

§ 0.183 Emergency Communications Administration.

The Compliance and Information Bureau coordinates the National Security and Emergency Preparedness (NSEP) activities of the Federal Communications Commission including Continuity of Government Planning, the Emergency Alert System (EAS) and other functions as may be delegated during a national emergency or activation of the President's war emergency powers as specified in section 706 of the Communications Act; maintains liaison with FCC Bureaus/Offices, and other government agencies, the telecommunications industry and FCC licensees on NSEP matters; and, as requested, represents the Commission at NSEP meetings and conferences.

[59 FR 67092, Dec. 28, 1994]

§ 0.185 Responsibilities of the bureaus and staff offices.

The head of each of the bureaus and staff offices, in rendering assistance to the Chief, Compliance and Information Bureau in the performance of that person's duties with respect to defense activities will have the following duties and responsibilities:

(a) To keep the Chief, Compliance and Information Bureau informed of the investigation, progress, and completion of programs, plans, or activities with respect to defense in which they are engaged or have been requested to engage.

(b) To render assistance and advice to the Chief, Compliance and Information Bureau on matters which relate to the functions of their respective bureaus or staff offices.

(c) To render such assistance and advice to other agencies as may be consistent with the functions of their respective bureaus or staff offices and the Commission's policy with respect thereto.

(d) To perform such other duties related to the Commission's defense activities as may be assigned to them by the Commission.

[29 FR 14665, Oct. 28, 1964, as amended at 50 FR 27953, July 9, 1985; 59 FR 26971, May 25, 1994; 61 FR 8477, Mar. 5, 1996]

§ 0.186 Emergency Relocation Board.

(a) As specified in the Commission's Continuity of Government Plan and consistent with the exercise of the War Emergency Powers of the President as set forth in section 706 of the Communications Act of 1934, as amended, an Emergency Relocation Board will be convened at the Commission's Headquarters or other relocation site designated to serve as Primary FCC Staff to perform the functions of the Commission following the announcement of national level mobilization of the Federal government by the President or other designated authority; in the absence of such announcement, immediately following receipt of an attack warning signal; or in the absence of either announcement or attack warning, immediately following an actual attack.

(b) The Board shall comprise such Commissioners as may be present and able to act. In the absence of the Chairman, the Commissioner present with the longest seniority in office will serve as acting Chairman. If no Commissioner is present and able to act, the person designated as next most senior official in the Commission's Continuity of Government Plan will head the Board.

[53 FR 29055, Aug. 2, 1988]

Subpart B—Delegations of Authority

AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

GENERAL**§ 0.201 General provisions.**

(a) There are three basic categories of delegations made by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended:

(1) *Delegations to act in non-hearing matters and proceedings.* The great bulk of delegations in this category are made to bureau chiefs and other members of the Commission's staff. This category also includes delegations to individual commissioners and to boards or committees of commissioners.

§0.203

(2) *Delegations to rule on interlocutory matters in hearing proceedings.* Delegations in this category are made to the Chief Administrative Law Judge.

NOTE TO PARAGRAPH (A)(2): Interlocutory matters which are not delegated to the Chief Administrative Law Judge are ruled on by the presiding officer by virtue of the authority vested in him to control the course and conduct of the hearing. This authority stems from section 7 of the Administrative Procedure Act and section 409 of the Communications Act rather than from delegations of authority made pursuant to section 5(c) of the Communications Act. (See §§0.218 and 0.341.).

(3) *Delegations to review an initial decision.* Delegations in this category are made to individual commissioners, to panels of commissioners.

(b) Delegations are arranged in this subpart under headings denoting the person, panel, or board to whom authority has been delegated, rather than by the categories listed in paragraph (a) of this section.

(c) Procedures pertaining to the filing and disposition of interlocutory pleadings in hearing proceedings are set forth in §§1.291 through 1.298 of this chapter. Procedures pertaining to appeals from rulings of the presiding officer are set forth in §1.301. Procedures pertaining to reconsideration of the presiding officer's rulings are set forth in §1.303. Procedures pertaining to reconsideration and review of actions taken pursuant to delegated authority are set forth in §§1.101, 1.102, 1.104, 1.106, 1.113, 1.115, and 1.117. Procedures pertaining to exceptions to initial decisions are set forth in §§1.276–1.279.

(d) The Commission, by vote of a majority of the members then holding office, may delegate its functions either by rule or by order, and may at any time amend, modify, or rescind any such rule or order.

(1) Functions of a continuing or recurring nature are delegated by rule. The rule is published in the FEDERAL REGISTER and is included in this subpart.

(2) Functions pertaining to a particular matter or proceeding are delegated by order. The order is published in the FEDERAL REGISTER and associated with the record of that matter or proceeding, but neither the order nor any ref-

47 CFR Ch. I (10–1–98 Edition)

erence to the delegation made thereby is included in this subpart.

[28 FR 12402, Nov. 22, 1963, as amended at 50 FR 26567, June 27, 1985; 62 FR 4170, Jan. 29, 1997]

§0.203 Authority of person, panel, or board to which functions are delegated.

(a) The person, panel, or board to which functions are delegated shall, with respect to such functions, have all the jurisdiction, powers, and authority conferred by law upon the Commission, and shall be subject to the same duties and obligations.

(b) Except as provided in §1.102 of this chapter, any action taken pursuant to delegated authority shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission.

[28 FR 12402, Nov. 22, 1963]

§0.204 The exercise of delegated authority.

(a) *Authority to issue orders and to enter into correspondence.* Any official (or group of officials) to whom authority is delegated in this subpart is authorized to issue orders (including rulings, decisions, or other action documents) pursuant to such authority and to enter into general correspondence concerning any matter for which he is responsible under this subpart or subpart A of this part.

(b) *Authority of subordinate officials.* Authority delegated to any official to issue orders or to enter into correspondence under paragraph (a) of this section may be exercised by that official or by appropriate subordinate officials acting for him.

(c) *Signature.* (1) Other orders made by a committee, board or panel identify the body and are signed by the Secretary.

(2) Upon signing an order, the Secretary affixes the Commission's seal.

(3) General correspondence by a committee or board is signed by the committee or board chairman.

(4) All other orders and letters are signed by the official who has given final approval of their contents.

Federal Communications Commission

§0.218

(5) With the exception of license forms requiring the signature of an appropriate official of the issuing bureau or office, license forms bear only the seal of the Commission.

(d) *Form of orders.* Orders may be issued in any appropriate form (e.g., as captioned orders, letters, telegrams) and may, if appropriate, be issued orally. Orders issued orally shall, if practicable, be confirmed promptly in writing.

(e) *Minutes entries.* Except as otherwise provided in this subpart, actions taken as provided in paragraph (d) of this section shall be recorded in writing and filed in the official minutes of the Commission.

[33 FR 8227, June 1, 1968, as amended at 38 FR 18550, July 12, 1973; 62 FR 4170, Jan. 29, 1997]

COMMISSIONERS

§0.211 Chairman.

The responsibility for the general administration of internal affairs of the Commission is delegated to the Chairman of the Commission. The Chairman will keep the Commission advised concerning his actions taken under this delegation of authority. This authority includes:

(a) Actions of routine character as to which the Chairman may take final action.

(b) Actions of non-routine character which do not involve policy determinations. The Chairman may take final action on these matters but shall specifically advise the Commission on these actions.

(c) Actions of an important character or those which involve policy determinations. In these matters the Chairman will develop proposals for presentation to the Commission.

(d) To act within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, upon tort claims directed against the Commission where the amount of damages does not exceed \$5,000.

(e) Authority to act as "Head of the Agency" or "Agency Head" for administrative determinations required by

Federal Procurement Regulations and Federal Management Circulars.

[28 FR 12402, Nov. 22, 1963, as amended at 41 FR 49095, Nov. 8, 1976; 51 FR 23550, June 30, 1986]

§0.212 Board of Commissioners.

(a) Whenever the Chairman or Acting Chairman of the Commission determines that a quorum of the Commission is not present or able to act, he may convene a Board of Commissioners. The Board shall be composed of all Commissioners present and able to act.

(b) The Board of Commissioners is authorized to act upon all matters normally acted upon by the Commission en banc, except the following:

(1) The final determination on the merits of any adjudicatory or investigatory hearing proceeding or of any rule making proceeding, except upon a finding by the Board that the public interest would be disserved by waiting the convening of a quorum of the Commission.

(2) Petitions for reconsideration of Commission actions.

(3) Applications for review of actions taken pursuant to delegated authority.

(c) The Board of Commissioners is authorized to act upon all matters normally acted upon by an individual Commissioner (when he or his alternates are not present or able to act) or by a committee of Commissioners (in the absence of a quorum of the committee).

(d) Actions taken by the Board of Commissioners shall be recorded in the same manner as actions taken by the Commission en banc.

(e) This section has no application in circumstances in which the Commission is unable to function at its offices in Washington, D.C. See §§0.181-0.186 and §§0.381-0.387.

[30 FR 9314, July 27, 1965]

§0.218 Authority of, and delegated to, an individual Commissioner or Commissioners.

(a) One or more members of the Commission may be designated to preside in a hearing proceeding. The Commissioner or Commissioners designated to preside at such a hearing shall fix the time and place of the hearing and shall

§0.231

47 CFR Ch. I (10–1–98 Edition)

act upon all motions, petitions or other matters which may arise while the proceeding is in hearing status.

(b) One or more members of the Commission may be designated to review an initial decision issued in any hearing case.

(c) Except for actions taken during the course of a hearing and upon the record thereof, actions taken by a Commissioner or Commissioners pursuant to the provisions of this section shall be recorded in writing and filed in the official minutes of the Commission.

[27 FR 7931, Aug. 10, 1962]

MANAGING DIRECTOR

§0.231 Authority delegated.

(a) The Managing Director, or his designee, upon securing concurrence of the General Counsel, is delegated authority to act upon requests for waiver, reduction or deferment of fees, establish payment dates, and issue notices proposing amendments or adjustments to the fee schedules established under part 1, subpart G, of this chapter.

(b) The Managing Director, or his designee, is delegated authority to make nonsubstantive, editorial revisions of the Commission's rules and regulations upon approval of the bureau or staff office primarily responsible for the particular part or section involved.

(c) [Reserved]

(d) The Managing Director, or his designee, upon securing the concurrence of the General Counsel, is delegated authority, within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, to grant tort claims directed against the Commission where the amount of the claim does not exceed \$5,000. In addition thereto, the Managing Director, or his designee, upon securing the concurrence of the General Counsel, is delegated authority to act in the disposition of claims arising under the Military Personnel and Civilian Employees' Claims Act, as amended, 31 U.S.C. 3701 and 3721, where the amount of the claim does not exceed \$6,500.

(e) The Managing Director is delegated authority to act as Head of the Procurement Activity and Contracting Officer for the Commission and to des-

ignate appropriate subordinate officials to act as Contracting Officers for the Commission. As Head of the Procurement Activity, the Managing Director will refer all appeals filed against final decisions regarding award of contracts to the Board of Contract Appeals of the General Services Administration for resolution. Appeals will be handled in accordance with the Rules of the Board of Contract Appeals.

(f) [Reserved]

(g) The Managing Director, after consultation with the Chairman shall establish, renew, and terminate all Federal advisory committees. He shall also exercise all management responsibilities under the Federal Advisory Committee Act as amended (Pub. L. No. 92-463, 5 U.S.C. App.).

(h) [Reserved]

(i) The Secretary, acting under the supervision of the Managing Director, serves as the official custodian of the Commission's documents and shall have authority to appoint a deputy or deputies for the purposes of custody and certification of documents located in Gettysburg, Pennsylvania or other established locations. The Secretary is delegated authority to rule on requests for extensions of time based on operational problems associated with the Commission's electronic comment filing system. See §1.46 of this chapter.

CROSS REFERENCE: 47 CFR part 19, subpart E.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303; 18 U.S.C. 207(j); 39 U.S.C. 3220; Notice of Preliminary Guidelines issued by the Department of Justice, 50 FR 46622, November 8, 1985)

[29 FR 14666, Oct. 28, 1964]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.231, see the List of CFR Sections Affected in the Finding Aids section of this volume.

CHIEF ENGINEER

§0.241 Authority delegated.

(a) The performance of functions and activities described in §0.31 of this part is delegated to the Chief Engineer: *Provided*, That the following matters shall be referred to the Commission en banc for disposition:

(1) Notices of proposed rulemaking and of inquiry and final orders in rulemaking proceedings, inquiry proceedings and non-editorial orders making changes. See § 0.231(d).

(2) Petitions for review of actions taken to delegated authority. See § 1.115 of this chapter.

(3) Petitions and other requests for waivers of the Commission's rules, whether or not accompanied by an application, when such petitions or requests contain new or novel arguments not previously considered by the Commission or present facts or arguments which appear to justify a change in Commission policy.

(4) Petitions and other requests for declaratory rulings, when such petitions or requests contain new or novel arguments not previously considered by the Commission or preset facts or arguments which appear to justify a change in Commission policy.

(5) Any other petition, pleading or request presenting new or novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(6) Any other complaint or enforcement matter presenting new or novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(7) Authority to issued a notice of opportunity for hearing pursuant to § 1.80(g) of this chapter; and authority to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) of this chapter, if the amount set out in the notice of apparent liability is more than \$20,000.

(8) Proposed actions following any case remanded by the courts.

(b) The Chief Engineer is delegated authority to administer the Equipment Authorization program as described in part 2 of the Commission's Rules.

(c) The Chief Engineer is delegated authority to administer the Experimental Radio Service program pursuant to part 5 of the Commission's Rules.

(d) The Chief engineer is delegated authority to examine all applications for certification (approval) of subscription television technical systems as acceptable for use under a subscription

television authorization as provided for in this chapter, to notify the applicant that an examination of the certified technical information and data submitted in accordance with the provisions of this chapter indicates that the system does or does not appear to be acceptable for authorization as a subscription television system. This delegation shall be exercised in consultation with the Chief, Mass Media Bureau.

(e) The Chief Engineer is authorized to dismiss or deny petitions for rulemaking which are repetitive or moot or which, for other reasons plainly do not warrant consideration by the Commission.

(f) The Chief of the Office of Engineering and Technology is authorized to enter into agreements with the National Institute of Standards and Technology and other accreditation bodies to perform accreditation of test laboratories pursuant to § 2.948(d) of this chapter. In addition, the Chief is authorized to make determinations regarding the continued acceptability of individual accrediting organizations and accredited laboratories.

[51 FR 41106, Nov. 13, 1986, as amended at 57 FR 18088, Apr. 29, 1992; 60 FR 5324, Jan. 27, 1995; 60 FR 32119, June 20, 1995; 61 FR 4918, Feb. 9, 1996; 61 FR 31045, June 19, 1996; 62 FR 48952, Sept. 18, 1997]

§ 0.247 Record of actions taken.

The application and authorization files and other appropriate files of the Office of Engineering and Technology are designated as the official minute entries of actions taken pursuant to §§ 0.241 and 0.243.

[33 FR 8228, June 1, 1968, as amended at 44 FR 39179, July 5, 1979; 51 FR 12615, Apr. 14, 1986]

GENERAL COUNSEL

§ 0.251 Authority delegated.

(a) The General Counsel is delegated authority to act as the "designated agency ethics official."

(b) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the General Counsel is delegated authority:

(1) To act upon requests for extension of time within which briefs, comments or pleadings may be filed.

(2) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(3) To dismiss or deny petitions for rulemaking which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

(4) To dismiss as repetitious any petition for reconsideration of a Commission order denying an application for review which fails to rely on new facts or changed circumstances.

(c) The General Counsel is delegated authority in adjudicatory hearing proceedings which are pending before the Commission en banc to act on all requests for relief, and to issue all appropriate orders, except those which involve final disposition on the merits of a previously specified issue concerning an applicant's basic qualifications or two or more applicants' comparative qualifications.

(d) When an adjudicatory proceeding is before the Commission for the issuance of a final order or decision, the General Counsel will make every effort to submit a draft order or decision for Commission consideration within four months of the filing of the last responsive pleading. If the Commission is unable to adopt an order or decision in such cases within five months of the last responsive pleading, it shall issue an order indicating that additional time will be required to resolve the case.

(e) The official record of all actions taken by the General Counsel pursuant to §0.251 (c) and (d) is contained in the original docket folder, which is maintained by the Secretary in the Dockets Branch.

(f) The General Counsel is delegated authority to issue written determinations on behalf of the Chairman, and otherwise act as the Chairman's designee on matters regarding the interception of telephone conversations, as required by the General Services Administration's regulations. 41 CFR 201-6.202 *et seq.*

(g) The General Counsel is delegated authority to act upon any application for a determination of exempt telecommunications company status filed pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 103 of the Telecommunications Act of 1996.

(h) The General Counsel is delegated authority to issue rulings on whether violations of the *ex parte* rules have occurred.

(i) The General Counsel is delegated authority to make determinations regarding and waive the applicability of section 4(b) of the Communications Act (47 U.S.C. §154(b)) and the Federal conflict of interest statutes (18 U.S.C. §§203, 205 and 208).

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

[28 FR 12402, Nov. 22, 1963, as amended at 31 FR 3074, Feb. 24, 1966; 31 FR 4456, Mar. 16, 1966; 31 FR 11756, Sept. 8, 1966; 31 FR 13474, Oct. 19, 1966; 44 FR 60294, Oct. 19, 1979; 46 FR 57050, Nov. 20, 1981; 47 FR 16032, Apr. 14, 1982; 48 FR 57133, Dec. 28, 1983; 49 FR 47604, Dec. 6, 1984; 50 FR 85, Jan. 2, 1985; 50 FR 49048, Nov. 29, 1985; 56 FR 792, Jan. 9, 1991; 57 FR 19387, May 6, 1992; 59 FR 39703, Aug. 4, 1994; 60 FR 34902, July 5, 1995; 61 FR 26464, May 28, 1996; 61 FR 29311, June 10, 1996; 62 FR 15853, Apr. 3, 1997; 62 FR 24055, May 2, 1997; 62 FR 51052, Sept. 30, 1997]

INTERNATIONAL BUREAU

SOURCE: Sections 0.261 and 0.262 appear at 60 FR 5324, Jan. 27, 1995, unless otherwise noted.

§0.261 Authority delegated.

(a) Subject to the limitations set forth in paragraph (b) of this section, the Chief, International Bureau, is hereby delegated the authority to perform the functions and activities described in §0.51, including without limitation the following:

(1) To recommend rulemakings, studies, and analyses (legal, engineering, social, and economic) of various petitions for policy or rule changes submitted by industry or the public, and to assist the Commission in conducting the same;

(2) To assume the principal representational role on behalf of the Commission in international conferences, meetings, and negotiations, and direct Commission preparation for such conferences, meetings, and negotiations with other bureaus and offices, as appropriate;

(3) To act upon applications for international telecommunications facilities and services pursuant to part 23 of this chapter and relevant portions of part 63 of this chapter, and coordinate with the Common Carrier Bureau as appropriate;

(4) To act upon applications for international and domestic satellite systems and earth stations pursuant to part 25 and part 100 of this chapter;

(5) To act upon applications for cable landing licenses pursuant to §1.767 of this chapter;

(6) To act upon requests for designation of Recognized Private Operating Agency (RPOA) status under part 63 of this chapter;

(7) To act upon applications relating to international broadcast station operations, or for permission to deliver programming to foreign stations, under part 73 of this chapter;

(8) To administer and enforce the policies and rules on international settlements under part 64 of this chapter;

(9) To administer portions of part 2 of this chapter dealing with international treaties and call sign provisions, and to make call sign assignments, individually and in blocks, to U.S. Government agencies and FCC operating bureaus;

(10) To act upon applications for closure of public coast stations in the maritime service under part 63 of this chapter and to coordinate its efforts with the Wireless Telecommunications Bureau.

(11) To administer Commission participation in the International Telecommunication Union (ITU) Fellowship telecommunication training program for foreign officials offered through the U.S. Telecommunications Training Institute;

(12) In consultation with the affected Bureaus and Offices, to recommend revision of Commission rules and procedures as appropriate to conform to the

outcomes of international conferences, agreements, or treaties;

(13) To notify the ITU of the United States' terrestrial and satellite assignments for inclusion in the Master International Frequency Register;

(14) To conduct studies and compile such data relating to international telecommunications as may be necessary for the Commission to develop and maintain an adequate regulatory program; and

(15) To interpret and enforce rules and regulations pertaining to matters under its jurisdiction.

(b) Notwithstanding the authority delegated in paragraph (a) of this section, the Chief, International Bureau, shall not have authority:

(1) To act on any application, petition, pleading, complaint, enforcement matter, or other request that:

(i) Presents new or novel arguments not previously considered by the Commission;

(ii) Presents facts or arguments which appear to justify a change in Commission policy; or

(iii) Cannot be resolved under outstanding precedents and guidelines after consultation with appropriate Bureaus or Offices.

(2) To issue notices of proposed rulemaking, notices of inquiry, or reports or orders arising from rulemaking or inquiry proceedings;

(3) To act upon any application for review of actions taken by the Chief, International Bureau, pursuant to delegated authority, which application complies with §1.115 of this chapter;

(4) To act upon any formal or informal radio application or section 214 application for common carrier services which is in hearing status;

(5) To designate for hearing any applications except:

(i) Mutually exclusive applications for radio facilities filed pursuant to parts 23, 25, 73, or 100 of this chapter; and

(ii) Applications for facilities where the issues presented relate solely to whether the applicant has complied with outstanding precedents and guidelines; or

(6) To impose, reduce, or cancel forfeitures pursuant to section 203 or section 503(b) of the Communications Act

of 1934, as amended, in amounts of more than \$80,000 for common carrier providers and \$20,000 for non-common carrier providers.

[60 FR 5324, Jan. 27, 1995, as amended at 60 FR 35506, July 10, 1995]

§0.262 Record of actions taken.

The application and authorization files in the appropriate central files of the International Bureau are designated as the Commission's official records of actions by the Chief, International Bureau, pursuant to authority delegated to him.

OFFICE OF PLANS AND POLICY

§0.271 Authority delegated.

(a) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the Chief, Office of Plans and Policy is delegated authority to deny requests or to extend the time within which comments may be filed in dockets over which the Office of Plans and Policy has primary authority.

(b) [Reserved]

[45 FR 10347, Feb. 15, 1980]

CHIEF, MASS MEDIA BUREAU

§0.283 Authority delegated.

The performance of functions and activities described in §0.61 of this part is delegated to the Chief, Mass Media Bureau: Provided, That the following matters shall be referred by the Chief, Mass Media Bureau to the Commission en banc for disposition:

(a) *Applications.* Formal and informal applications for new or modified facilities, and for the renewal, assignment, and transfer of construction permits and licenses involving such facilities, when such applications fail to satisfy the requirements of Commission rules or established Commission policy in the following areas of special concern:

(1) *Multiple ownership, concentration of control, and cross-interests.* (i) Acquisition of a third broadcast station or modification of facilities if such would result in the common ownership of three broadcast stations where any two are within 100 miles of a third and primary service contour overlap would

occur; "one-to-a-market" situations involving UHF stations or TV satellite stations; and duopoly situations involving TV satellite stations. (Commonly owned AM and FM stations in the same market are treated as one station for the purpose of the "third station" limitations.)

(ii) Acquisition of a broadcast station by a newspaper in the same area, or other organization having substantial interests in the print media in the same area.

(iii) Creation of common ownership interests, management ties, or employment relationships between licensees serving substantial common areas and populations. Commonality of areas and populations served shall be determined in duopoly situations by overlap of the following service contours: AM—1 mVm; FM—1 mVm; and TV—Grade B. In "one-to-a-market" situations, commonality of areas and populations served shall be determined by community encompassment with the following service contours: AM—2 mVm; FM—1 mVm; and TV—Grade A.

(iv) Acquisition of broadcast properties by corporations or individuals appearing to dominate the economic life of the community.

(2) *Anti-trust activity, unfair trade practices, and violations of law not previously considered by the Commission.* (i) Proposals by applicants against whom communications-related anti-trust suits are pending or against whom there is pending any anti-trust suit in which an adverse verdict has been reached.

(ii) Proposals by applicants who have entered into a consent decree, have pleaded guilty or nolo contendere, or have been adjudged guilty in an anti-trust case during the three-year period preceding the filing of the application.

(iii) Proposals by applicants who have been the subject of a final cease and desist or consent order issued by the Federal Trade Commission during the three-year period preceding the filing of the application.

(iv) Proposals by applicants or including parties with felony or capital offense conviction records, or against whom a criminal proceeding is pending.

(3) *Violations and complaint matters.* Proposals filed by applicants against whom violation notices of a serious nature are outstanding or against whom questions suggesting serious misconduct remain unresolved, or by applicants with records of serious past misconduct.

(4) *Equal employment opportunities.* Proposals filed by applicants whose equal employment opportunities programs do not comply with Commission rules or policies and cannot be cleared by further staff inquiry or action, or whose past performance suggests the existence of discriminatory practices.

(5) *Short term licenses and renewals.* Proposals which in the opinion of the Chief, Mass Media Bureau, warrant the issuance of a short-term license or renewal authorization.

(6) [Reserved]

(7) *Programming: Program content and ascertainment of community needs.* (i) Applications for new stations or assignments and transfers.

(A) Commercial AM and FM proposals and commercial TV proposals of applicants for new stations and of assignees and transfers that have not submitted a narrative statement of their proposed programming.

(8) [Reserved]

(9) *Hearing orders.* (i) Mutually exclusive applications not in the Instructional Television Fixed Service, including renewal and construction permit applications, involving non-routine hearing issues.

(ii) Other renewal and assignment and transfer applications which appear to call for an evidentiary hearing.

(iii) Such other applications, as in the opinion of the Chief, Mass Media Bureau, warrant referral to the Commission prior to designation for hearing.

(10) *Interference and mileage separations.* Proposals for new or modified AM, FM, and TV facilities which would create substantial new prohibited overlap or station separation shortages. In the case of AM proposals (other than Class IV), a net increase in objectionable interference to another AM station involving more than 1 percent of the population served by such other station, whether or not consented to by

the station affected, shall be referred to the Commission.

(11) *VHF television expansion.* Commercial VHF television proposals seeking to bring or extend their Grade B contours into a significant area or population included within the predicted Grade B contour of a UHF television station where the area or population involved is covered by fewer than 4 VHF television signals.

(12) *Agreements to amend or dismiss applications.* Any situation in which a community will be deprived of a proposed broadcast station by reason of amendment or dismissal of an application mutually exclusive with another application for a different community.

(13) *Experimental and developmental operation.* Proposals for experimental and developmental authority containing policy implications which, in the opinion of the Chief, Mass Media Bureau, warrant referral to the Commission.

(14) *Miscellaneous applications and requests.* (i) Proposals for special temporary, emergency, conditional, or interim operating authority of more than routine significance.

(ii) Any other application, proposals, or request presenting novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(b) *Petitions and other requests for Commission action.* (1) Petitions to deny, informal objections, and other petitions, directed against AM, FM, and TV applications for new or modified facilities, or for renewal, assignment or transfer of control, will be referred to the Commission if they: (i) Contain new or novel issues not previously considered by the Commission, (ii) appear to justify a change in Commission policy; or (iii) present documented allegations of failure to comply with the Commission's Equal Employment Opportunity rules and policies, or the applicant in question falls outside the applicable processing criteria in its employment of women and minorities.

(2) Petitions and other requests for reconsideration of actions taken by the Chief, Mass Media Bureau, when such petitions or requests contain new or novel arguments not previously considered by the Commission, present facts

or arguments which appear to justify a change in Commission policy, or request reconsideration of orders designating cases for hearing.

(3) Applications for review of actions taken by the Chief, Mass Media Bureau, which comply with §1.115 of this chapter.

(4) Petitions and other requests for waiver of Commission rules, whether or not accompanied by an application, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(5) Petitions and other requests for declaratory rulings, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(6) Petitions for rulemaking which have been accepted under §1.403, and final dispositions of rulemaking proceedings not involving routine changes in the FM and TV Tables of Assignments.

(7) Petitions and other requests for waiver of the prime-time access rule, in areas where Commission policy is not clearly established.

(8) Petitions and other requests for long-term waiver of the policy limiting affiliations by commonly owned networks in the same market.

(9) Petitions and other requests for waiver of the sponsorship identification provisions of the Communications Act, in accordance with section 317(d) thereof.

(10) Any other petition, pleading, or request presenting novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(c) *Administration and enforcement.* (1) Proposed orders to show cause why station licenses or construction permits should not be revoked.

(2) Proposed actions following any case remanded by the courts.

(3) Notices of opportunity for hearing pursuant to §1.80(g) of this chapter, and notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under

§1.80(f) of this chapter if the amount set out in the notice of apparent liability is more than \$20,000, except that all forfeiture matters relating to the Commission's equal employment opportunity rules shall be referred to the Commission.

(4) Proposed public notices expressing Commission policy, interpreting the provisions of law, regulations, or treaties, or warning the broadcast industry as to certain types of violations.

(5) Problems involving apparent violation of the Commission's rules governing equal employment opportunities or otherwise indicating the existence of discriminatory practices which, in the opinion of the Chief, Mass Media Bureau, or the Equal Employment Opportunity Commission should be brought to the attention of FCC Commissioners.

(6) Any other complaint or enforcement matter presenting novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

[47 FR 47829, Oct. 28, 1982, as amended at 47 FR 55929, Dec. 14, 1982; 47 FR 58269, Dec. 30, 1982; 48 FR 24386, June 1, 1983; 49 FR 33603, Aug. 23, 1984; 57 FR 18088, Apr. 29, 1992; 61 FR 10689, Mar. 15, 1996]

§0.284 Actions taken under delegated authority.

(a) In discharging the authority conferred by §0.283 of this part, the Chief, Mass Media Bureau, shall establish working relationships with other bureaus and staff offices to assure the effective coordination of actions taken in the following areas of joint responsibility;

(1) Complaints arising under sections 315 and 605 of the Communications Act—Office of General Counsel.

(2) Objections to proposed call signs and requests for waiver of procedural rules governing call sign assignments—Office of Managing Director.

(3) Requests for waiver of tower painting and lighting specifications—Wireless Telecommunications Bureau.

(4) Matters involving emergency communications, including the issuance of Emergency Alert System Authorizations (FCC Form 392) Compliance and Information Bureau.

(5) Requests for use of frequencies or bands of frequencies shared with private sector nonbroadcast or government services—Office of Engineering and Technology and appropriate operating bureau.

(6) Requests involving coordination with other agencies of government—Office of General Counsel, Office of Engineering and Technology and appropriate operating bureau.

(7) Proposals involving transmitter sites on public lands owned or controlled by the Departments of Agriculture or Interior—Office of Engineering and Technology.

(8) Proposals involving possible harmful impact on radio astronomy or radio research installations—Office of Engineering and Technology.

(9) [Reserved]

(b) With respect to non-routine applications granted under authority delegated in §0.283 of this part, the Chief, Mass Media Bureau or his designees, shall enter on the working papers associated with each application a narrative justification of the action taken. While not available for public inspection, these working papers shall, upon request, be made available to the Commissioners and members of their staffs.

(c) The Chief, Mass Media Bureau, shall prepare and submit to the Commission a quarterly statistical summary of actions taken during the preceding quarter under authority delegated to him in §0.283 of this part. The statistical summary shall be accompanied by a statement of industry trends apparent in the staff handling of non-routine matters during the same quarter.

[47 FR 47829, Oct. 28, 1982; 47 FR 56852, Dec. 21, 1982, as amended at 51 FR 12615, Apr. 14, 1986; 52 FR 5288, Feb. 20, 1987; 53 FR 29055, Aug. 2, 1988; 59 FR 26971, May 25, 1994; 59 FR 32132, June 22, 1994; 59 FR 67092, Dec. 28, 1994; 61 FR 8477, Mar. 5, 1996]

§0.285 Record of actions taken.

The history card, the station file, and other appropriate files are designated to be the official record of the action taken by the Chief of the Mass Media Bureau.

[47 FR 47829, Oct. 28, 1982]

CHIEF, COMMON CARRIER BUREAU

§0.291 Authority delegated.

The Chief, Common Carrier Bureau, is hereby delegated authority to perform all functions of the Bureau, described in §0.91, subject to the following exceptions and limitations.

(a) *Authority concerning applications.*

(1) The Chief, Common Carrier Bureau shall not have authority to act on any formal or informal common carrier applications or section 214 applications for common carrier services which are in hearing status.

(2) The Chief, Common Carrier Bureau shall not have authority to act on any applications or requests which present novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.

(b) *Authority concerning section 220 of the Act.* The Chief, Common Carrier Bureau shall not have authority to promulgate regulations or orders prescribing permanent depreciation rates for common carriers, or to prescribe interim depreciation rates to be effective more than one year, pursuant to section 220 of the Communications Act of 1934, as amended.

(c) *Authority concerning section 221(a) of the Act.* (1) The Chief, Common Carrier Bureau shall not have authority to determine whether hearings shall be held on applications filed under section 221(a) of the Communications Act of 1934, as amended, where a request has been made by a telephone company, an association of telephone companies, a State Commission or local government authority.

(2) The Chief, Common Carrier Bureau shall not have authority to act upon applications filed under section 221(a) of the Communications Act of 1934, as amended, where the proposed expenditure for consolidation, acquisition or control is in excess of \$10 million.

(3) The Chief, Common Carrier Bureau shall not have authority to act upon any application, petition or request under section 221(a) of the Communications Act of 1934, as amended, which presents novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.

(d) *Authority to designate for hearing.* The Chief, Common Carrier Bureau shall not have authority to designate for hearing any formal complaints which present novel questions of law or policy which cannot be resolved under outstanding precedents or guidelines. The Chief, Common Carrier Bureau shall not have authority to designate for hearing any applications except applications for facilities where the issues presented relate solely to whether the applicant has complied with outstanding precedents and guidelines.

(e) *Authority concerning forfeitures.* The Chief, Common Carrier Bureau shall not have authority to impose, reduce or cancel forfeitures pursuant to Section 203 or Section 503(b) of the Communications Act of 1934, as amended, in amounts of more than \$80,000.

(f) *Authority concerning applications for review.* The Chief, Common Carrier Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Common Carrier Bureau, pursuant to any delegated authority.

(g) *Authority concerning rulemaking and investigatory proceedings.* The Chief, Common Carrier Bureau, shall not have authority to issue notices of proposed rulemaking, notices of inquiry, or reports or orders arising from either of the foregoing, except that the Chief, Common Carrier Bureau, shall have authority, in consultation and coordination with the Chief, International Bureau, to issue and revise a manual on the details of the reporting requirements for international carriers set forth in §43.61(d) of this chapter.

(h) *Authority concerning the issuance of subpoenas.* The Chief of the Common Carrier Bureau or her/his designee is authorized to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Common Carrier Bureau. Before issuing a subpoena, the Bureau

shall obtain the approval of the Office of General Counsel.

(Secs. 4, 5, 303, 48 Stat. 1066, 1068, 1082, as amended; 47 U.S.C. 154, 155, 303; secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1089; 47 U.S.C. 152, 153, 154, 155, 303, 307, 308, 309, 315, 317)

[44 FR 18501, Mar. 28, 1979; 44 FR 22078, Apr. 13, 1979, as amended at 45 FR 22945, Apr. 4, 1980; 45 FR 25399, Apr. 15, 1980; 45 FR 31723, May 14, 1980; 48 FR 23431, May 25, 1983; 49 FR 6908, Feb. 24, 1984; 50 FR 18489, May 1, 1985; 51 FR 13230, Apr. 18, 1986; 52 FR 35918, Sept. 24, 1987; 55 FR 30461, July 26, 1990; 57 FR 8579, Mar. 11, 1992; 57 FR 22181, May 27, 1992; 59 FR 66487, Dec. 27, 1994; 60 FR 5324, Jan. 27, 1995; 60 FR 35506, July 10, 1995; 61 FR 16230, Apr. 12, 1996; 63 FR 1035, Jan. 7, 1998]

§0.301 [Reserved]

§0.302 Record of actions taken.

The application and authorization files in the appropriate central files of the Common Carrier Bureau are designated as the Commission's official records of actions by the Chief, Common Carrier Bureau pursuant to authority delegated to the Chief.

[60 FR 35506, July 10, 1995]

§0.303 Authority concerning registration of telephone terminal equipment.

Authority is delegated to the Chief of the Common Carrier Bureau jointly in cooperation with the Chief Engineer to act upon applications for registration of equipment to be directly connected to the telephone network; *Provided, however,* That the Chief, Common Carrier Bureau shall exercise overall policy direction of the program, with appropriate consultation with the Chief Engineer (For record of actions taken under this section, see §0.247).

(Secs. 4, 5, 303, 48 Stat. 1066, 1068, 1082, as amended; 47 U.S.C. 154, 155, 303)

[41 FR 7750, Feb. 20, 1976. Redesignated at 44 FR 18501, Mar. 28, 1979, and amended at 44 FR 39180, July 5, 1979; 51 FR 12615, Apr. 14, 1986]

COMPLIANCE AND INFORMATION BUREAU

§0.311 Authority delegated.

The performance of functions and activities described in §0.111 is delegated

to the Chief, Compliance and Information Bureau, provided that:

(a) The following matters shall be referred by the Chief, Compliance and Information Bureau to the Commission en banc for disposition:

(1) Notices of proposed rulemaking and of inquiry and final orders in rulemaking and inquiry proceedings.

(2) Applications for review of actions taken pursuant to delegated authority. (See §1.115 of this chapter).

(3) Petitions and other requests for waiver of Commission rules, whether or not accompanied by an application, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(4) Petitions and other requests for declaratory rulings, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(5) Any other petition, pleading, or request presenting new or novel questions of fact, law, or policy, which cannot be resolved under outstanding precedents and guidelines after consultation with appropriate Bureaus or offices.

(6) Any other complaint or enforcement matter presenting new or novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines after consultation with appropriate Bureaus or offices.

(b) The Chief and the Deputy Chief of the Compliance and Information Bureau are authorized to declare that a state of general communications emergency exists and to act on behalf of the Commission pursuant to the provision of §97.107 of this chapter with respect to the operation of amateur stations during a state of general communications emergency.

(c) Rulings and orders concerning radio operator matters in a hearing status shall not be made by the Chief, Compliance and Information Bureau.

(d)(1) The Chief of the Compliance and Information Bureau is authorized to issue notices of apparent liability,

final forfeiture orders, and orders cancelling or reducing forfeitures, pursuant to §1.80 of this chapter, if the amount set out in the notice of apparent liability is \$20,000 or less. The Chief of the Compliance and Information Bureau is authorized to further delegate this authority.

(2) The Chief of the Compliance and Information Bureau is authorized to issue citations pursuant to §1.80(d) of this chapter and to further delegate this authority.

(e) The Chief of the Compliance and Information Bureau is authorized to make determinations and notifications of the presence of harmful interference to radio communications involving safety of life or protection of property which requires temporary suspension of operation under §74.23 of this chapter. Upon invoking the authority granted pursuant to this section, the Chief of the Compliance and Information Bureau shall immediately inform the Chairman of the Commission.

(f) The Chief, Compliance and Information Bureau, is authorized to issue non-hearing related subpoenas for the production of books, papers, correspondence, memoranda, and other records relating to investigations under the authority of the Communications Act of 1934, as amended. Before issuing a subpoena, the bureau shall obtain the approval of the Office of General Counsel.

(g) The Chief, Compliance and Information Bureau is delegated authority to grant waivers of the requirements of part 11 of this chapter to participants required to install, operate or test Emergency Alert System (EAS) equipment. The Chief, Compliance and Information Bureau is further authorized to delegate this authority. Waiver requests must be made in writing and forwarded to the FCC's EAS office 1919 M Street NW., Washington, DC 20554. Such requests must state the reason why the waiver is necessary and provide sufficient information such as, statements of fact regarding the financial status of the broadcast station, the number of other broadcast stations providing coverage in its service area or the likelihood of hazardous risks to justify a grant of the waiver.

(h) The Chief, Compliance and Information Bureau is delegated authority to execute in the name of the Commission all agreements pertaining to the loan of United States Government property to broadcast stations or other entities participating in the Emergency Alert System (EAS) for national defense purposes. The Chief, Compliance and Information Bureau is authorized to delegate this authority.

(i)(1) The Chief of the Compliance and Information Bureau is authorized to rely on reports, documents or log entries made by the holder of an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate as certification that the vessel complies with requirements of Articles XI, XII, and XIII of the Great Lakes Agreement. The Chief, Compliance and Information Bureau is authorized to delegate this authority.

(2) The Chief of the Compliance and Information Bureau is authorized to rely on reports, documents, or log entries made by the holder of an FCC license or Certificate—detailed in §80.59 of this Chapter—as certification that a U.S. vessel required to be equipped with a radio installation and inspected by the Commission or an entity designated by the Commission, under the Safety Convention or subparts Q, R, S, U, or W of part 80 of this chapter meets such inspection requirements. The Chief, Compliance and Information Bureau is further authorized to delegate this authority.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[40 FR 17254, Apr. 18, 1975, as amended at 47 FR 1395, Jan. 13, 1982; 48 FR 37414, Aug. 18, 1983; 50 FR 37189, Sept. 12, 1985; 57 FR 18088, Apr. 29, 1992; 58 FR 13020, Mar. 9, 1993; 58 FR 68053, Dec. 23, 1993; 59 FR 26971, May 25, 1994; 59 FR 67092, Dec. 28, 1994; 60 FR 31256, June 14, 1995; 60 FR 35506, July 10, 1995; 60 FR 55998, Nov. 6, 1995; 60 FR 61662, Dec. 1, 1995; 61 FR 8477, Mar. 5, 1996; 61 FR 25805, May 23, 1996; 63 FR 29658, June 1, 1998]

§0.314 Additional authority delegated.

The Engineer in Charge at each installation is delegated authority to act upon applications, requests, or other

matters, which are not in hearing status, and direct the following activities necessary to conduct investigations or inspections:

(a)–(b) [Reserved]

(c) On informal requests from broadcast stations to extend temporary authority for operation without monitors, plate ammeter, plate voltmeter, base current meter, common point meter, and transmission line meter from FM and television stations.

(d) [Reserved]

(e)(1) For periodic survey as required by section 385 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and issuance of Communications Act radiotelephony certificates in accordance with §80.903 of this chapter. The District Director or Resident Agent will require that the inspection be conducted by an FCC-licensed technician holding an appropriate class of FCC license in accordance with §80.59 of this chapter.

(2) Extend the Communications Act Safety Radiotelephony Certificate for a period of up to 90 days beyond the specified expiration date.

(3) Grant emergency exemption requests, extensions or waivers of inspection to ships in accordance with applicable provisions of the Communications Act, the Safety Convention, the Great Lakes Agreement or the Commission's rules.

(f) [Reserved]

(g) To act on and make determinations on behalf of the Commission regarding requests for assignments and reassignments of priorities under the Telecommunications Service Priority System, Part 64 of the rules, when circumstances require immediate action and the common carrier seeking to provide service states that it cannot contact the National Communications System or the Commission office normally responsible for such assignments.

(h) Require special equipment and program tests during inspections or investigations to determine compliance with technical requirements specified by the Commission.

(i) Require stations to operate with pre-sunrise and nighttime facilities during daytime hours in order that an

inspection or investigation may be made by an authorized Commission representative to determine operating parameters.

(j) For ship radio inspection and certification of the ship radio license, pursuant to the requirements of Section 362(b) and 385 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. The District Director or Resident Agent will require that the inspection be conducted by an FCC-licensed technician holding an appropriate class of FCC license in accordance with §80.59 of this chapter.

(k) Issue a Safety Radiotelegraphy Certificate or a Safety Radiotelephony Certificate in accordance with the terms of Regulations 12 and 13, Chapter I, of the Safety Convention.

(l) For inspection or periodical survey as required by Article XII of the Great Lakes Agreement and certification prescribed by Article XIII thereof. The District Director may require that the inspection be conducted by an FCC-licensed technician holding an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate.

(m) Issuances of notices and orders to operators of industrial, scientific, and medical (ISM) equipment, as provided in §18.115 of this chapter.

(n) Requests for permission to resume operation of ISM equipment on a temporary basis, as provided by §18.115 of this chapter, and requests for extensions of time within which to file final reports, as provided by §18.117 of this chapter.

(o)-(w) [Reserved]

(x) When deemed necessary by the Engineer-in-Charge of a Commission field facility to assure compliance with the Rules, a station licensee shall maintain a record of such operating and maintenance records as may be necessary to resolve conditions of in-

terference or deficient technical operation.

(Secs. 4, 5, 303, 307, 308, 309, 48 Stat., as amended, 1066, 1068, 1082, 1083, 1084, 1085; 47 U.S.C. 154, 303, 307, 308, 309)

[28 FR 12402, Nov. 22, 1963, as amended at 36 FR 8871, May 14, 1971; 40 FR 17254, Apr. 18, 1975; 42 FR 3167, Jan. 17, 1977; 43 FR 25122, June 9, 1978; 46 FR 35460, July 8, 1981; 48 FR 23432, May 25, 1983; 48 FR 26607, June 9, 1983; 48 FR 37414, Aug. 18, 1983; 50 FR 36067, Sept. 5, 1985; 51 FR 20290, June 4, 1986; 51 FR 31304, Sept. 2, 1986; 53 FR 29055, Aug. 2, 1988; 53 FR 47536, Nov. 23, 1988; 58 FR 13020, Mar. 9, 1993; 61 FR 25805, May 23, 1996; 63 FR 29658, June 1, 1998]

§0.317 Record of action taken.

The application, authorization, and other appropriate central files of the Compliance and Information Bureau are designated as the Commission's official records of action taken pursuant to authority delegated under §§0.311 and 0.314, and shall constitute the official Commission minutes entry of such actions.

[40 FR 17254, Apr. 18, 1975, as amended at 61 FR 8477, Mar. 5, 1996]

CABLE SERVICES BUREAU

§0.321 Authority delegated.

The Chief, Cable Services Bureau is delegated authority to perform all functions of the Bureau, described in §0.101, subject to the following exceptions and limitations:

(a) Designate for hearing any formal complaints that present novel questions of fact, law or policy that cannot be resolved under existing precedents for guidelines;

(b) Impose, reduce, or cancel forfeitures pursuant to section 503(b) of the Communications Act of 1934, as amended, in amounts of more than \$20,000;

(c) Act upon any applications for review of actions taken by the Chief, Cable Services Bureau pursuant to any delegated authority which comply with §1.115 of this chapter;

(d) Issue notices of proposed rule-making, notices of inquiry or to issue report and orders arising from either of

§0.325

the foregoing, except that the Chief, Cable Services Bureau shall have authority to issue notices of rulemaking and report and orders redesignating market areas in accordance with section 614(f) of the Communications Act of 1934, as amended; and

(e) Act on any applications in the Cable Television Relay Service that present novel questions of fact, law, or policy that cannot be resolved under existing precedents and guidelines.

[62 FR 8401, Feb. 25, 1997]

§0.325 Record of actions taken.

The original file, the station file, and other appropriate files are designated to be the official record of the action taken by the Chief of the Cable Services Bureau.

[59 FR 32132, June 22, 1994]

WIRELESS TELECOMMUNICATIONS
BUREAU

§0.331 Authority delegated.

The Chief, Wireless Telecommunications Bureau, is hereby delegated authority to perform all functions of the Bureau, described in §0.131, subject to the following exceptions and limitations.

(a) *Authority concerning applications.*

(1) The Chief, Wireless Telecommunications Bureau shall not have authority to act on any radio applications that are in hearing status.

(2) The Chief, Wireless Telecommunications Bureau shall not have authority to act on any complaints, petitions or requests, whether or not accompanied by an application, when such complaints, petitions or requests present new or novel questions of law or policy which cannot be resolved under outstanding Commission precedents and guidelines.

(b) *Authority concerning forfeitures and penalties.* The Chief, Wireless Telecommunications Bureau, shall not have authority to impose, reduce, or cancel forfeitures pursuant to the Communications Act of 1934, as amended, and imposed under regulations in this chapter in amounts of more than \$80,000 for commercial radio providers and \$20,000 for private radio providers. Payments for bid withdrawal, default

or to prevent unjust enrichment that are imposed pursuant to Section 309(j) of the Communications Act of 1934, as amended, and regulations in this chapter implementing Section 309(j) governing auction authority, are excluded from this restriction.

(c) *Authority concerning applications for review.* The Chief, Wireless Telecommunications Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Wireless Telecommunications Bureau pursuant to any delegated authority, except that the Chief may dismiss any such application that does not comply with the filing requirements of §1.115 (d) and (f) of this chapter.

(d) *Authority concerning rulemaking proceedings.* The Chief, Wireless Telecommunications Bureau shall not have the authority to act upon notices of proposed rulemaking and inquiry, final orders in rulemaking proceedings and inquiry proceedings, and reports arising from any of the foregoing except such orders involving ministerial conforming amendments to rule parts, or orders conforming any of the applicable rules to formally adopted international conventions or agreements where novel questions of fact, law, or policy are not involved. Also, the addition of new Marine VHF frequency coordination committee(s) to §80.514 of this chapter need not be referred to the Commission if they do not involve novel questions of fact, policy or law, as well as requests by the United States Coast Guard to:

(1) Designate radio protection areas for mandatory Vessel Traffic Services (VTS) and establish marine channels as VTS frequencies for these areas; or

(2) Designate regions for shared commercial and non-commercial vessel use of VHF marine frequencies.

[60 FR 35506, July 10, 1995, as amended at 61 FR 26465, May 28, 1996; 62 FR 40285, July 28, 1997]

§0.332 Actions taken under delegated authority.

In discharging the authority conferred by §0.331, the Chief, Wireless Telecommunications Bureau, shall establish working relationships with

other bureaus and staff offices to assure the effective coordination of actions taken in the following areas of joint responsibility:

(a) Complaints arising under section 605 of the Communications Act—Office of General Counsel.

(b) Requests for waiver of tower painting and lighting specifications—Compliance and Information Bureau.

(c) Matters involving emergency communications—Compliance and Information Bureau.

(d) Complaints involving equal employment opportunities—Office of General Counsel.

(e) Requests for use of frequencies or bands of frequencies shared with broadcast, common carrier, or government services—Office of Engineering and Technology and appropriate operating bureau.

(f) Requests involving coordination with other Federal or state agencies when appropriate—Office of General Counsel, Office of Engineering and Technology or operating bureau.

(g) Proposals involving possible harmful impact on radio astronomy or radio research installations—Office of Engineering and Technology.

[40 FR 4423, Jan. 30, 1975, as amended at 44 FR 11070, Feb. 27, 1979; 44 FR 39180, July 5, 1979; 50 FR 27953, July 9, 1985; 51 FR 12615, Apr. 14, 1986; 51 FR 20290, June 4, 1986; 52 FR 5288, Feb. 20, 1987; 59 FR 26971, May 25, 1994; 60 FR 5325, Jan. 27, 1995; 60 FR 35507, July 10, 1995; 61 FR 8477, Mar. 5, 1996]

§§ 0.333–0.337 [Reserved]

ADMINISTRATIVE LAW JUDGES

§ 0.341 Authority of administrative law judge.

(a) After an administrative law judge has been designated to preside at a hearing and until he has issued an initial decision or certified the record to the Commission for decision, or the proceeding has been transferred to another administrative law judge, all motions, petitions and other pleadings shall be acted upon by such administrative law judge, except the following:

(1) Those which are to be acted upon by the Commission. See § 1.291(a)(1) of this chapter.

(2) Those which are to be acted upon by the Chief Administrative Law Judge under § 0.351.

(b) Any question which would be acted upon by the administrative law judge if it were raised by the parties to the proceeding may be raised and acted upon by the administrative law judge on his own motion.

(c) Any question which would be acted upon by the Chief Administrative Law Judge or the Commission, if it were raised by the parties, may be certified by the administrative law judge, on his own motion, to the Chief Administrative Law Judge, or the Commission, as the case may be.

(d) In the conduct of routine broadcast comparative hearings involving applicants for only new facilities, i.e., cases that do not involve numerous applicants and/or motions to enlarge issues, the presiding administrative law judge shall make every effort to conclude the case within nine months of the release of the hearing designation order. In so doing, the presiding judge will make every effort to release an initial decision in such cases within 90 days of the filing of the last responsive pleading.

(e) Upon assignment by the Chief Administrative Law Judge, Administrative Law Judges, including the Chief Judge, will act as settlement judges in appropriate cases. See 47 CFR 1.244 of this chapter.

[29 FR 6442, May 16, 1964, as amended at 37 FR 19372, Sept. 20, 1972; 41 FR 14870, Apr. 8, 1976; 56 FR 792, Jan. 9, 1991; 62 FR 4170, Jan. 29, 1997]

§ 0.347 Record of actions taken.

The official record of all actions taken by an Administrative Law Judge, including initial and recommended decisions and actions taken pursuant to § 0.341, is contained in the original docket folder, which is maintained by the Secretary in the Dockets Branch.

[39 FR 37061, Oct. 17, 1974]

CHIEF ADMINISTRATIVE LAW JUDGE

§ 0.351 Authority delegated.

The Chief Administrative Law Judge shall act on the following matters in

§0.357

proceedings conducted by hearing examiners:

(a) Initial specifications of the time and place of hearings where not otherwise specified by the Commission and excepting actions under authority delegated by §0.296.

(b) Designation of the hearing examiner to preside at hearings.

(c) Orders directing the parties or their attorneys to appear at a specified time and place before the hearing examiner for an initial prehearing conference in accordance with §1.251(a) of this chapter. (The administrative law judge named to preside at the hearing may order an initial prehearing conference although the Chief Administrative Law Judge may not have seen fit to do so and may order supplementary prehearing conferences in accordance with §1.251(b) of this chapter.)

(d) Petitions requesting a change in the place of hearing where the hearing is scheduled to begin in the District of Columbia or where the hearing is scheduled to begin at a field location and all appropriate proceedings at that location have not been completed. (See §1.253 of this chapter.) However, if all parties to a proceeding concur in holding all hearing sessions in the District of Columbia rather than at any field location, the presiding administrative law judge may act on the request.

(e) In the absence of the administrative law judge who has been designated to preside in a proceeding, to discharge the administrative law judge's functions.

(f) All pleadings filed, or matters which arise, after a proceeding has been designated for hearing, but before a law judge has been designated, which would otherwise be acted upon by the law judge, including all pleadings filed, or matters which arise, in cease and desist and/or revocation proceedings prior to the designation of a presiding officer.

(g) All pleadings (such as motions for extension of time) which are related to matters to be acted upon by the Chief Administrative Law Judge.

(h) If the administrative law judge designated to preside at a hearing becomes unavailable, to order a rehearing or to order that the hearing continue before another administrative law

judge and, in either case, to designate the judge who is to preside.

(i) The consolidation of related proceedings pursuant to §1.227(a) of this chapter, after designation of those proceedings for hearing.

[29 FR 6443, May 16, 1964, as amended at 37 FR 19372, Sept. 20, 1972; 38 FR 30559, Nov. 6, 1973; 43 FR 49307, Oct. 23, 1978; 44 FR 76295, Dec. 26, 1979]

§0.357 Record of actions taken.

The official record of all actions taken by the Chief Administrative Law Judge in docketed proceedings pursuant to §0.351 is contained in the original docket folder, which is maintained by the Secretary in the Dockets Branch.

[39 FR 37061, Oct. 17, 1974]

NATIONAL SECURITY AND EMERGENCY
PREPAREDNESS DELEGATIONS

§0.381 Defense Commissioner.

The authority delegated to the Commission under Executive Order 11490 is redelegated to the Defense Commissioner.

[41 FR 31210, July 27, 1976]

§0.383 Emergency Relocation Board, authority delegated.

(a) During any period in which the Commission is unable to function because of the circumstances set forth in §0.186(b), all work, business or functions of the Federal Communications Commission arising under the Communications Act of 1934, as amended, is assigned and referred to the Emergency Relocation Board.

(b) The Board, acting by a majority thereof, shall have the power and authority to hear and determine, order, certify, report or otherwise act as to any of the said work, business or functions so assigned or referred to it, and in respect thereof shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations.

(c) Any order, decision or report made or other action taken by the said Board in respect of any matters so assigned or referred shall have the same

Federal Communications Commission

§ 0.401

effect and force, and may be made, evidenced, and enforced in the same manner, as if made or taken by the Commission.

[28 FR 12402, Nov. 22, 1963, as amended at 33 FR 8228, June 1, 1968; 53 FR 29055, Aug. 2, 1988]

§ 0.387 Other national security and emergency preparedness delegations; cross reference.

(a) For authority of the Chief of the Mass Media Bureau to issue Emergency Broadcast System Authorizations (FCC Form 392), see §§ 0.284(a)(4) and 73.913.

(b) For authority of the Chief and Deputy Chief of the Compliance and Information Bureau to declare a general communications emergency, see § 0.311.

[28 FR 12411, Nov. 22, 1963, as amended at 40 FR 17254, Apr. 18, 1975; 53 FR 29055, Aug. 2, 1988; 54 FR 15195, Apr. 17, 1989; 61 FR 8477, Mar. 5, 1996]

OFFICE OF WORKPLACE DIVERSITY

§ 0.391 Authority delegated.

The Director, Office of Workplace Diversity, or his/her designee, is hereby delegated authority to:

(a) Manage the Commission's internal EEO compliance program pursuant to Title VII of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Equal Pay Act, and other applicable laws, rules, regulations, and Executive Orders, with authority that includes appointing EEO counselors, investigators, and mediators; investigating complaints of employment discrimination, and recommending to the Chairman final agency decisions on EEO complaints;

(b) Mediate EEO complaints;

(c) Develop the Commission's affirmative action goals and objectives;

(d) Collect and analyze data on the Commission's affirmative action and EEO activities and accomplishments;

(e) Prepare and release reports on EEO, affirmative action, workplace diversity, and related subjects;

(f) Review personnel activities, including hiring, promotions, discipline, training, awards, and performance recognition for conformance with EEO

and workplace diversity goals, objectives and requirements;

(g) Conduct studies and collect data on workplace diversity issues and problems;

(h) Assume representational role on behalf of the Commission at conferences, meetings, and negotiations on EEO and workplace diversity issues;

(i) Develop programs and strategies designed to foster and encourage fairness, equality, and inclusion of all employees in the workforce.

[61 FR 2728, Jan. 29, 1996]

Subpart C—General Information

GENERAL

§ 0.401 Location of Commission offices.

The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations set forth below will be returned to the applicant without processing. When an application or other filing does not involve the payment of a fee, the appropriate filing address or location is established elsewhere in the rules for the various types of submissions made to the Commission. The public should identify the correct filing location by reference to these rules. Applications or submissions requiring fees must be submitted in accordance with § 0.401(b) of the rules irrespective of the addresses that may be set out elsewhere in the rules for other submissions.

(a) General correspondence, as well as applications and filings not requiring the fees set forth at part 1, subpart G of the rules (or not claiming an exemption, waiver or deferral from the fee requirement), should be delivered to one of the following locations.

(1) The main office of the Commission is located at 1919 M Street, NW., Washington, DC.

(i) Documents submitted by mail to this office should be addressed to: Federal Communications Commission, Washington, DC 20554.

(ii) Hand-carried documents should be delivered to the Secretary's Office, 1919 M Street, NW., Room 222, Washington, DC.