(NCP). The EPA and the State of Utah, through the Utah Department of Environmental Quality (UDEQ), have determined that all appropriate response actions under CERCLA have been completed at the Site. However, this deletion does not preclude future actions under Superfund if determined necessary by EPA.

In the ''Rules and Regulations'' section of today's **Federal Register**, EPA is publishing a Direct Final Notice of Deletion of the Petrochem Recycling Corp./Ekotek, Inc., Superfund Site without prior notice of intent to delete because EPA views this as a non-controversial action. EPA has explained its reasons for this deletion in the preamble to the Direct Final Notice of Deletion. If EPA receives no significant adverse comment(s) on the Direct Final Notice of Deletion, EPA will not take further action on this Notice of Intent to Delete and deletion of the Site will proceed. If EPA receives significant adverse comment(s), EPA will withdraw the Direct Final Notice of Deletion and it will not take effect. EPA will, as appropriate, address all public comments in a subsequent final deletion notice based on this Notice of Intent to Delete. EPA will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so within the time frame noted below. For additional information, see the Direct Final Notice of Deletion, located in the ''Rules and Regulations'' section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 23, 2003.

ADDRESSES: Written comments should be addressed to: Armando Saenz, Remedial Project Manager (RPM), Mail Code: 8EPR–SR, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466.

FOR FURTHER INFORMATION CONTACT: Armando Saenz, 303–312–6559, Remedial Project Manager (RPM), Mail Code: 8EPR–SR, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion published in the ''Rules and Regulations'' section of this **Federal Register**.

Information Repository

A repository at the following address has been established to provide detailed information concerning this decision and all documents forming the basis for the response actions taken at this Site as well as documentation of the completion of those actions: U.S. EPA Region 8 Superfund Records Center, 999 18th Street, Fifth Floor, Denver, Colorado 80202–2466, Monday through Friday, 8 a.m.–4:30 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: May 2, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 03–12615 Filed 5–21–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

RIN 1090–AA84

General Rules Relating to Procedures and Practice; Special Rules Applicable to Public Land Hearings and Appeals

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Hearings and Appeals (OHA) is proposing to revise its existing regulations governing petitions for stays and requests to put bureau decisions into immediate effect. The revisions would specifically authorize OHA administrative law judges to decide such petitions and requests, which arise most frequently in the context of appeals from grazing decisions that the Bureau of Land Management (BLM) issues. This change would expedite the administrative review process by eliminating an inefficient division of authority. The revisions would also improve the format and clarity of the regulations.

DATES: You should submit your comments by July 21, 2003.

ADDRESSES: Send comments to: Director, Office of Hearings and Appeals, Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, U. S. Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, VA 22203, Phone: 703–235–3750. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How Do I Comment on the Proposed Rule?

You may submit your comments by mailing or delivering them to Director, Office of Hearings and Appeals, Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, VA 22203, Attn: RIN 1090–AA84.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should refer to the specific section or paragraph of the proposal that you are addressing.

The Department of the Interior will not necessarily consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (*see* **DATES**) or comments delivered to an address other than that listed above (*see* **ADDRESSES**).

B. How Do I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES** during regular business hours (9 a.m. to 5 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

II. Background

The existing regulations governing hearings and appeals of BLM grazing decisions allocate responsibility for deciding petitions for a stay of such decisions to the Interior Board of Land Appeals (IBLA) and the Director, OHA. Responsibility for conducting the hearing, ruling on other motions, and

making the initial decision on the appeal, however, rests with administrative law judges (ALJs) in the Hearings Division, OHA.

When an appeal of a grazing decision is filed with BLM, BLM currently forwards the decision and accompanying record to the Hearings Division office in Salt Lake City, Utah. If a petition for a stay of the decision accompanies the notice of appeal, the Hearings Division must forward the record to IBLA in Arlington, Virginia. Under 43 CFR 4.21(b)(4), IBLA (or the Director) has 45 days to decide whether or not to grant the petition; after IBLA decides, it returns the record to the Hearings Division in Salt Lake City. In the meantime, the ALJ to whom the case is assigned normally waits to schedule the hearing and to rule on any motions concerning the appeal, such as a motion to intervene in the appeal or a motion by BLM to dismiss the appeal. IBLA does not have authority to rule on such motions. The same situation applies, but less frequently, to requests to place grazing decisions into immediate effect under 43 CFR 4.21(a)(1) if BLM has not done so under 43 CFR 4160.3(f).

This division of responsibility results in delays and inefficiencies that would be alleviated if the ALJs also had authority to rule on petitions for a stay and requests to place grazing decisions into immediate effect. For example, IBLA sometimes finds during its consideration of a stay petition that a motion to dismiss should be granted. However, under the existing regulations, IBLA cannot grant the motion but must proceed to decide the stay petition and then refer the case, including the motion to dismiss, back to the Hearings Division. If the ALJ had authority to rule on petitions for a stay and requests to place decisions into immediate effect, he or she could consider any other pending motions at the same time and, where appropriate, grant a motion to dismiss without having to rule on the petition or request. Moreover, under the existing regulations, IBLA must thoroughly review the record in deciding whether to grant a stay petition, and the ALJ must then do the same in deciding the merits of the case. This is an unnecessary duplication of effort and takes time away from IBLA's consideration of other appeals.

By contrast, the regulations governing hearings under the Surface Mining Control and Reclamation Act of 1977 authorize an ALJ to consider whether to grant a motion for temporary relief (which is comparable to a petition for a stay) and also to decide the merits. IBLA gets involved in temporary relief cases only if a party appeals an ALJ's decision. *See, e.g.,* 43 CFR 4.1267, 4.1367(f), 4.1376(h). OHA has found these procedures workable and cost-effective. ALJs are also authorized to grant stays of decisions issued under BLM's onshore oil and gas operations regulations, *see* 43 CFR 3165.3(e), 3165.4(c), and of civil penalties issued by the Minerals Management Service, *see* 30 CFR 241.55(b).

Therefore, OHA proposes amendments to the existing regulations to provide the authority to ALJs to rule on petitions for a stay of BLM grazing decisions and requests to place these decisions into immediate effect. We also propose that any party may appeal to the IBLA an order of an ALJ granting or denying (1) a petition for a stay, or (2) a request to place a decision into immediate effect. Any party (other than BLM) wishing to appeal an order of an ALJ denying a petition for a stay or granting a request to place a decision into immediate effect may seek judicial review instead of appealing to IBLA.

The proposed rule would revise both 43 CFR 4.21, which applies to OHA proceedings generally, and 43 CFR 4.470–4.478, which apply to appeals from BLM grazing decisions. Currently OHA does not encounter the inefficient division of responsibility described above outside the context of grazing appeals. However, by revising § 4.21, we would eliminate the same inefficiency should it arise in some other context where the merits of the appeal were pending before the Hearings Division but, under current regulations, a stay petition must be decided by IBLA. In any case in which the ALJ has jurisdiction of the merits, we believe the ALJ should be authorized to decide a stay petition or a request to place a bureau decision in immediate effect. By revising § 4.21 as well as § 4.477, we would be keeping the two sets of provisions consistent.

OHA is also proposing to revise the existing regulatory language to make it clearer and to conform to Departmental requirements for writing rules in plain language. *See* 318 DM 4.2. We propose to do so by defining terms, creating more sections, reorganizing the provisions to put the main ideas first, and shortening sentences. In 43 CFR part 4, subpart B, we propose to revise existing § 4.21, to add new §§ 4.22 through 4.26, and to redesignate existing §§ 4.22 through 4.31 as §§ 4.27 through 4.36, respectively. Similarly, in 43 CFR part 4, subpart E, we would revise existing § 4.470, add new §§ 4.471 and 4.472, and redesignate existing §§ 4.471 through 4.478 as §§ 4.473 through 4.480, respectively. We would add paragraph (c) to newly redesignated § 4.474, and revise newly redesignated §§ 4.478 and 4.479. If this proposed rule becomes final, BLM would have to amend its regulations that refer to existing §§ 4.21 through 4.31 or §§ 4.470 through 4.478 to update the cross-references.

III. Review Under Procedural Statutes and Executive Orders

A. Regulatory Planning and Review (E.O. 12688)

In accordance with the criteria in Executive Order 12866, we find that this document is not a significant rule. The Office of Management and Budget has not reviewed this rule under Executive Order 12866.

1. This rule would not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, competition, jobs, the environment, public health or safety, or other units of government. A cost-benefit and economic analysis is not required. These amended rules would have virtually no effect on the economy because they would only add authority for ALJs to decide petitions for a stay of grazing decisions and to place such decisions into immediate effect.

2. This rule would not create inconsistencies with or interfere with other agencies' actions. The rules propose to amend existing OHA regulations to add authority for ALJs to decide petitions for a stay of grazing decisions and to place such decisions into immediate effect.

3. This rule would not alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. These regulations have to do only with the procedures for hearings and appeals of BLM grazing decisions, not with entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The proposed rule would only add authority for ALJs to decide petitions for a stay of grazing decisions and to place such decisions into immediate effect.

4. This rule does not raise novel legal or policy issues. The rule would simply extend ALJs' existing authority to include the authority to decide petitions for a stay of BLM grazing decisions and requests to place such decisions into immediate effect.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The extension of authority to ALJs to decide petitions

for a stay of BLM grazing decisions and to place such decisions into immediate effect would have no effect on small entities. A Small Entity Compliance Guide is not required.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

1. Would not have an annual effect on the economy of $100 million or more. Granting authority to ALJs to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect should have no effect on the economy.

2. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Granting ALJs authority to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect would not affect costs or prices for citizens, individual industries, or government agencies.

3. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Extending authority to ALJs to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect should have no effects, adverse or beneficial, on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*), we find that:

1. This rule would not have a significant or unique effect on state, local, or tribal governments or the private sector. Small governments do not often appeal BLM grazing decisions. Authorizing ALJs to decide petitions for a stay of such decisions and to place such decisions into immediate effect would neither uniquely nor significantly affect these governments because such authority currently exists elsewhere. A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required.

2. This rule would not produce an unfunded Federal mandate of $100 million or more on State, local, or tribal governments or the private sector in any year, *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

E. Takings (E.O. 12630)

In accordance with Executive Order 12630, we find that the rule would not have significant takings implications. A takings implication assessment is not required. These amendments to existing rules authorizing ALJs to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect should have no effect on property rights.

F. Federalism (E.O. 13132)

In accordance with Executive Order 13132, we find that the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. There is no foreseeable effect on states from extending to ALJs the existing authority to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect. A federalism assessment is not required.

G. Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does not meet the requirements of sections 3(a) and 3(b)(2) of the Order. These regulations, because they simply extend to ALJs already existing authority to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect, will not burden either administrative or judicial tribunals.

H. Paperwork Reduction Act

This proposed rule wold not require an information collection from 10 or more parties, and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I has not been prepared and has not been approved by the Office of Policy Analysis. These regulations would only extend authority to ALJs to decide petitions for stay of BLM grazing decisions and to place such decisions into immediate effect; they would not require the public to provide information.

I. National Environmental Policy Act

The Department has analyzed this rule in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* Council on Environmental Quality (CEQ) regulations, 40 CFR part 1500, and the Department of the Interior Departmental Manual (DM). CEQ regulations, at 40 CFR 1508.4, define a ''categorical exclusion'' as a category of actions that the Department has determined ordinarily do not individually or cumulatively have a significant effect on the human environment. The regulations further direct each department to adopt NEPA procedures, including categorical exclusions. 40 CFR 1507.3. The Department has determined that the proposed rule is categorically excluded from further environmental analysis under NEPA in accordance with 516 DM 2, Appendix 1, which categorically excludes ''[p]olicies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature.'' In addition, the Department has determined that none of the exceptions to categorical exclusions, listed in 516 DM 2, Appendix 2, applies to the proposed rule. The proposed rule is an administrative and procedural rule, relating to the authority of ALJs to decide petitions for stays of BLM grazing decisions and requests to place such decisions into immediate effect. The rule would not change the requirement that projects must comply with NEPA. Therefore, neither an environmental assessment nor an environmental impact statement under NEPA is required.

J. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, the Department of the Interior has evaluated potential effects of these rules on Federally recognized Indian tribes and has determined that there are no potential effects. These rules would not affect Indian trust resources; they would provide authority to ALJs to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect.

K. Effects on the Nation's Energy Supply

In accordance with Executive Order 13211, we find that this regulation does not have a significant effect on the nation's energy supply, distribution, or use. The extension of authority to ALJs to decide petitions for a stay of BLM grazing decisions and to place such decisions into immediate effect would not affect energy supply or consumption.

L. Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand, including answers to the

following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § 4.21 General provisions.) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

List of Subjects in 43 CFR Part 4

Administrative practice and procedure; Grazing lands; Public lands.

For the reasons set forth in the preamble, under authority delegated to the Director, Office of Hearings and Appeals, by the Secretary of the Interior, part 4, subparts B and E, of title 43 of the Code of Federal Regulations are proposed to be amended as set forth below:

Dated: May 13, 2003.

Robert S. More,

Director, Office of Hearings and Appeals.

PART 4—[AMENDED]

1. The authority for 43 CFR part 4 continues to read as follows:

Authority: R.S. 2478, as amended, 43 U.S.C. sec. 1201, unless otherwise noted.

Subpart B—General Rules Relating to Procedures and Practice

§§ 4.22 through 4.31 [Redesignated as §§ 4.27 through 4.36].

2. Sections 4.22 through 4.31 are redesignated as §§ 4.27 through 4.36.

3. Section 4.21 is revised and new §§ 4.22 through 4.26 are added to read as follows:

§ 4.21 Definitions of terms used in this subpart.

As used in this subpart:

Appropriate official means the Director of the Office of Hearings and Appeals, an Appeals Board, or an administrative law judge, as applicable in a particular situation.

Bureau means a bureau or office of the Department of the Interior.

Days means calendar days unless otherwise stated.

Decision means a written determination or, if applicable, a portion of a written determination.

§ 4.22 Effect of a decision pending appeal.

(a) The provisions of this section apply to any decision by a bureau that includes a right of appeal to the Office of Hearings and Appeals, unless a law or other applicable regulation provides otherwise.

(b) No such bureau decision is effective during the period of time allowed for filing an appeal, unless it is made immediately effective under paragraph (c)(2) of this section.

(c) A bureau decision becomes effective as shown in the following table:

If . . .	And . . .	Then . . .
(1) A statute or other regulation provides that the bureau decision will not take effect pending a decision on an appeal,	a person who has a right of appeal files a notice of appeal,	the bureau decision will become effective if and when it is affirmed by the Office of Hearings and Appeals or the appeal is dismissed.
(2) A person who has a right of appeal under § 4.410 or other applicable regulation files a timely notice of appeal,	a party to the appeal demonstrates that the public interest requires making the bureau decision effective immediately,	the appropriate official (see § 4.21) may provide that the bureau decision becomes effective immediately.
(3) A person who has a right of appeal under § 4.410 or other applicable regulation files a timely notice of appeal and a petition for a stay,	the appellant satisfies the requirements of § 4.23,	the appropriation official may stay the effect of the bureau decision under § 4.24, and the bureau decision will become effective if and when it is affirmed by the Office of Hearings and Appeals or the appeal is dismissed.
(4) A person who has a right of appeal under § 4.410 or other applicable regulation files a timely notice of appeal and a petition for a stay,	the appellant does not satisfy the requirements of § 4.23,	the bureau decision becomes effective when the appropriate official denies the petition.
(5) A person who has a right of appeal under § 4.410 or other applicable regulation files a timely notice of appeal and a petition for a stay,	the appropriate official does not act on petition within 45 days of the end of the appeal period,	the decision becomes effective on the 46th day after the end of the appeal period.

§ 4.23 How to petition for a stay of the effective date of a decision.

(a) To request a stay of a bureau decision, an appellant must file a notice of appeal and a petition for a stay as required under paragraphs (b) and (c) of this section. The appellant must file these documents before the end of the appeal period specified in the bureau decision. The provisions of this section apply unless a law or other applicable regulation provides otherwise.

(b) To obtain a stay under this section, an appellant must:

(1) Be a person who has a right of appeal under § 4.410 or other applicable regulation; and

(2) Demonstrate that the appropriate official should grant a stay based on the following standards:

(i) The relative harm to the parties if the stay is granted or denied;

(ii) The likelihood of the appellant's success on the merits;

(iii) The likelihood of immediate and irreparable harm if the appropriate official does not grant the stay; and

(iv) Whether the public interest favors granting the stay.

(c) The appellant must serve a copy of the notice of appeal and petition for a stay on each of the following simultaneously:

(1) The appropriate official before whom the appeal is pending;

(2) The bureau official who made the decision being appealed; and

(3) Each party, if any, named in the bureau decision that is being appealed.

§ 4.24 Action on a petition for a stay.

(a) Any party who is served with a copy of a stay petition under § 4.23(c) may file a response but must do so within 10 days after service. This includes the bureau official who made the decision being appealed.

(1) The responding party must serve the response on the persons listed in § 4.23(c) either by delivering it personally or by registered or certified mail, return receipt requested.

(2) The appropriate official will not grant a stay by default merely because no response to a petition has been filed.

(b) Within 45 days after the end of the time for filing an appeal, the appropriate official must grant or deny any petition for a stay.

(c) Any person who has a right of appeal under § 4.410 or other applicable regulation may appeal to the appropriate Appeals Board from an order of an administrative law judge to:

(1) Grant or deny a petition for a stay; or

(2) Make a bureau decision effective immediately.

(d) As an alternative to paragraph (c) of this section, any party other than the bureau may seek judicial review under 5 U.S.C. 704 of an order of an administrative law judge to:

(1) Deny a petition for a stay (either directly or by failing to meet the deadline in paragraph (b) of this section); or

(2) Make a bureau decision effective immediately.

(e) If a party appeals under paragraph (c) of this section, the Appeals Board must issue an expedited briefing schedule and expeditiously issue a decision on the appeal.

(f) Unless the Appeals Board or the court orders otherwise, an appeal under paragraph (c) of this section does not:

(1) Suspend the effectiveness of the decision of the administrative law judge; or

(2) Suspend further proceedings before the administrative law judge.

§ 4.25 Decisions subject to judicial review.

This section applies to any bureau decision that can be appealed to the Office of Hearings and Appeals. The bureau decision is not final agency action subject to judicial review under 5 U.S.C. 704 unless it has become effective under § 4.22 or other applicable regulation.

§ 4.26 Finality and reconsideration of decisions.

(a) A decision by the Director or an Appeals Board is final for the Department and cannot be appealed. However, the Director or an Appeals Board may reconsider a decision if either:

(1) In the judgment of the Director or the Appeals Board there exist extraordinary circumstances and sufficient reason for reconsideration; or

(2) Other regulations allow for reconsideration under standards other than those set forth in paragraph (a)(1) of this section.

(b) To request reconsideration under paragraph (a) of this section, an appellant must:

(1) File the request promptly, or within the time required by the regulations relating to the type of proceeding concerned; and

(2) State clearly and completely the nature of the error prompting the request for reconsideration.

(c) Filing a request for reconsideration does not stay the effectiveness of the decision unless the Director or the Appeals Board so orders.

(d) An appellant does not have to file a request for reconsideration in order to exhaust administrative remedies.

Subpart E—Special Rules Applicable to Public Land Hearings and Appeals

4. The authority for 43 CFR part 4, subpart E is revised to read as follows:

Authority: 43 U.S.C. 1201 and 315a.

5. In § 4.421, revise paragraph (c) to read as follows:

§ 4.421 Definitions.

* * * * *

(c) *Bureau* or *BLM* means the Bureau of Land Management.

* * * * *

§§ 4.471 through 4.478 [Redesignated as §§ 4.473 through 4.480].

6. Sections 4.471 through 4.478 are redesignated as §§ 4.473 through 4.480, respectively.

7. Section 4.470 is revised and §§ 4.471 and 4.472 are added to read as follows:

§ 4.470 How to appeal a BLM decision to an administrative law judge.

(a) Any person who has a right of appeal under § 4.410 or other applicable regulation may appeal a final bureau decision within 30 days after receiving it. To do this, the person must file a notice of appeal with the BLM field office that issued the decision.

(b) The notice of appeal must state clearly and concisely the reasons why the appellant thinks the BLM decision is wrong.

(c) Any ground for appeal not included in the notice of appeal is considered waived. The appellant may not present a waived ground for appeal at the hearing unless permitted to do so by the administrative law judge.

(d) Any person who, after proper notification, does not appeal a final BLM decision within the period allowed in the decision may not later challenge the matters adjudicated in the final decision.

(e) An administrative law judge may consolidate appeals for purposes of hearing and decision when:

(1) Appellants file separate appeals; and

(2) The issues involved are common to two or more appeals.

(f) Filing a notice of appeal does not by itself change the effective date of the decision. To request a change in the effective date, *see* § 4.471.

§ 4.471 How to request a change in the effective date of a final BLM decision.

(a) An appellant under § 4.470 may petition for a stay of the BLM decision pending appeal. The appellant must do this within 30 days after receiving the BLM decision by filing a petition for stay together with the notice of appeal required by § 4.470.

(b) An appellant under § 4.470 may request that a BLM decision become effective immediately. The appellant must do this within 30 days after receiving the BLM decision by filing a request for an immediate effective date together with the notice of appeal required by § 4.470.

(c) The appellant must file documents required by this section with both:

(1) The BLM office that issued the decision; and

(2) The Hearings Division, Office of Hearings and Appeals, 801 North Quincy Street, Suite 300, Arlington, VA 22203.

(d) The standards and procedures for obtaining a stay or requesting an immediate effective date are those set forth in §§ 4.22 through 4.24.

§ 4.472 Action on appeals and requests for effective date changes.

(a) The BLM field office must promptly forward to the State Director any documents received under §§ 4.470 and 4.471. If the State Director does not file a motion to dismiss under paragraph (b) of this section:

(1) The State Director must promptly forward all documents and the administrative record to the Office of Hearings and Appeals; and

(2) An administrative law judge will rule on the appeal and any motion or request.

(b) Within 30 days after receiving documents submitted under paragraph (a) of this section, the State Director may file a motion to dismiss the appeal for one or more of the following reasons:

(1) The appeal is frivolous;

(2) The appeal was filed late;

(3) The errors are not clearly and concisely stated;

(4) The issues are immaterial; or

(5) The issues have been previously adjudicated in an appeal involving the same grazing preference, the same parties, or their predecessors in interest.

(c) The State Director must send a copy of the motion to the appellant.

(d) The appellant may file a written answer with the State Director within 30 days after receiving the motion to dismiss.

(e) The State Director will transmit the appeal, any petition or request, motion to dismiss, and answer, along with the administrative record, to the Hearings Division, Office of Hearings and Appeals, 801 North Quincy Street, Suite 300, Arlington, VA 22203.

(f) An administrative law judge will rule on the motion to dismiss and, if the motion is sustained, dismiss the appeal by written order.

8. In newly redesignated § 4.474, add paragraph (c) to read as follows:

§ 4.474 Authority of administrative law judge.

* * * * *

(c) The administrative law judge may consider and rule on all motions and petitions, including:

(1) A petition for a stay of a final grazing decision of the BLM field office; and

(2) A request that a final grazing decision of the BLM field office become effective immediately.

9. Revise newly redesignated § 4.478 to read as follows:

§ 4.478 Appeals to the Board of Land Appeals.

(a) A person who has a right of appeal under § 4.410 or other applicable regulation may appeal under § 4.24(c) an order of an administrative law judge to:

(1) Grant or deny a petition for a stay; or

(2) Make a final grazing decision effective immediately.

(b) Any party affected by the administrative law judge's decision on the merits, including the State Director, has the right to appeal to the Board of Land Appeals under the procedures in this part.

10. Revise newly redesignated § 4.479 to read as follows:

§ 4.479 Effect of decision during appeal.

(a) A BLM decision may provide that the decision will be effective immediately pending decision on an appeal from the BLM decision. This paragraph applies:

(1) Notwithstanding the provisions of § 4.22(b) pertaining to the period during which a final decision will not be in effect; and

(2) Consistent with the provisions of § 4160.3.

(b) An administrative law judge or the Board may change or revoke any action that BLM takes pursuant to a BLM decision on appeal.

(c) This paragraph applies to any BLM decision that, at the time it is made, is subject to appeal before a superior authority in the Department. In order to ensure the exhaustion of administrative remedies before resort to court action, the BLM decision is not final agency action subject to judicial review under 5 U.S.C. 704 unless the BLM decision has become effective under this section or § 4.22.

[FR Doc. 03–12504 Filed 5–21–03; 8:45 am]

BILLING CODE 4310–79–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–1473, MB Docket No. 03–111, RM–10701]

Radio Broadcasting Services; Kernville, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Linda A. Davidson proposing the allotment of Channel 289A at Kernville, CA, as that community's second local service. Channel 289A can be allotted to Kernville, consistent with the minimum distance separation requirements of the Commission's Rules, provided there is a site restriction of 5.6 kilometers (3.5 miles) northeast of the community. The reference coordinates for Channel 289A at Kernville are 35–46–29 North Latitude and 118–22–09 West Longitude.

DATES: Comments must be filed on or before June 26, 2003, and reply comments on or before July 11, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Linda A. Davidson, 2134 Oak Street, Unit C, Santa Monica, CA 90405.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–111, adopted April 30, 2003, and released May 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 289A at Kernville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–12793 Filed 5–21–03; 8:45 am]

BILLING CODE 6712–01–P