime Administrator.

* * * * *

(p) Carry out the provisions of sections 10 through 13 of Public Law 103–451, the National Maritime Heritage Act of 1994, 108 Stat. 4769, 4778–4782;

* * * * *

Issued at Washington, DC this 5th day of December 1995.

Federico Peña,

Secretary of Transportation.

[FR Doc. 95–30144 Filed 12–11–95; 8:45 am]

BILLING CODE 4910–62–P

National Highway Traffic Safety Administration

49 CFR Part 553

[Docket No. 90–25; Notice 2]

RIN 2127–AD78

Rulemaking Procedures

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: NHTSA is amending its procedural regulations that apply to judicial review of regulations issued under Chapters 301, 325, 329, and 331 of Title 49 of the United States Code. The provisions at issue address the time within which affected persons may seek judicial review of a final rule issued by NHTSA under those statutes if a petition for agency reconsideration of that rule has been filed. The amendment will make the regulation consistent with the judicial review provisions of the statutes and with recent judicial decisions.