

Issued on November 19, 1996.
Robert Arnold,
District Engineer, Albany, New York.
[FR Doc. 96-30192 Filed 11-25-96; 8:45 am]
BILLING CODE 4910-22-M

Federal Highway Administration

Environment Impact Statement; Orange County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Orange County, Florida.

FOR FURTHER INFORMATION CONTACT: David Unkefer, Transportation Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida, 32301, Telephone: (904) 942-9612.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Apopka Bypass new alignment roadway in Orange County, Florida, was issued on December 19, 1994 and published in the January 3, 1995 Federal Register. The FHWA, in cooperation with the Florida Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued On: November 12, 1996.

Mark D. Bartlett,
Program Operations, Engineer, Tallahassee, Florida.
[FR Doc. 96-30077 Filed 11-25-96; 8:45 am]
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Surface Transportation Board

[No. 41826]

National Association of Freight Transportation Consultants, Inc.— Petition for Declaratory Order

AGENCY: Surface Transportation Board, DOT.
ACTION: Institution of declaratory order proceeding.

SUMMARY: The Board is instituting a proceeding under 5 U.S.C. 554(e) to resolve questions regarding the application of the 180-day shipper

notification provisions of 49 U.S.C. 13710(b)(3)(B).

DATES: Comments by or on behalf of those opposing the positions of the National Association of Freight Transportation Consultants, Inc. (NAFTC) or petitioner and the Transportation Consumer Protection Council (TCPC), including any further comments by the Regular Common Carrier Conference (RCCC), are due December 26, 1996. Petitioner's replies and comments from any person desiring to submit comments in support of its positions are due January 10, 1997.

ADDRESSES: The original and 10 copies of submissions identified as such and referring to No. 41826 must be sent to: Office of the Secretary, Case Control Branch, Surface Transportation Board, Washington, DC 20423.

One copy of evidence and arguments by or on behalf of those opposing the positions of NAFTC and TCPC must be served simultaneously on their representatives: Donna F. Behme, Executive Director, National Association of Freight Transportation Consultants, Inc., P.O. Box 21418, Albuquerque, NM 87154-1418; Raymond A. Selvaggio, Augello, Pezold & Hirschmann, P.C., 120 Main Street, Huntington, NY 11743-6936.

One copy of evidence and arguments by or on behalf of those opposing the positions of the RCCC must be served simultaneously on its representative: Kevin M. Williams, Executive Director and General Counsel, Regular Common Carrier Conference, 211 North Union Street, Suite 102, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Michael Martin, (202) 927-6033, [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: In *Carolina Traffic Services of Gastonia, Inc.—Petition for Declaratory Order*, STB No. 41689 (June 7, 1996) (*CTS*), we issued a declaratory order answering certain questions regarding the so-called "180-day rule" of 49 U.S.C. 13710. That provision requires, inter alia, that shippers "contest the original bill or subsequent bill within 180 days of the receipt of the bill in order to have the right to contest such charges." 49 U.S.C. 13710(a)(3)(B).¹

¹ This provision and the companion carrier-notification provision [49 U.S.C. 13710(a)(3)(A)], which requires carriers to rebill within 180 days of the original freight bill in order to collect any amounts in addition to those originally billed and paid, were enacted in the Transportation Industry Regulatory Reform Act of 1994 (TIRRA), Pub. L. No. 103-311, 206(c)(4), 108 Stat. 1683, 1685 (1994) and reenacted by the ICC Termination Act of 1995 (ICCTA), Pub. L. No. 104-88, 1103, 109 Stat. 803,

In *CTS*, we concluded: (1) That the rule applies to all original freight bills issued on or after August 26, 1994 (date of TIRRA's enactment), and to rebillings issued on or after January 1, 1996 (the effective date of ICCTA, which clarified the applicability of the 180-day rule to rebillings by carriers); (2) that, to perfect its right of action, a shipper must, in addition to complying with the statute of limitations on court actions (49 U.S.C. 14705), notify carriers that they contest a billing or rebilling within 180 days of the contested billing, but that they need not request a Board determination within that time period, or at all; and (3) that there is no statutory prohibition against carriers paying late-contested claims.

On June 17, 1996, NAFTC (which represents the interests of freight bill auditors for shippers) filed a petition for declaratory order asking the Board to resolve a number of issues relating to the 180-day rule. In its petition, NAFTC suggests that we establish a procedural schedule to permit interested parties to file comments regarding the issues it raises.

NAFTC asserts that the 180-day rule does not apply to billing "errors", but only to billing "disputes". It attempts to draw a distinction between erroneous billings based on factual, arithmetical or clerical mistakes and disputes over, for example, which of two or more rates should apply. NAFTC points to the title of section 13710(a)(3) ("Billing disputes") and relies on legislative history of TIRRA. It also cites *Duplicate Payments of Freight Charges*, 350 I.C.C. 513 (1975), in which the ICC ruled that duplicate payments, because they are made in response to bills issued in error, are not subject to the statute of limitations on court actions for overcharges.

NAFTC also challenges the Board's holding in *CTS* that 49 U.S.C. 13710(a)(3)(b) requires a shipper to notify the carrier (rather than bring an action before the Board) within 180 days in order to perfect its claim. According to NAFTC, the subsection, when read as a whole, indicates that the 180-day rule is simply a time limit for filing challenges before the Board.

NAFTC next contends that the 180-day rule applies only to billings for transportation that is subject to the tariff filing requirements administered by the Board. Petitioner also argues that carriers should be required to accept fax notification of overcharge claims and should be required to accept such

876-77 (1995). Further background concerning these provisions is set forth in *CTS*.