

## SUBCHAPTER A—GENERAL

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AUTHORITY: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

### Subpart A—Organization

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

#### GENERAL

#### § 0.1 The Commission.

The Federal Communications Commission is composed of five (5) members who are appointed by the president subject to confirmation by the Senate. Normally, one Commissioner is appointed or reappointed each year, for a term of five (5) years.

[53 FR 29054, Aug. 2, 1988]

#### § 0.3 The Chairman.

(a) One of the members of the Commission is designated by the President to serve as Chairman, or chief executive officer, of the Commission. As Chairman, he has the following duties and responsibilities:

(1) To preside at all meetings and sessions of the Commission.

(2) To represent the Commission in all matters relating to legislation and legislative reports; however, any other Commissioner may present his own or minority views or supplemental reports.

(3) To represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies.

(4) To coordinate and organize the work of the Commission in such a manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission.

(b) The Commission will, in the case of a vacancy in the Office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, temporarily designate one of its members to act as Chairman until the cause or circumstance requiring such

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designation has been eliminated or corrected.

[32 FR 10569, July 19, 1967]

### § 0.5 General description of Commission organization and operations.

(a) *Principal staff units.* The Commission is assisted in the performance of its responsibilities by its staff, which is divided into the following principal units:

- (1) Office of Managing Director.
- (2) Office of Engineering and Technology.
- (3) Office of General Counsel.
- (4) Office of Strategic Planning and Policy Analysis.
- (5) Office of Media Relations.
- (6) Office of Legislative Affairs.
- (7) Office of Inspector General.
- (8) Office of Communications Business Opportunities.
- (9) Office of Administrative Law Judges.
- (10) Office of Workplace Diversity
- (11) Wireline Competition Bureau.
- (12) Wireless Telecommunications Bureau.
- (13) International Bureau.
- (14) Media Bureau.
- (15) Enforcement Bureau.
- (16) Consumer and Governmental Affairs Bureau.
- (17) Public Safety and Homeland Security Bureau.

(b) Staff responsibilities and functions. The organization and functions of these major staff units are described in detail in §§ 0.11 through 0.151. The defense and emergency preparedness functions of the Commission are set forth separately, beginning at § 0.181. For a complete description of staff functions, reference should be made to those provisions. (See also the U.S. Government Organization Manual, which contains a chart showing the Commission's organization, the names of the members and principal staff officers of the Commission, and other information concerning the Commission.)

(c) *Delegations of authority to the staff.* Pursuant to section 5(c) of the Communications Act, the Commission has delegated authority to its staff to act on matters which are minor or routine or settled in nature and those in which immediate action may be necessary.

See subpart B of this part. Actions taken under delegated authority are subject to review by the Commission, on its own motion or on an application for review filed by a person aggrieved by the action. Except for the possibility of review, actions taken under delegated authority have the same force and effect as actions taken by the Commission. The delegation of authority to a staff officer, however, does not mean that he will exercise that authority in all matters subject to the delegation. In non-hearing matters, the staff is at liberty to refer any matter at any stage to the Commission for action, upon concluding that it involves matters warranting the Commission's consideration, and the Commission may instruct the staff to do so.

(d) *Commission action.* Matters requiring Commission action, or warranting its consideration, are dealt with by the Commission at regular monthly meetings, or at special meetings called to consider a particular matter. Meetings are normally held at the principal offices of the Commission in the District of Columbia, but may be held elsewhere in the United States. In appropriate circumstances, Commission action may be taken between meetings "by circulation", which involves the submission of a document to each of the Commissioners for his approval.

(e) *Compliance with Federal financial management requirements.* Any Bureau or Office recommending Commission action that may affect agency compliance with Federal financial management requirements must confer with the Office of Managing Director. Such items will indicate the position of the Managing Director when forwarded to the Commission. Any Bureau or Office taking action under delegated authority that may affect agency compliance with Federal financial management requirements must confer with the Office of the Managing Director before taking action.

(Secs. 4(i), 303(r) and 5(c)(i), Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

[32 FR 10569, July 19, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 0.5, see the List of CFR Sections Affected, which appears in the

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Finding Aids section of the printed volume and on GPO Access.

### OFFICE OF MANAGING DIRECTOR

#### §0.11 Functions of the Office.

(a) The Managing Director is appointed by the Chairman with the approval of the Commission. Under the supervision and direction of the Chairman, the Managing Director shall serve as the Commission's chief operating and executive official with the following duties and responsibilities:

(1) Provide managerial leadership to and exercise supervision and direction over the Commission's Bureaus and Offices with respect to management and administrative matters but not substantive regulatory matters such as regulatory policy and rule making, authorization of service, administration of sanctions, and adjudication.

(2) Formulate and administer all management and administrative policies, programs, and directives for the Commission consistent with authority delegated by the Commission and the Chairman and recommend to the Chairman and the Commission major changes in such policies and programs.

(3) Assist the Chairman in carrying out the administrative and executive responsibilities delegated to the Chairman as the administrative head of the agency.

(4) Advise the Chairman and Commission on management, administrative, and related matters; review and evaluate the programs and procedures of the Commission; initiate action or make recommendations as may be necessary to administer the Communications Act most effectively in the public interest. Assess the management, administrative, and resource implications of any proposed action or decision to be taken by the Commission or by a Bureau or Office under delegated authority; recommend to the Chairman and Commission program priorities, resource and position allocations, management, and administrative policies.

(5) Plan and administer the Commission's performance review system. Assure that objections, priorities, and action plans established by Bureau and Offices are consistent with overall Commission objectives and priorities.

(6) Plan and administer the Commission's Program Evaluation System. Ensure that evaluation results are utilized in Commission decision-making and priority-setting activities.

(7) Direct agency efforts to improve management effectiveness, operational efficiency, employee productivity, and service to the public. Administer Commission-wide management programs.

(8) Plan and manage the administrative affairs of the Commission with respect to the functions of personnel and position management; labor-management relations; training; budget and financial management; accounting for the financial transactions of the Commission and preparation of financial statements and reports; information management and processing; organization planning; management analysis; procurement; office space management and utilization; administrative and office services; supply and property management; records management; personnel and physical security; and international telecommunications settlements.

(9) [Reserved]

(10) With the concurrence of the General Counsel, interpret rules and regulations pertaining to fees.

(b) The Secretary is the official custodian of the Commission's documents.

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

[46 FR 59975, Dec. 8, 1981, as amended at 47 FR 41380, Sept. 20, 1982; 49 FR 45583, Nov. 19, 1984; 50 FR 27953, July 9, 1985; 53 FR 29054, Aug. 2, 1988; 53 FR 47536, Nov. 23, 1988; 54 FR 152, Jan. 4, 1989; 59 FR 26971, May 25, 1994; 60 FR 5323, Jan. 27, 1995; 62 FR 15853, Apr. 3, 1997; 62 FR 51052, Sept. 30, 1997; 67 FR 13217, Mar. 21, 2002; 69 FR 30233, May 27, 2004; 70 FR 21651, Apr. 27, 2005; 71 FR 69034, Nov. 29, 2006]

### OFFICE OF INSPECTOR GENERAL

#### §0.13 Functions of the Office.

The Office of Inspector General is directly responsible to the Chairman as head of the agency. However, the Chairman may not prevent or prohibit the Office of Inspector General from carrying out its duties and responsibilities as mandated by the Inspector General Act Amendments of 1988 (Pub. L. 100-504) and the Inspector General Act of 1978 (5 U.S.C. Appendix 3), as

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amended. The Office has the following duties and responsibilities.

(a) Provide policy direction for and to conduct, supervise and coordinate audits and investigations relating to the programs and operations of the Federal Communications Commission.

(b) Review existing and proposed legislation and regulations relating to programs and operations of the Commission and to make recommendations in its required semiannual reports to Congress concerning the impact of such legislation or regulations on the economy and efficiency in the administration of these programs and operations, or the prevention and detection of fraud and abuse in such programs and operations.

(c) Recommend policies and conduct or coordinate other activities to promote economy and efficiency in the administration of Commission programs, or detect and prevent fraud and abuse in Commission activities. Coordinate with other governmental agencies and non-governmental entities on these matters.

(d) Keep the Chairman of the Commission—and through him the other Commissioners—and the Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of Commission programs and operations; recommend corrective action and report on the progress made in implementing such corrective action. In addition to providing the Chairman with the results of completed audits and inspections, the Inspector General shall prepare statutorily required reports, identified as such, to include:

(1) Semiannual reports summarizing activities of the office during the preceding six month period (due to the Chairman by April 30 and October 31);

(2) Special reports specifically identifying any serious or flagrant problems, abuses or deficiencies (due to the Chairman immediately upon discovery of these matters by the Inspector General).

[54 FR 15194, Apr. 17, 1989]

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### OFFICE OF MEDIA RELATIONS

#### §0.15 Functions of the Office.

(a) Enhance public understanding of and compliance with the Commission's regulatory requirements through dissemination of information to the news media.

(b) Act as the principal channel for communicating information to the news media on Commission policies, programs, and activities.

(c) Advise the Commission on information dissemination as it affects liaison with the media.

(d) Manage the FCC's Internet site and oversee the agency's Web standards and guidelines.

(e) Maintain liaison with the Consumer and Governmental Affairs Bureau on press and media issues concerning consumer assistance and information including informal consumer complaints.

(f) Manage the FCC's audio/visual support services and maintain liaison with outside parties regarding the broadcast of Commission proceedings.

[64 FR 60716, Nov. 8, 1999, as amended at 67 FR 13217, Mar. 21, 2002; 67 FR 46112, July 12, 2002]

### OFFICE OF LEGISLATIVE AFFAIRS

#### §0.17 Functions of the Office.

The Office of Legislative Affairs is directly responsible to the Commission. The Office has the following duties and responsibilities:

(a) Advise and make recommendations to the Commission with respect to legislation proposed by members of Congress or the Executive Branch and coordinate the preparation of Commission views thereon for submission to Congress or the Executive Branch.

(b) Coordinate with the Office of General Counsel responses to Congressional or Executive Branch inquiries as to the local ramifications of Commission policies, regulations, rules, and statutory interpretations.

(c) Assist the Office of the Managing Director in preparation of the annual report to Congress, the Commission budget and appropriations legislation to Congress; assist the Office of Media Relations in preparation of the Commission's Annual Report.

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(d) Assist the Chairman and Commissioners in preparation for, and the coordination of their appearances before the Committees of Congress.

(e) Coordinate the annual Commission legislative program.

(f) Coordinate Commission and staff responses to inquiries by individual members of Congress, congressional committees and staffs.

(g) Coordinate with the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

[52 FR 42438, Nov. 5, 1987, as amended at 64 FR 60716, Nov. 8, 1999; 67 FR 13217, Mar. 21, 2002]

### OFFICE OF STRATEGIC PLANNING AND POLICY ANALYSIS

#### §0.21 Functions of the Office.

The Office of Strategic Planning and Policy Analysis, as a staff office to the Commission, assists, advises and makes recommendations to the Commission with respect to the development and implementation of communications policies in all areas of Commission authority and responsibility. A principal function of the Office is to conduct independent policy analyses to assess the long-term effects of alternative Commission policies on domestic and international communication industries and services, with due consideration of the responsibilities and programs of other staff units, and to recommend appropriate Commission action. The Office is also responsible for coordinating the policy research and development activities of other staff units, with special concern for matters which transcend their individual areas of responsibility. The Office is composed of legal, engineering, economic, and sociological policy analysts and other personnel, and is headed by a chief having the following duties and responsibilities:

(a) To identify and define significant communications policy issues in all areas of Commission interest and responsibility;

(b) To conduct technical, economic, and sociological impact studies of existing and proposed communications policies and operations, including coop-

erative studies with other staff units and consultant and contract efforts as appropriate;

(c) To develop and evaluate alternative policy options and approaches for consideration by the Commission;

(d) To review and comment on all significant actions proposed to be taken by the Commission in terms of their overall policy implications;

(e) To recommend and evaluate governmental (state and federal), academic, and industry sponsored research affecting Commission policy issues;

(f) To prepare briefings, position papers, proposed Commission actions, or other agenda items as appropriate;

(g) To manage the Commission's policy research program, recommend budget levels and priorities for this program, and serve as central account manager for all contractual policy research studies funded by the Commission;

(h) To coordinate the formation and presentation of Commission positions in communications policy; represent the Commission at appropriate discussions and conferences.

(i) Develop and recommend procedures and plans for the effective handling of policy issues within the Commission.

(j) To help ensure that FCC policy encourages and promotes competitive market structures by providing bureaus and offices with the necessary support to identify, evaluate, and effectively and consistently resolve competitiveness issues.

[38 FR 17005, June 28, 1973, as amended at 45 FR 25400, Apr. 15, 1980; 51 FR 12615, Apr. 14, 1986; 60 FR 5323, Jan. 27, 1995; 64 FR 5950, Feb. 8, 1999; 68 FR 11747, Mar. 12, 2003]

### OFFICE OF ENGINEERING AND TECHNOLOGY

#### §0.31 Functions of the Office.

The Office of Engineering and Technology has the following duties and responsibilities:

(a) To evaluate evolving technology for interference potential and to suggest ways to facilitate its introduction in response to Bureau initiatives, and advise the Commission and staff offices in such matters.

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(b) Represent the Commission at various national conferences and meetings (and, in consultation with the International Bureau, at various international conferences and meetings) devoted to the progress of communications and the development of technical and other information and standards, and serve as Commission coordinator for the various national conferences when appropriate.

(c) To conduct scientific and technical studies in advanced phases of terrestrial and space communications, and special projects to obtain theoretical and experimental data on new or improved techniques.

(d) To advise the Commission concerning engineering matters, including (in consultation with the Public Safety and Homeland Security Bureau where appropriate) privacy and security of communications, involved in making or implementing policy or in resolving specific cases.

(e) To develop and implement procedures to acquire, store, and retrieve scientific and technical information useful in the engineering work of the Commission.

(f) To advise and represent the Commission on frequency allocation and spectrum usage matters.

(g) To render, in cooperation with the General Counsel and the Office of Strategic Planning and Policy Analysis, advice to the Commission, participate in and coordinate staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and render service and advice with respect to rule making matters and proceedings affecting more than one Bureau.

(h) To collaborate with and advise other Bureaus and Offices in the formulation of technical requirements of the Rules.

(i) To administer parts 2, 5, 15, and 18 of this chapter, including licensing, recordkeeping, and rule making.

(j) To perform all engineering and management functions of the Commission with respect to formulating rules and regulations, technical standards, and general policies for parts 15, 18 and §63.100 of this chapter, and for type approval and acceptance, and certifi-

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cation of radio equipment for compliance with the Rules.

(k) To maintain liaison with other agencies of government, technical experts representing foreign governments, and members of the public and industry concerned with communications and frequency allocation and usage.

(l) To calibrate and standardize technical equipment and installations used by the Commission.

(m) To exercise authority as may be assigned or referred by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended.

(n) To assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(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)

[45 FR 28718, Apr. 30, 1980, as amended at 46 FR 45342, Sept. 11, 1981; 51 FR 12615, Apr. 14, 1986; 60 FR 5323, Jan. 27, 1995; 62 FR 4170, Jan. 29, 1997; 63 FR 37499, July 13, 1998; 64 FR 60716, Nov. 8, 1999; 67 FR 13217, Mar. 21, 2002; 68 FR 11747, Mar. 12, 2003; 69 FR 70337, Dec. 3, 2004; 71 FR 69034, Nov. 29, 2006; 73 FR 9463, Feb. 21, 2008]

### OFFICE OF GENERAL COUNSEL

#### §0.41 Functions of the Office.

The Office of the General Counsel has the following duties and responsibilities:

(a) To advise and represent the Commission in matters of litigation.

(b) To advise and make recommendations to the Commission with respect to proposed legislation and submit agency views on legislation when appropriate.

(c) To interpret the statutes, international agreements, and international regulations affecting the Commission.

(d) To prepare and make recommendations and interpretations concerning procedural rules of general applicability and to review all rules for consistency with other rules, uniformity, and legal sufficiency.

(e) To conduct research in legal matters as directed by the Commission.



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(f) In cooperation with the Office of Engineering and Technology, to participate in, render advice to the Commission, and coordinate the staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single bureau, and to render advice with respect to rule making matters and proceedings affecting more than one bureau.

(g) To exercise such authority as may be assigned or referred to it by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended.

(h) To cooperate with the International Bureau on all matters pertaining to space satellite communications.

(i) To interpret statutes and executive orders affecting the Commission's national defense responsibilities, and to perform such functions involving implementation of such statutes and executive orders as may be assigned to it by the Commission or the Defense Commissioner.

(j) To perform all legal functions with respect to leases, contracts, tort claims and such other internal legal problems as may arise.

(k) To issue determinations on matters regarding the interception and recording of telephone conversations by Commission personnel. Nothing in this paragraph, however, shall affect the authority of the Inspector General to intercept or record telephone conversations as necessary in the conduct of investigations or audits.

(l) To advise the Commission in the preparation and revision of rules and the implementation and administration of ethics regulations and the Freedom of Information, Privacy, Government in the Sunshine and Alternative Dispute Resolution Acts.

(m) To assist and make recommendations to the Commission, and to individual Commissioners assigned to review initial decisions, as to the disposition of cases of adjudication and such other cases as, by Commission policy, are handled in the same manner and which have been designated for hearing.

(n) To serve as the principal operating office on *ex parte* matters involv-

ing restricted proceedings. To review and dispose of all *ex parte* communications received from the public and others.

(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 12392, Nov. 22, 1963; 37 FR 19372, Sept. 20, 1972, as amended at 40 FR 17253, Apr. 18, 1975; 43 FR 29006, July 5, 1978; 44 FR 39179, July 5, 1979; 46 FR 57050, Nov. 20, 1981; 49 FR 47604, Dec. 6, 1984; 50 FR 2985, Jan. 23, 1985; 50 FR 49048, Nov. 29, 1985; 51 FR 12615, Apr. 14, 1986; 60 FR 5323, Jan. 27, 1995; 60 FR 34901, July 5, 1995; 62 FR 4170, Jan. 29, 1997; 62 FR 15853, Apr. 3, 1997; 64 FR 5950, Feb. 8, 1999; 64 FR 57585, Oct. 26, 1999]

### INTERNATIONAL BUREAU

#### §0.51 Functions of the Bureau.

The International Bureau has the following duties and responsibilities:

(a) To initiate and direct the development and articulation of international telecommunications policies, consistent with the priorities of the Commission;

(b) To advise the Chairman and Commissioners on matters of international telecommunications policy, and on the adequacy of the Commission's actions to promote the vital interests of the American public in international commerce, national defense, and foreign policy;

(c) To develop, recommend, and administer policies, rules, standards, and procedures for the authorization and regulation of international telecommunications facilities and services, domestic and international satellite systems, and international broadcast services;

(d) To monitor compliance with the terms and conditions of authorizations and licenses granted by the Bureau, and to pursue enforcement actions in conjunction with appropriate bureaus and offices;

(e) To represent the Commission on international telecommunications matters at both domestic and international conferences and meetings, and to direct and coordinate the Commission's preparation for such conferences and meetings;

(f) To serve as the single focal point within the Commission for cooperation

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and consultation on international telecommunications matters with other Federal agencies, international or foreign organizations, and appropriate regulatory bodies and officials of foreign governments;

(g) To develop, coordinate with other Federal agencies, and administer the regulatory assistance and training programs for foreign administrations to promote telecommunications development;

(h) To provide advice and technical assistance to U.S. trade officials in the negotiation and implementation of telecommunications trade agreements, and consult with other bureaus and offices as appropriate;

(i) To conduct economic, legal, technical, statistical, and other appropriate studies, surveys, and analyses in support of international telecommunications policies and programs.

(j) To collect and disseminate within the Commission information and data on international telecommunications policies, regulatory and market developments in other countries, and international organizations;

(k) To work with the Office of Legislative Affairs to coordinate the Commission's activities on significant matters of international policy with appropriate Congressional offices;

(l) To promote the international coordination of spectrum allocations and frequency and orbital assignments so as to minimize cases of international radio interference involving U.S. licensees;

(m) To direct and coordinate, in consultation with other bureaus and offices as appropriate, negotiation of international agreements to provide for arrangements and procedures for coordination of radio frequency assignments to prevent or resolve international radio interference involving U.S. licensees;

(n) To ensure fulfillment of the Commission's responsibilities under international agreements and treaty obligations, and, consistent with Commission policy, to ensure that the Commission's regulations, procedures, and frequency allocations comply with the mandatory requirements of all applicable international and bilateral agreements;

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(o) To oversee and, as appropriate, administer activities pertaining to the international consultation, coordination, and notification of U.S. frequency and orbital assignments, including activities required by bilateral agreements, the international Radio Regulations, and other international agreements;

(p) To advise the Chairman on priorities for international travel and develop, coordinate, and administer the international travel plan;

(q) To exercise authority 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 International Bureau. Before issuing a subpoena, the International Bureau shall obtain the approval of the Office of General Counsel.

(r) To assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(s) To coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[60 FR 5323, Jan. 27, 1995, as amended at 60 FR 35504, July 10, 1995; 64 FR 60716, Nov. 8, 1999; 67 FR 13217, Mar. 21, 2002; 71 FR 69034, Nov. 29, 2006]

### MEDIA BUREAU

#### §0.61 Functions of the Bureau.

The Media Bureau develops, recommends and administers the policy and licensing programs for the regulation of media, including cable television, broadcast television and radio, and satellite services in the United States and its territories. The Bureau advises and recommends to the Commission, or acts for the Commission under delegated authority, in matters pertaining to multichannel video programming distribution, broadcast radio and television, direct broadcast satellite service policy, and associated

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matters. The Bureau will, among other things:

(a) Process applications for authorization, assignment, transfer and renewal of media services, including AM, FM, TV, the cable TV relay service, and related services.

(b) Conduct rulemaking proceedings concerning the legal, engineering, and economic aspects of media service.

(c) Conduct comprehensive studies and analyses concerning the legal, engineering, and economic aspects of electronic media services.

(d) Administer and enforce rules and policies regarding equal employment opportunity.

(e) Administer and enforce rules and policies regarding political programming and related matters.

(f) Administer and enforce rules and policies regarding:

(1) Radio and television broadcast industry services;

(2) Cable television systems, operators, and services, including those relating to rates, technical standards, customer service, ownership, competition to cable systems, broadcast station signal retransmission and carriage, program access, wiring equipment, channel leasing, and federal-state/local regulatory relationships. This includes: acting, after Commission assumption of jurisdiction to regulate cable television rates for basic service and associated equipment, on cable operator requests for approval of existing or increased rates; reviewing appeals of local franchising authorities' rate making decisions involving rates for the basic service tier and associated equipment, except when such appeals raise novel or unusual issues; evaluating basic rate regulation certification requests filed by cable system franchising authorities; periodically reviewing and, when appropriate, revising standard forms used in administering: the certification process for local franchising authorities wishing to regulate rates, and the substantive rate regulation standards prescribed by the Commission;

(3) Open video systems;

(4) Preemption of restrictions on devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution

service, and direct broadcast satellite services;

(5) The commercial availability of navigational devices;

(6) The accessibility of video programming to persons with disabilities;

(7) Program access and carriage;

(8) The Satellite Home Viewer Improvement Act; and

(9) Post-licensing for satellite consumer broadcast services (DBS, DTH and DARS).

NOTE TO PARAGRAPH (f): The Media Bureau's enforcement authority does not include enforcement in those areas assigned to the Enforcement Bureau. See 47 CFR 0.111.

(g) Conduct rulemaking and policy proceedings regarding pole attachments.

(h) Process and act on all applications for authorization, petitions for special relief, petitions to deny, waiver requests, requests for certification, objections, complaints, and requests for declaratory rulings and stays regarding the areas listed.

(i) Assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(j) Exercise authority 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 Media Bureau. Before issuing a subpoena, the Media Bureau shall obtain the approval of the Office of General Counsel.

(k) Carry out the functions of the Commission under the Communications Act of 1934, as amended, except as reserved to the Commission under §0.283.

(1) To coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[67 FR 13217, Mar. 21, 2002, as amended at 71 FR 69034, Nov. 29, 2006]

## OFFICE OF WORKPLACE DIVERSITY

**§0.81 Functions of the Office.**

(a) The Office of Workplace Diversity (OWD), as a staff office to the Commission, shall develop, coordinate, evaluate, and recommend to the Commission policies, programs, and practices that foster a diverse workforce and promote and ensure equal opportunity for all employees and applicants for employment. A principal function of the Office is to lead, advise, and assist the Commission, including all of its component Bureau/Office managers, supervisors, and staff, at all levels, on ways to promote inclusion and full participation of all employees in pursuit of the Commission's mission. In accordance with this function, the Office shall:

(1) Conduct independent analyses of the Commission's policies and practices to ensure that those policies and practices foster diversity in the workplace and ensure equal opportunity and equal treatment for employees and applicants; and

(2) Advise the Commission, Bureaus, and Offices of their responsibilities under Title VII of the Civil Rights Act of 1964, as amended; Section 501 of the Rehabilitation Act of 1973, as amended; Age Discrimination in Employment Act of 1967, as amended; Executive Order 11478; and all other statutes, Executive Orders, and regulatory provisions relating to workplace diversity, equal employment opportunity, non-discrimination, and civil rights.

(b) The Office has the following duties and responsibilities:

(1) Through its Director, serves as the principal advisor to the Chairman and Commission officials on all aspects of workplace diversity, affirmative recruitment, equal employment opportunity, non-discrimination, and civil rights;

(2) Provides leadership and guidance to create a work environment that values and encourages diversity in the workplace;

(3) Is responsible for developing, implementing, and evaluating programs and policies to foster a workplace whose diversity reflects the diverse makeup of the Nation, enhances the mission of the Commission, and dem-

onstrates the value and effectiveness of a diverse workforce;

(4) Is responsible for developing, implementing, and evaluating programs and policies that promote understanding among members of the Commission's workforce of their differences and the value of those differences and provide a channel for communication among diverse members of the workforce at all levels;

(5) Develops, implements, and evaluates programs and policies to ensure that all members of the Commission's workforce and candidates for employment have equal access to opportunities for employment, career growth, training, and development and are protected from discrimination and harassment;

(6) Develops and recommends Commission-wide workforce diversity goals and reports on achievements;

(7) Is responsible for developing, implementing, and evaluating programs and policies to enable all Bureaus and Offices to manage a diverse workforce effectively and in compliance with all equal employment opportunity and civil rights requirements;

(8) Works closely with the Associate Managing Director—Human Resources Management to ensure compliance with Federal and Commission recruitment and staffing requirements;

(9) Manages the Commission's equal employment opportunity compliance program. Responsibilities in this area include processing complaints alleging discrimination, recommending to the Chairman final decisions on EEO complaints within the Commission, and providing counseling services to employees and applicants on EEO matters;

(10) Develops and administers the Commission's program of accessibility and accommodation for disabled persons in accordance with applicable regulations;

(11) Represents the Commission at meeting with other public and private groups and organizations on matters counseling workplace diversity and equal employment opportunity and workplace diversity issues;

(12) Maintains liaison with and solicits views of organizations within and

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outside the Commission on matters relating to equal opportunity and workplace diversity.

[61 FR 2727, Jan. 29, 1996]

### WIRELINE COMPETITION BUREAU

#### § 0.91 Functions of the Bureau.

The Wireline Competition Bureau advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the regulation and licensing of communications common carriers and ancillary operations (other than matters pertaining exclusively to the regulation and licensing of wireless telecommunications services and facilities). The Bureau will, among other things:

(a) Develop and recommend policy goals, objectives, programs and plans for the Commission in rulemaking and adjudicatory matters concerning wireline telecommunications, drawing on relevant economic, technological, legislative, regulatory and judicial information and developments. Overall objectives include meeting the present and future wireline telecommunications needs of the Nation; fostering economic growth; ensuring choice, opportunity, and fairness in the development of wireline telecommunications; promoting economically efficient investment in wireline telecommunications infrastructure; promoting the development and widespread availability of wireline telecommunications services; and developing deregulatory initiatives where appropriate.

(b) Act on requests for interpretation or waiver of rules.

(c) Administer the provisions of the Communications Act requiring that the charges, practices, classifications, and regulations of communications common carriers providing interstate and foreign services are just and reasonable.

(d) Act on applications for service and facility authorizations, including applications from Bell operating companies for authority to provide in-region interLATA services and applications from wireline carriers for transfers of licenses and discontinuance of service.

(e) Develop and administer rules and policies relating to incumbent local exchange carrier accounting.

(f) Develop and administer record-keeping and reporting requirements for telecommunications carriers.

(g) Provide federal staff support for the Federal-State Joint Board on Universal Service and the Federal-State Joint Board on Jurisdictional Separations.

(h) Review the deployment of advanced telecommunications capability to ensure that such deployment is reasonable and timely, consistent with section 706 of the Act, and, where appropriate, recommend action to encourage such deployment.

(i) Provide economic, financial, and technical analyses of telecommunications markets and carrier performance.

(j) Act on petitions for *de novo* review of decisions of the Administrative Council for Terminal Attachments regarding technical criteria pursuant to §68.614.

(k) Interact with the public, local, state, and other governmental agencies and industry groups on wireline telecommunications regulation and related matters. Assist the Consumer and Governmental Affairs Bureau on issues involving informal consumer complaints and other general inquiries by consumers.

(l) Review and coordinate orders, programs and actions initiated by other Bureaus and Offices in matters affecting wireline telecommunications to ensure consistency with overall Commission policy.

(m) Carry out the functions of the Commission under the Communications Act of 1934, as amended, except as reserved to the Commission under §0.331.

(n) Address audit findings relating to the schools and libraries support mechanism, subject to the overall authority of the Managing Director as the Commission's audit follow-up official.

(o) Coordinate with the Public Safety and Homeland Security Bureau on all

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matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[67 FR 13218, Mar. 21, 2002, as amended at 68 FR 13850, Mar. 21, 2003; 69 FR 55109, Sept. 13, 2004; 71 FR 69034, Nov. 29, 2006]

### OFFICE OF COMMUNICATIONS BUSINESS OPPORTUNITIES

#### §0.101 Functions of the office.

(a) The Office of Communications Business Opportunities (OCBO), as a staff office to the Commission, develops, coordinates, evaluates, and recommends to the Commission, policies, programs, and practices that promote participation by small entities, women, and minorities in the communications industry. A principal function of the Office is to lead, advise, and assist the Commission, including all of its component Bureau/Office managers, supervisors, and staff, at all levels, on ways to ensure that the competitive concerns of small entities, women, and minorities, are fully considered by the agency in notice and comment rulemakings. In accordance with this function, the Office:

(1) Conducts independent analyses of the Commission's policies and practices to ensure that those policies and practices fully consider the interests of small entities, women, and minorities.

(2) Advises the Commission, Bureaus, and Offices of their responsibilities under the Congressional Review Act provisions regarding small businesses; the Report to Congress regarding Market Entry Barriers for Small Telecommunications Businesses (47 U.S.C. 257); and the Telecommunications Development Fund (47 U.S.C. 614).

(b) The Office has the following duties and responsibilities:

(1) Through its director, serves as the principal small business policy advisor to the Commission;

(2) Develops, implements, and evaluates programs and policies that promote participation by small entities, women and minorities in the communications industry;

(3) Manages the Regulatory Flexibility Analysis process pursuant to the Regulatory Flexibility Act and the Small Business Regulatory Enforce-

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ment Fairness Act to ensure that small business interests are fully considered in agency actions;

(4) Develops and recommends Commission-wide goals and objectives for addressing the concerns of small entities, women, and minorities and reports of achievement;

(5) Acts as the principal channel for disseminating information regarding the Commission's activities and programs affecting small entities, women, and minorities;

(6) Develops, recommends, coordinates, and administers objectives, plans and programs to encourage participation by small entities, women, and minorities in the decision-making process;

(7) Promotes increased awareness within the Commission of the impact of policies on small entities, women, and minorities;

(8) Acts as the Commission's liaison to other federal agencies on matters relating to small business.

[69 FR 7376, Feb. 17, 2003]

### ENFORCEMENT BUREAU

#### §0.111 Functions of the Bureau.

(a) Serve as the primary Commission entity responsible for enforcement of the Communications Act and other communications statutes, the Commission's rules, Commission orders and Commission authorizations, other than matters that are addressed in the context of a pending application for a license or other authorization or in the context of administration, including post-grant administration, of a licensing or other authorization or registration program.

(1) Resolve complaints, including complaints filed under section 208 of the Communications Act, regarding acts or omissions of common carriers (wireline, wireless and international).

NOTE TO PARAGRAPH (a)(1): The Consumer and Governmental Affairs Bureau has primary responsibility for informally resolving individual informal complaints from consumers against common carriers (wireline, wireless and international) and against other wireless licensees, and informal consumer complaints involving access to telecommunications services and equipment for persons with disabilities. The International Bureau

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has primary responsibility for complaints regarding international settlements rules and policies.

(2) Resolve complaints regarding acts or omissions of non-common carriers subject to the Commission's jurisdiction under Title II of the Communications Act and related provisions, including complaints against aggregators under section 226 of the Communications Act and against entities subject to the requirements of section 227 of the Communications Act.

NOTE TO PARAGRAPH (a)(2): The Consumer and Governmental Affairs Bureau has primary responsibility for informally resolving individual informal complaints from consumers against non-common carriers subject to the Commission's jurisdiction under Title II of the Communications Act and related provisions.

(3) Resolve formal complaints regarding accessibility to communications services and equipment for persons with disabilities, including complaints filed pursuant to sections 225 and 255 of the Communications Act.

(4) Resolve complaints regarding radiofrequency interference and complaints regarding radiofrequency equipment and devices, including complaints of violations of sections 302 and 333 of the Communications Act.

NOTE TO PARAGRAPH (a)(4): The Office of Engineering and Technology has shared responsibility for radiofrequency equipment and device complaints.

(5) Resolve complaints regarding compliance with the Commission's Emergency Alert System rules.

(6) Resolve complaints regarding the lighting and marking of radio transmitting towers under section 303(q) of the Communications Act.

NOTE TO PARAGRAPH (a)(6): The Wireless Telecommunications Bureau has responsibility for administration of the tower registration program.

(7) Resolve complaints regarding compliance with statutory and regulatory provisions regarding indecent communications subject to the Commission's jurisdiction.

(8) Resolve complaints regarding the broadcast and cable television children's television programming commercial limits contained in section 102 of the Children's Television Act.

NOTE TO PARAGRAPH (a)(8): The Media Bureau has responsibility for enforcement of these limits in the broadcast television renewal context.

(9) Resolve complaints regarding unauthorized construction and operation of communications facilities, including complaints of violations of section 301 of the Communications Act.

(10) Resolve complaints regarding false distress signals under section 325(a) of the Communications Act.

(11) Resolve other complaints against Title III licensees and permittees.

NOTE TO PARAGRAPH (a)(11): The Media Bureau has primary responsibility for complaints regarding children's television programming requirements, and for political and related programming matters and equal employment opportunity matters involving broadcasters, cable operators and other multichannel video programming distributors. The relevant licensing Bureau has primary responsibility for complaints involving tower siting and the Commission's environmental rules. The Media Bureau has primary responsibility for complaints regarding compliance with conditions imposed on transfers of control and assignments of licenses of Cable Antenna Relay Service authorizations.

(12) Resolve complaints regarding pole attachments filed under section 224 of the Communications Act.

(13) Resolve complaints regarding multichannel video and cable television service under part 76 of the Commission's rules.

NOTE TO PARAGRAPH (a)(13): The Media Bureau has primary responsibility for complaints regarding the following: subpart A (general), with the exception of §76.11 of this chapter; subpart B (Registration Statements); subpart C (Federal-State Relationships [Reserved]); subpart D (carriage of television broadcast signals); subpart E (equal employment opportunity requirements); subpart F (nonduplication protection and syndicated exclusivity); subpart G, §§76.205, 76.206 and 76.209 of this chapter (political broadcasting); subpart I (Forms and Reports); subpart J (ownership); subpart L (cable television access); subpart N, §76.944 of this chapter (basic cable rate appeals), and §§76.970, 76.971 and 76.977 of this chapter (cable leased access rates); subpart O (competitive access to cable programming); subpart P (competitive availability of navigation devices); subpart Q (regulation of carriage agreements); subpart S (Open Video Systems); and subparts T, U and V to the extent related to the matters listed in this note.

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(14) Resolve universal service suspension and debarment proceedings pursuant to §54.521 of this chapter.

(15) Resolve complaints regarding other matters assigned to it by the Commission, matters that do not fall within the responsibility of another Bureau or Office or matters that are determined by mutual agreement with another Bureau or Office to be appropriately handled by the Enforcement Bureau.

(16) Identify and analyze complaint information, conduct investigations, conduct external audits and collect information, including pursuant to sections 218, 220, 308(b), 403 and 409(e) through (k) of the Communications Act, in connection with complaints, on its own initiative or upon request of another Bureau or Office.

(17) Issue or draft orders taking or recommending appropriate action in response to complaints or investigations, including, but not limited to, admonishments, damage awards where authorized by law or other affirmative relief, notices of violation, notices of apparent liability and related orders, notices of opportunity for hearing regarding a potential forfeiture, hearing designation orders, orders designating licenses or other authorizations for a revocation hearing and consent decrees. Issue or draft appropriate orders after a hearing has been terminated by an Administrative Law Judge on the basis of waiver. Issue or draft appropriate interlocutory orders and take or recommend appropriate action in the exercise of its responsibilities.

(18) Encourage cooperative compliance efforts.

(19) Mediate and settle disputes.

(20) Provide information regarding pending complaints, compliance with relevant requirements and the complaint process, where appropriate and to the extent the information is not available from the Consumer and Governmental Affairs Bureau or other Bureaus and Offices.

(21) Exercise responsibility for rule-making proceedings regarding general enforcement policies and procedures.

(22) Advise the Commission or responsible Bureau or Office regarding the enforcement implications of existing and proposed rules.

(23) Serve as the primary point of contact for coordinating enforcement matters, including market and consumer enforcement matters, with other federal, state and local government agencies, as well as with foreign governments after appropriate consultation, and provide assistance to such entities. Refer matters to such entities, as well as to private sector entities, as appropriate.

(b) Serve as trial staff in formal hearings conducted pursuant to 5 U.S.C. 556 regarding applications, revocation, forfeitures and other matters designated for hearing.

(c) In coordination with the International Bureau, participate in international conferences dealing with monitoring and measurement; serve as the point of contact for the U.S. Government in matters of international monitoring, fixed and mobile direction-finding and interference resolution; and oversee coordination of non-routine communications and materials between the Commission and international or regional public organizations or foreign administrations.

(d) In conjunction with the Office of Engineering and Technology, work with technical standards bodies.

(e) Oversee the Commission's privatized ship radio safety inspection program.

(f) Provide field support for, and field representation of, the Bureau, other Bureaus and Offices and the Commission. Coordinate with other Bureaus and Offices as appropriate.

(g) Handle congressional and other correspondence relating to or requesting specific enforcement actions, specific complaints or other specific matters within the responsibility of the Bureau, to the extent not otherwise handled by the Consumer and Governmental Affairs Bureau, the Office of General Counsel (impermissible ex parte presentations) or another Bureau or Office;

(h) Have authority 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



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responsibility of the Bureau. Before issuing a subpoena, the Enforcement Bureau shall obtain the approval of the Office of General Counsel.

(i) Perform such other functions as may be assigned or referred to it by the Commission.

[64 FR 60716, Nov. 8, 1999, as amended at 67 FR 13218, Mar. 21, 2002; 68 FR 36942, June 20, 2003; 69 FR 30233, May 27, 2004; 71 FR 69034, Nov. 29, 2006]

### §0.121 Location of field installations.

(a) Field offices are located throughout the United States. For the address and phone number of the closest office contact the Enforcement Bureau or see the U.S. Government Manual.

(b) Protected field offices are located at the following geographical coordinates (coordinates are referenced to North American Datum 1983 (NAD83)):

Allegan, Michigan, 42°36'20.1" N. Latitude, 85°57'20.1" W. Longitude  
Belfast, Maine, 44°26'42.3" N. Latitude, 69°04'56.1" W. Longitude  
Canandaigua, New York, 42°54'48.2" N. Latitude, 77°15'57.9" W. Longitude  
Douglas, Arizona, 31°30'02.3" N. Latitude, 109°39'14.3" W. Longitude  
Ferdale, Washington, 48°57'20.4" N. Latitude, 122°33'17.6" W. Longitude  
Grand Island, Nebraska, 40°55'21.0" N. Latitude, 98°25'43.2" W. Longitude  
Kenai, Alaska, 60°43'26.0" N. Latitude, 151°20'15.0" W. Longitude  
Kingsville, Texas, 27°26'30.1" N. Latitude, 97°53'01.0" W. Longitude  
Laurel, Maryland, 39°09'54.4" N. Latitude, 76°49'15.9" W. Longitude  
Livermore, California, 37°43'29.7" N. Latitude, 121°45'15.8" W. Longitude  
Powder Springs, Georgia, 33°51'44.4" N. Latitude, 84°43'25.8" W. Longitude  
Santa Isabel, Puerto Rico, 18°00'18.9" N. Latitude, 66°22'30.6" W. Longitude  
Vero Beach, Florida, 27°36'22.1" N. Latitude, 80°38'05.2" W. Longitude  
Waipahu, Hawaii, 21°22'33.6" N. Latitude, 157°59'44.1" W. Longitude

[53 FR 29054, Aug. 2, 1988, as amended at 61 FR 8477, Mar. 5, 1996; 63 FR 68918, Dec. 14, 1998; 64 FR 60718, Nov. 8, 1999; 67 FR 13219, Mar. 21, 2002; 69 FR 58097, Sept. 29, 2004]

## WIRELESS TELECOMMUNICATIONS BUREAU

### §0.131 Functions of the Bureau.

The Wireless Telecommunications Bureau develops, recommends and administers the programs and policies for the regulation of the terms and conditions under which communications entities offer domestic wireless telecommunications services and of ancillary operations related to the provision of such services (satellite communications excluded). These functions include all wireless telecommunications service providers' and licensees' activities. The Bureau also performs the following specific functions:

(a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of wireless telecommunications, including ancillary operations related to the provision or use of such services; and any matters concerning wireless carriers that also affect wireline carriers in cooperation with the Wireline Competition Bureau. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including licensing and complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities.

(b) Develops and recommends policy goals, objectives, programs and plans for the Commission on matters concerning wireless telecommunications, drawing upon relevant economic, technological, legislative, regulatory and judicial information and developments. Such matters include meeting the present and future wireless telecommunications needs of the Nation; fostering economic growth by promoting efficiency and innovation in

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the allocation, licensing and use of the electromagnetic spectrum; ensuring choice, opportunity and fairness in the development of wireless telecommunications services and markets; promoting economically efficient investment in wireless telecommunications infrastructure and the integration of wireless communications networks into the public telecommunications network; enabling access to national communications services; promoting the development and widespread availability of wireless telecommunications services. Reviews and coordinates orders, programs and actions initiated by other Bureaus and Offices in matters affecting wireless telecommunications to ensure consistency of overall Commission policy.

(c) Serves as the Commission's principal policy and administrative staff resource with regard to spectrum auctions. Administers all Commission spectrum auctions. Develops, recommends and administers policies, programs and rules concerning auctions of spectrum for wireless telecommunications. Advises the Commission on policy, engineering and technical matters relating to auctions of spectrum used for other purposes. Administers procurement of auction-related services from outside contractors. Provides policy, administrative and technical assistance to other Bureaus and Offices on auction issues.

(d) Regulates the charges, practices, classifications, terms and conditions for, and facilities used to provide, wireless telecommunications services. Develops and recommends consistent, integrated policies, programs and rules for the regulation of commercial mobile radio services and private mobile radio services.

(e) Develops and recommends policy, rules, standards, procedures and forms for the authorization and regulation of wireless telecommunications facilities and services, including all facility authorization applications involving domestic terrestrial transmission facilities. Coordinates with and assists the International Bureau regarding frequency assignment, coordination and interference matters.

(f) Develops and recommends responses to legislative, regulatory or ju-

dicial inquiries and proposals concerning or affecting wireless telecommunications.

(g) Develops and recommends policies regarding matters affecting the collaboration and coordination of relations among Federal agencies, and between the Federal government and the states, concerning wireless telecommunications issues. Maintains liaison with Federal and state government bodies concerning such issues.

(h) Develops and recommends policies, programs and rules to ensure interference-free operation of wireless telecommunications equipment and networks. Coordinates with and assists other Bureaus and Offices, as appropriate, concerning spectrum management, planning, and interference matters and issues, and in compliance and enforcement activities. Studies technical requirements for equipment for wireless telecommunications services in accordance with standards established by the Chief, Office of Engineering and Technology.

(i) Advises and assists consumers, businesses and other government agencies on wireless telecommunications issues and matters related thereto. Also assists the Consumer and Governmental Affairs Bureau with informal consumer complaints and other general inquiries by consumers.

(j) Administers the Commission's commercial radio operator program (part 13 of this chapter) and the Commission's program for registration, construction, marking and lighting of antenna structures (part 17 of this chapter).

(k) Coordinates with and assists the International Bureau with respect to treaty activities and international conferences concerning wireless telecommunications.

(l) Exercises such authority as may be assigned, delegated or referred to it by the Commission.

(m) Certifies frequency coordinators; considers petitions seeking review of coordinator actions; and engages in oversight of coordinator actions and practices.

(n) Administers the Commission's amateur radio programs (part 97 of this chapter) and the issuing of maritime mobile service identities (MMSIs).

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(o) Exercises authority 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 wireless telecommunications operators for any alleged violation or violations of the Communications Act of 1934, as amended, or the Commission's rules and orders. Before issuing a subpoena, the Wireless Telecommunications Bureau shall obtain the approval of the Office of General Counsel.

(p) Certifies, in the name of the Commission, volunteer entities to coordinate maintain and disseminate a common data base of amateur station special event call signs, and issues Public Notices detailing the procedures of amateur service call sign systems.

(q) Coordinates with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

[60 FR 35505, July 10, 1995, as amended at 61 FR 4361, Feb. 6, 1996; 62 FR 17567, Apr. 10, 1997; 64 FR 60718, Nov. 8, 1999; 65 FR 375, Jan. 5, 2000; 67 FR 13219, Mar. 21, 2002; 69 FR 24997, May 5, 2004; 71 FR 69035, Nov. 29, 2006]

### CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU

#### §0.141 Functions of the Bureau.

The Consumer and Governmental Affairs Bureau develops and administers the Commission's consumer and governmental affairs policies and initiatives to enhance the public's understanding of the Commission's work and to facilitate the Agency's relationships with other governmental agencies and organizations. The Bureau is responsible for rulemaking proceedings regarding general consumer education policies and procedures and serves as the primary Commission entity responsible for communicating with the general public regarding Commission policies, programs, and activities in order to facilitate public participation in the Commission's decision-making processes. The Bureau also performs the following functions:

(a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in matters pertaining to consumers and governmental affairs. This includes policy development and coordination as well as adjudication and rulemaking.

(b) Collaborates with, and advises and assists, the public, state and local governments, and other governmental agencies and industry groups on consumer matters.

(c) Advises the Commission and other Bureaus and Offices of consumer and governmental affairs-related areas of concern or interest; initiates, reviews, and coordinates orders, programs and actions, in conjunction with other Bureaus and Offices, in matters regarding consumer education policies and procedures, and any other related issues affecting consumer policy; represents the Commission on consumer and governmental-related committees, working groups, task forces and conferences within and outside the Commission; and provides expert advice and assistance to Bureaus and Offices and consumers regarding compliance with applicable disability and accessibility requirements, rules, and regulations.

(d) Collects and analyzes information from industry, other Bureaus and Offices, and the media, as well as information received in the Bureau from informal consumer inquiries and complaints, rulemakings, and consumer forums; identifies trends that affect consumers; in consultation with the Office of the Managing Director, provides objectives and evaluation methods for the public information portion of the Commission's Government Performance and Results Act submissions and other Commission-wide strategic planning efforts.

(e) Researches, develops, and distributes materials to inform consumers about the Commission's rules, proposals, and events, and to promote consumer participation in Commission rulemakings and activities; maintains the Commission's Consumer Information Directory; develops a library of commonly requested materials on issues of interest to all consumers. Ensures that alternative translations of Commission materials are available to

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Commission employees, Bureaus, Offices, and members of the public.

(f) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in matters pertaining to persons with disabilities. Provides expert advice and assistance, as required, to other Bureaus and Offices, consumers, industry, and others on issues relevant to persons with disabilities. Initiates rulemakings, where appropriate; reviews relevant agenda items and other documents and coordinates with Bureaus and Offices to develop recommendations and propose policies to ensure that communications are accessible to persons with disabilities, in conformance with existing disability laws and policies, and that they support the Commission's goal of increasing accessibility of communications services and technologies for persons with disabilities.

(g) Plans, develops, and conducts consumer outreach and education initiatives to educate the public about important Commission regulatory programs. In coordination with other Bureaus and Offices, establishes liaison(s) for information sharing purposes to ensure coordination on all consumer outreach projects. Ensures that alternative translations of Commission materials are available to Commission employees, Bureaus, Offices and members of the public.

(h) Serves as the official FCC records custodian for designated records, including intake processing, organization and file maintenance, reference services, and retirement and retrieval of records; manages the Electronic Comment Filing System and certifies records for adjudicatory and court proceedings. Maintains manual and computerized files that provide for the public inspection of public record materials concerning Broadcast Ownership, AM/FM/TV, TV Translators, FM Translators, Cable TV, Wireless, Auction, Common Carrier Tariff matters, International space station files, earth station files, DBS files, and other miscellaneous international files. Also maintains for public inspection Time Brokerage and Affiliation Agreements, court citation files, and legislative histories concerning telecommunications

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dockets. Provides the public and Commission staff prompt access to manual and computerized records and filing systems.

(i) Provides informal mediation and resolution of individual informal consumer inquiries and complaints consistent with Commission regulations. Resolves certain classes of informal complaints, as specified by the Commission, through findings of fact and issuance of orders. Receives, reviews, and analyzes responses to informal complaints; maintains manual and computerized files that permit the public inspection of informal consumer complaints; mediates and attempts to settle unresolved disputes in informal complaints as appropriate; and coordinates with other Bureaus and Offices to ensure that consumers are provided with accurate, up-to-date information. Develops and fosters partnerships with state regulatory entities to promote the sharing of information pertaining to informal complaint files maintained by the Bureau.

(j) Provides leadership to other Bureaus and Offices for dissemination of consumer information via the Internet.

(k) In coordination with other Bureaus and Offices, handles Congressional and other correspondence related to specific informal consumer complaints, or other specific matters within the responsibility of the Bureau, to the extent not otherwise handled by the Office of General Counsel or other Bureaus or Offices. Responds to and/or coordinates due diligence and other requests for information pertaining to informal inquiries and complaints under the responsibility of the Bureau with other Bureaus and Offices.

[67 FR 13219, Mar. 21, 2002]

OFFICE OF ADMINISTRATIVE LAW JUDGES

### §0.151 Functions of the Office.

The Office of Administrative Law Judges consists of a Chief Administrative Law Judge, an Assistant Chief Administrative Law Judge, and as many other Administrative Law Judges qualified and appointed pursuant to the requirements of section 11 of the Administrative Procedure Act as the Commission may find necessary. It is responsible for hearing and conducting

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all adjudicatory cases designated for any evidentiary adjudicatory hearing other than those designated to be heard by the Commission en banc, those designated to be heard by one or more members of the Commission, and those involving the authorization of service in the Instructional Television Fixed Service. The Office of Administrative Law Judges is also responsible for conducting such other hearings as the Commission may assign.

[61 FR 10689, Mar. 15, 1996]

### HOMELAND SECURITY, DEFENSE AND EMERGENCY PREPAREDNESS FUNCTIONS

#### § 0.181 The Defense Commissioner.

The Defense Commissioner is designated by the Commission. The Defense Commissioner directs the homeland security, national security and emergency preparedness, and defense activities of the Commission and has the following duties and responsibilities:

(a) To keep the Commission informed as to significant developments in the field of homeland security, emergency preparedness, defense, and any related activities that involve formulation or revision of Commission policy in any area of responsibility of the Commission.

(b) To represent the Commission in public safety, homeland security, national security, emergency preparedness, disaster management, defense and related matters requiring conferences or communications with other governmental officers, departments, or agencies.

(c) To act as the Homeland Security and Defense Coordinator in representations with other agencies with respect to planning for the continuity of the essential functions of the Commission under emergency conditions.

(d) To serve as a member of the Joint Telecommunications Resources Board (JTRB).

(e) To serve as the principal point of contact for the Commission on all matters pertaining to the Department of Homeland Security.

(f) To take such measures as will assure continuity of the Commission's functions under any foreseeable circumstances with a minimum of inter-

ruption. In the event of an emergency, the Defense Commissioner, in consultation with the Chief, Public Safety and Homeland Security Bureau, will decide whether to activate the Commission's Continuity of Operations (COOP) plan and/or initiate the Commission's emergency response procedures.

(g) In the event of enemy attack, or the imminent threat thereof, or other disaster resulting in the inability of the Commission to function at its offices in Washington, D.C., to assume all of the duties and responsibilities of the Commission and the Chairman, until relieved or augmented by other Commissioners or members of the staff, as set forth in §§ 0.186 and 0.383.

(h) To approve national emergency plans and develop preparedness programs covering: provision of service by common carriers; broadcasting and cable facilities, satellite and the wireless radio services; radio frequency assignment; electromagnetic radiation; investigation and enforcement.

(i) To perform such other duties and assume such other responsibilities related to the Commission's defense activities as may be necessary for the continuity of functions and the protection of Commission personnel and property.

(j) The Commission may designate an Alternate Defense Commissioner who is authorized to perform the functions of the Defense Commissioner if he or she is not available.

(k) To decide, in response to a request by the Public Safety Broadband Licensee whether circumstances warrant emergency priority access by first responder public safety entities to the Upper 700 MHz D Block license spectrum.

[29 FR 14664, Oct. 28, 1964, as amended at 41 FR 31209, July 27, 1976; 64 FR 60720, Nov. 8, 1999; 69 FR 32033, May 27, 2004; 71 FR 69035, Nov. 29, 2006; 72 FR 48842, Aug. 24, 2007]

#### § 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, Public Safety and Homeland Security Bureau in the performance of that person's duties with respect to homeland security, national security,

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emergency management and preparedness, disaster management, defense, and related activities will have the following duties and responsibilities:

(a) To keep the Chief, Public Safety and Homeland Security Bureau informed of the investigation, progress, and completion of programs, plans, or activities with respect to homeland security, national security and emergency preparedness, and defense in which they are engaged or have been requested to engage.

(b) To render assistance and advice to the Chief, Public Safety and Homeland Security 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 homeland security, national security, emergency management and preparedness, disaster management, defense, and related activities as may be assigned to them by the Commission.

(e) To serve as Public Safety/Homeland Security Liaison to the Public Safety and Homeland Security Bureau or designate a Deputy Chief of the Bureau or Office as such liaison.

[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; 64 FR 60721, Nov. 8, 1999; 69 FR 30234, May 27, 2004; 71 FR 69035, Nov. 29, 2006]

**§0.186 Emergency Relocation Board.**

(a) As specified in the Commission's Continuity of Operations 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, if the full Commission or a quorum thereof is unable to act, 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. Relocation may be required to accommodate a variety of emergency scenarios. Examples include scenarios in which FCC

headquarters is unavailable or uninhabitable; or many, if not all, agencies must evacuate the immediate Washington, DC, area. The FCC's Continuity of Operations Plan (COOP) includes the deliberate and pre-planned movement of selected key principals and supporting staff to a relocation facility. As an example, a sudden emergency, such as a fire or hazardous materials incident, may require the evacuation of FCC headquarters with little or no advance notice, but for only a short duration. Alternatively, an emergency so severe that FCC headquarters is rendered unusable and likely will be for a period long enough to significantly impact normal operations, may require COOP implementation. Nothing in this subsection shall be construed to diminish the authority of the Commission or its staff to perform functions of the Commission at the Commission's headquarters or other relocation site using existing authority provided for elsewhere in this Chapter.

(b) The Board shall comprise such Commissioners as may be present (including Commissioners available through electronic communications or telephone) 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 Operations Plan will head the Board.

[69 FR 30234, May 27, 2004]

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU**

**§0.191 Functions of the Bureau.**

The Public Safety and Homeland Security Bureau advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and ancillary operations. The Bureau has responsibility for coordinating public safety, homeland security, national security, emergency management and preparedness,

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disaster management, and related activities within the Commission. The Bureau also performs the following functions.

(a) Develops, recommends, and administers policy goals, objectives, rules, regulations, programs and plans for the Commission to promote effective and reliable communications for public safety, homeland security, national security, emergency management and preparedness, disaster management and related activities, including public safety communications (including 911, enhanced 911, and other emergency number issues), priority emergency communications, alert and warning systems (including the Emergency Alert System), continuity of government operations, implementation of Homeland Security Presidential Directives and Orders, disaster management coordination and outreach, communications infrastructure protection, reliability, operability and interoperability of networks and communications systems, the Communications Assistance for Law Enforcement Act (CALEA), and network security. Recommends policies and procedures for public safety, homeland security, national security, emergency management and preparedness, and recommends national emergency plans and preparedness programs covering Commission functions during national emergency conditions. Conducts outreach and coordination activities with, among others, state and local governmental agencies, hospitals and other emergency health care providers, and public safety organizations. Recommends national emergency plans, policies, and preparedness programs covering the provision of service by communications service providers, including telecommunications service providers, information service providers, common carriers, and non-common carriers; broadcasting and cable facilities; satellite and wireless radio services; radio frequency assignment; electro-magnetic radiation; investigation and enforcement.

(b) Under the general direction of the Defense Commissioner, coordinates the public safety, homeland security, national security, emergency management and preparedness, disaster man-

agement, and related activities of the Commission, including national security and emergency preparedness and defense mobilization, Continuity of Government (COG) planning, alert and warning systems (including the Emergency Alert System), 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. Provides support to the Defense Commissioner, including with respect to his or her participation in the Joint Telecommunications Resources Board, and the National Security Telecommunications Advisory Committee and other public safety and homeland security organizations and committees. Represents the Defense Commissioner with other Government agencies and organizations, the communications industry, and Commission licensees on public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Keeps the Defense Commissioner informed as to significant developments in the fields of public safety, homeland security, national security, emergency management, and disaster management activities, and related areas.

(c) Develops and administers rules, regulations, and policies for priority emergency communications, including the Telecommunications Service Priority System. Supports the Chiefs of the Wireline Competition, International and Wireless Telecommunications Bureaus on matters involving assignment of Telecommunications Service Priority System priorities and in administration of that system.

(d) The Chief, Public Safety and Homeland Security Bureau, or that person's designee, acts as FCC Alternate Homeland Security and Defense Coordinator and principal to the National Communications System, and the Chief, Public Safety and Homeland Security Bureau, or that person's designee, shall serve as the Commission's representative on National Communications Systems Committees.

(e) Conducts rulemaking proceedings and acts on requests for interpretation or waiver of rules.

(f) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of public safety, homeland security, national security, emergency management and preparedness, and disaster management wireless telecommunications, including ancillary operations related to the provision or use of such services. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities. In addition, advises and assists public safety entities on wireless telecommunications issues and matters related thereto. Administers all authority previously delegated to the Wireless Telecommunications Bureau (including those delegations expressly provided to the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau) in Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55.

(g) Conducts studies of public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Develops and administers recordkeeping and reporting requirements for communications companies pertaining to these issues. Administers any Commission information collection requirements pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues, including the communications disruption reporting requirements set forth in part 4 of this chapter and revision of the filing system and template used for the submission

of those communications disruption reports.

(h) Interacts with the public, local, state, and other governmental agencies and industry groups (including advisory committees and public safety organizations and associations) on public safety, homeland security, national security, emergency management, disaster management and related issues. As requested, represents the Commission at meetings and conferences. Serves as the point of contact for the U.S. Government in matters of international monitoring, fixed and mobile direction-finding and interference resolution; and oversees coordination of non-routine communications and materials between the Commission and international or regional public organizations or foreign administrations.

(i) Maintains and operates the Commission's public safety, homeland security, national security, emergency management and preparedness, and disaster management facilities and operations, including the Communications Center, the establishment of any Emergency Operations Center (EOC), and any liaison activities with other federal, state, or local government organizations.

(j) Reviews and coordinates orders, programs and actions initiated by other Bureaus and Offices in matters affecting public safety, homeland security, national security, emergency management and preparedness, disaster management and related issues to ensure consistency with overall Commission policy. Provides advice to the Commission and other Bureaus and offices regarding the public safety, homeland security, national security, emergency management, and disaster management implications of existing and proposed rules.

(k) Develops and recommends responses to legislative, regulatory or judicial inquiries and proposals concerning or affecting public safety, homeland security, national security, emergency management, disaster management and related issues. Responses to judicial inquiries should be developed with and recommended to the Office of General Counsel.



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(l) Develops and maintains the Commission's plans and procedures, including the oversight, preparation, and training of Commission personnel, for Continuity of Operations (COOP), Continuity of Government functions, and Commission activities and responses to national emergencies and other similar situations.

(m) Acts on emergency requests for Special Temporary Authority during non-business hours when the other Offices and Bureaus of the Commission are closed. Such actions shall be coordinated with, if possible, and promptly reported to the responsible Bureau or Office.

(n) Maintains liaison with other Bureaus and Offices concerning matters affecting public safety, homeland security, national security, emergency management and preparedness, disaster management and related issues.

(o) Is authorized to declare that a temporary state of communications emergency exists pursuant to §97.401(b) of this chapter and to act on behalf of the Commission with respect to the operation of amateur stations during such temporary state of communications emergency.

(p) Performs such other functions and duties as may be assigned or referred to it by the Commission or the Defense Commissioner.

[71 FR 69035, Nov. 29, 2006, as amended at 73 FR 9463, Feb. 21, 2008]

### 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.

(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

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proceeding, but neither the order nor any reference 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.

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(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.

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(f) Authority to act as “Head of the Agency” or “Agency Head” for all administrative determinations pursuant to the Debt Collection Improvement Act of 1996, Public Laws 104–134, 110 Stat. 1321, 1358 (1996) (DCIA).

[28 FR 12402, Nov. 22, 1963, as amended at 41 FR 49095, Nov. 8, 1976; 51 FR 23550, June 30, 1986; 69 FR 27847, May 17, 2004]

### §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 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.

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(e) The Managing Director is delegated authority to act as Head of the Procurement Activity and Contracting Officer for the Commission and to designate 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 procurement contracts to the Armed Services Board of Contract Appeals for resolution. Appeals will be handled in accordance with the Rules of the Board of Contract Appeals.

(f) (1) The Managing Director, or his designee, is delegated authority to perform all administrative determinations provided for by the Debt Collection Improvement Act of 1996, Public Laws 104–134, 110 Stat. 1321, 1358 (1996) (DCIA), including, but not limited to the provisions of Title 31, United States Code section 3711 to:

(i) Collect claims of the United States Government for money or property arising out of the activities of, or referred to, the Federal Communications Commission,

(ii) Compromise a claim of the Government of not more than \$100,000 (excluding interest) or such higher amount as the Attorney General of the United States may from time to time prescribe, and

(iii) Suspend or end collection action on a claim of the Government of not more than \$100,000 (excluding interest) when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(2)(i) This delegation does not include waiver authority provided by 31 U.S.C. 3720B.

(ii) The Chief Financial Officer, or the Deputy Chief Financial Officer, is delegated authority to perform all administrative determinations provided for by 31 U.S.C. 3720B.

(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 Com-

mittee 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.

(j) The Managing Director or his designee is delegated the authority, after seeking the opinion of the General Counsel, to determine, in accordance with generally accepted accounting principles for federal agencies the organizations, programs (including funds), and accounts that are required to be included in the financial statements of the Commission.

(k) The Managing Director, or his designee, after seeking the opinion of the General Counsel, is delegated the authority to direct all organizations, programs (including funds), and accounts that are required to be included in the financial statements of the Commission to comply with all relevant and applicable federal financial management and reporting statutes.

(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)

CROSS REFERENCE: 47 CFR part 19, subpart E.

[29 FR 14666, Oct. 28, 1964]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.231, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**CHIEF ENGINEER**

**§0.241 Authority delegated.**

(a) The performance of functions and activities described in §0.31 is delegated to the Chief of the Office of Engineering and Technology: *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, except that the Chief of the Office of Engineering and Technology is delegated authority, together with the Chief of the Wireless Telecommunications Bureau, to adopt certain technical standards applicable to hearing aid compatibility under §20.19 of this chapter, as specified in §20.19(k).

(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 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.

(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 issue 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 of the Office of Engineering and Technology is delegated authority to administer the Equipment Authorization program as described in part 2 of this chapter.

(c) The Chief of the Office of Engineering and Technology is delegated authority to administer the Experimental Radio licensing program pursuant to part 5 of this chapter.

(d) The Chief of the Office of Engineering and Technology 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, Media Bureau.

(e) The Chief of the Office of Engineering and Technology 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.

(g) The Chief of the Office of Engineering and Technology is delegated authority to enter into agreements with the National Institute of Standards and Technology to perform accreditation of Telecommunication Certification Bodies (TCBs) pursuant to §§2.960 and 2.962 of this chapter. In addition, the Chief is delegated authority to develop specific methods that will be used to accredit TCBs, to designate TCBs, to make determinations regarding the continued acceptability of individual TCBs, and to develop procedures that TCBs will use for performing post-market surveillance.

(h) The Chief of the Office of Engineering and Technology is delegated

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authority to make nonsubstantive, editorial revisions to the Commission's rules and regulations contained in parts 2, 4, 5, 15, and 18 of this chapter.

[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; 64 FR 4995, Feb. 2, 1999; 67 FR 13220, Mar. 21, 2002; 69 FR 70337, Dec. 3, 2004; 73 FR 9463, Feb. 21, 2008; 73 FR 25587, May 7, 2008]

### §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 in-

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volve 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 Reference Information Center.

(f) The General Counsel is delegated authority to issue written determinations on matters regarding the interception of telephone conversations. Nothing in this paragraph, however, shall affect the authority of the Inspector General to intercept or record telephone conversations as necessary in the conduct of investigations or audits.

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

(h) 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).

(i) The General Counsel is delegated authority to perform all administrative determinations provided for by the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321, 1358 (1996) (DCIA), including, but not limited to the provisions of Title 31, U.S.C. 3711 to:

(1) Collect claims of the United States Government of money or property arising out of the activities of, or referred to, the Federal Communications Commission,

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(2) Compromise a claim of the Government of not more than \$100,000 (excluding interest) or such higher amount as the Attorney General of the United States may from time to time prescribe, and

(3) Suspend or end collection action on a claim of the Government of not more than \$100,000 (excluding interest) when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

NOTE TO PARAGRAPH (i): This delegation does not include waiver authority provided by 31 U.S.C. 3720B.

(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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.251, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### 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 and services pursuant to part 23 of this chapter and relevant portions of part 63 of this chapter, and coordinate with the Wireline Competition 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

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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 and not within the jurisdiction of the Enforcement Bureau.

(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

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providers and \$20,000 for non-common carrier providers.

[60 FR 5324, Jan. 27, 1995, as amended at 60 FR 35506, July 10, 1995; 64 FR 60721, Nov. 8, 1999; 67 FR 13220, Mar. 21, 2002]

### § 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 STRATEGIC PLANNING AND POLICY ANALYSIS

### § 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 Strategic Planning and Policy Analysis is delegated authority to deny requests or to extend the time within which comments may be filed in dockets over which the Office of Strategic Planning and Policy Analysis has primary authority.

(b) [Reserved]

[45 FR 10347, Feb. 15, 1980, as amended at 68 FR 11747, Mar. 12, 2003]

#### CHIEF, MEDIA BUREAU

### § 0.283 Authority delegated.

The Chief, Media Bureau, is delegated authority to perform all functions of the Bureau, described in §0.61, provided that the following matters shall be referred to the Commission en banc for disposition:

(a) Notices of proposed rulemaking and of inquiry and final orders in such proceedings, with the exception of rulemaking proceedings involving the allotment of FM and television channels.

(b) Application for review of actions taken pursuant to delegated authority.

(c) Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.

(d) The imposition, reduction or cancellation of forfeitures pursuant to section 503(b) of the Communications Act



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of 1934, as amended, in amounts of more than \$20,000.

[67 FR 13220, Mar. 21, 2002]

### § 0.284 Actions taken under delegated authority.

(a) In discharging the authority conferred by §0.283 of this part, the Chief, 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 section 315 of the Communications Act—Office of General Counsel.

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

(3) 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.

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

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

(b) With respect to non-routine applications granted under authority delegated in §0.283 of this part, the Chief, 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.

[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; 59 FR 32132, June 22, 1994; 59 FR 67092, Dec. 28, 1994; 61 FR 8477, Mar. 5, 1996; 64 FR 60721, Nov. 8, 1999; 67 FR 13220, Mar. 21, 2002; 71 FR 69036, Nov. 29, 2006]

### § 0.285 Record of actions taken.

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

maintained in the Reference Information Center in the Consumer and Governmental Affairs Bureau.

[67 FR 13220, Mar. 21, 2002]

CHIEF, WIRELINE COMPETITION BUREAU

### § 0.291 Authority delegated.

The Chief, Wireline Competition 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, Wireline Competition 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, Wireline Competition 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, Wireline Competition 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 forfeitures.* The Chief, Wireline Competition 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.

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

(e) *Authority concerning rulemaking and investigatory proceedings.* The Chief, Wireline Competition 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, Wireline Competition Bureau, shall

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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.

(f) *Authority concerning the issuance of subpoenas.* The Chief of the Wireline Competition 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 Wireline Competition Bureau. Before issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

(g) The Chief, Wireline Competition Bureau, is delegated authority to enter into agreements with the National Institute of Standards and Technology to perform accreditation of Telecommunication Certification Bodies (TCBs) pursuant to §§ 68.160 and 68.162 of this chapter. In addition, the Chief is delegated authority to develop specific methods that will be used to accredit TCBs, to designate TCBs, to make determinations regarding the continued acceptability of individual TCBs and to develop procedures that TCBs will use for performing post-market surveillance.

(h) *Authority concerning petitions for pricing flexibility.* (1) The Chief, Wireline Competition Bureau, shall have authority to act on petitions filed pursuant to part 69, subpart H, of this chapter for pricing flexibility involving special access and dedicated transport services. This authority is not subject to the limitation set forth in paragraph (a)(2) of this section.

(2) The Chief, Wireline Competition Bureau, shall not have authority to act on petitions filed pursuant to part 69, subpart H, of this chapter for pricing flexibility involving common line and traffic sensitive services.

(i) *Authority concerning schools and libraries support mechanism audits.* The Chief, Wireline Competition Bureau, shall have authority to address audit findings relating to the schools and libraries support mechanism. This authority is not subject to the limitation

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set forth in paragraph (a)(2) of this section.

(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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 0.291, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 0.301 [Reserved]

### § 0.302 Record of actions taken.

The application and authorization files are designated as the Commission's official records of action of the Chief, Wireline Competition Bureau pursuant to authority delegated to the Chief. The official records of action are maintained in the Reference Information Center in the Consumer and Governmental Affairs Bureau.

[67 FR 13221, Mar. 21, 2002]

### § 0.303 [Reserved]

### § 0.304 Authority for determinations of exempt telecommunications company status.

Authority is delegated to the Chief, Wireline Competition Bureau 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.

[64 FR 5950, Feb. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

### ENFORCEMENT BUREAU

### § 0.311 Authority delegated.

The Chief, Enforcement Bureau, is delegated authority to perform all functions of the Bureau, described in § 0.111, provided that:

(a) 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 such proceedings.

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

(3) Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.

(4) Forfeiture notices and forfeiture orders if the amount is more than \$100,000 in the case of common carriers or more than \$25,000 in the case of all other persons or entities.

(5) Orders concluding an investigation under section 208(b) of the Communications Act and orders addressing petitions for reconsideration of such orders.

(6) Release of information pursuant to section 220(f) of the Communications Act, except for release of such information to a state public utility commission or in response to a Freedom of Information Act Request.

(b) Action on complaints regarding compliance with section 705(a) of the Communications Act shall be coordinated with the Office of General Counsel.

[64 FR 60721, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002; 71 FR 69036, Nov. 29, 2006]

### §0.314 Additional authority delegated.

The *Regional Director, Deputy Regional Director, District Director or Resident Agent* 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) 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.

(b)(1) Extend the Communications Act Safety Radiotelephony Certificate for a period of up to 90 days beyond the specified expiration date.

(b)(2) 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.

(c) 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. To the extent possible, all such actions and determinations shall be made in coordination with the Public Safety and Homeland Security Bureau.

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

(e) Require stations to operate with the 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.

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

(g) Act on 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.

(h) Issue notices and orders to operators of part 15 devices, as provided in §15.5 of this chapter.

(i) Issue notices and orders to suspend operations to multi-channel video programming distributors, as provided in §76.613 of this chapter.

(j) Issue notices and orders to suspend operations to part 74 licensees, as provided in §74.23 of this chapter.

[64 FR 60721, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002; 71 FR 69036, Nov. 29, 2006]

### §0.317 Record of action taken.

The application, authorization, and other appropriate files of the Enforcement Bureau are designated as the Commission's official records of action taken pursuant to authority delegated

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under §§0.311 and 0.314, and shall constitute the official Commission minutes entry of such actions. The official records of action are maintained in the Reference Information Center in the Consumer Information Bureau.

[64 FR 60722, Nov. 8, 1999]

#### 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 dis-

miss 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. In addition, revisions to the airport terminal use list in §90.35(c)(61) of this chapter and revisions to the Government Radiolocation list in §90.371(b) of this chapter need not be referred to the Commission. Adoption of certain technical standards applicable to hearing aid compatibility under §20.19 of this chapter made together with the Chief of the Office of Engineering and Technology, as specified in §20.19(k) of this chapter, also need not be referred to the Commission. 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.

(3) Designate by footnote to frequency table in §80.373(f) of this chapter marine VHF frequencies are available for intership port operations communications in defined port areas.

[60 FR 35506, July 10, 1995, as amended at 61 FR 26465, May 28, 1996; 62 FR 40285, July 28, 1997; 65 FR 43715, July 14, 2000; 67 FR 63284, Oct. 11, 2002; 69 FR 46440, Aug. 3, 2004; 73 FR 25587, May 7, 2008]

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### §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) [Reserved]

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

(c) Matters involving public safety, homeland security, national security, emergency management and preparedness, and disaster management communications—the Public Safety and Homeland Security 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; 64 FR 60722, Nov. 8, 1999; 71 FR 69037, Nov. 29, 2006]

### §§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 mo-

tions, 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 in the Reference Information

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Center of the Consumer and Governmental Affairs Bureau.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

### CHIEF ADMINISTRATIVE LAW JUDGE

#### §0.351 Authority delegated.

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

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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 Reference Information Center of the Consumer and Governmental Affairs Bureau.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

### CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU

#### §0.361 Authority delegated.

The Chief, Consumer and Governmental Affairs Bureau, is delegated authority to perform all functions of the Bureau, described in §0.141, provided that the following matters shall be referred to the Commission en banc for disposition:

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

(b) Application for review of actions taken pursuant to delegated authority.

(c) Matters that present novel questions of law, fact or policy that cannot be resolved under existing precedents and guidelines.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

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### OFFICE OF COMMUNICATIONS BUSINESS OPPORTUNITIES

#### §0.371 Authority delegated.

The Director, Office of Communications Business Opportunities, or his/her designee, is hereby delegated authority to:

(a) Manage the Commission's compliance with the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act;

(b) Develop the Commission's goals and objectives regarding increased opportunities for small entities, women, and minorities;

(c) Collect and analyze data on the Commission's efforts toward ensuring full consideration of the interests of small entities, women, and minorities;

(d) Prepare and release reports on the opportunities available and obstacles faced by small entities, women, and minorities in the communications industry;

(e) Conduct studies and collect data on the issues and problems faced by small entities, women, and minorities in the communications industry;

(f) Assume representational role on behalf of the Commission before other federal agencies and at conferences, meetings, and hearings regarding small entities, women, and minorities in the communications industry;

(g) Develop programs and strategies designed to increase competition, employment opportunities and diversity of viewpoint through the promotion of ownership by small entities, women, and minorities;

(h) Manage the Commission's efforts to increase the awareness of small entities, women, and minorities and to ensure that all available information is accessible to the same.

[69 FR 7377, Feb. 17, 2003]

### NATIONAL SECURITY AND EMERGENCY PREPAREDNESS DELEGATIONS

#### §0.381 Defense Commissioner.

The authority delegated to the Commission under Executive Orders 12472 and 12656 is redelegated to the Defense Commissioner.

[69 FR 30234, May 27, 2004]

#### §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 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.

For authority of the Chief of the Public Safety and Homeland Security Bureau to declare a temporary communications emergency, see §0.191(o).

[71 FR 69037, Nov. 29, 2006]

### 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

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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]

**PUBLIC SAFETY AND HOMELAND  
SECURITY BUREAU**

**§0.392 Authority delegated.**

The Chief, Public Safety and Homeland Security Bureau, is hereby delegated authority to perform all functions of the Bureau, described in §0.191, subject to the following exceptions and limitations in paragraphs (a) through (e) of this section.

(a) The Chief, Public Safety and Homeland Security Bureau shall not have authority to act on any applications or requests that present novel questions of fact, law or policy that cannot be resolved under outstanding precedents and guidelines.

(b) The Public Safety and Homeland Security Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Public Safety and Homeland Security Bureau, pursuant to any delegated authority.

(c) The Public Safety and Homeland Security Bureau shall not have authority to act upon any formal or informal radio application or section 214 application for common carrier services which is in hearing status.

(d) The Public Safety and Homeland Security 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 for common carrier providers and \$20,000 for non-common carrier providers.

(e) The Chief, Public Safety and Homeland Security 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 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.

(f) The Chief, Public Safety and Homeland Security Bureau or her/his designee has the authority to rule on emergency requests for Special Temporary Authority during non-business hours. Action on emergency requests for Special Temporary Authority during non-business hours shall be promptly reported to the responsible Bureau or Office.

(g) The Chief, Public Safety and Homeland Security Bureau is authorized to declare that a temporary state of communications emergency exists pursuant to §97.401(b) of this chapter and to act on behalf of the Commission with respect to the operation of amateur stations during such temporary state of communications emergency.

(h) The Chief, Public Safety and Homeland Security 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 Public Safety and Homeland Security Bureau. Before



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issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

(i) The Chief of the Public Safety and Homeland Security Bureau is delegated authority to administer the communications disruption reporting requirements contained in part 4 of this chapter and to revise the filing system and template used for the submission of such communications disruption reports.

[71 FR 69037, Nov. 29, 2006, as amended at 72 FR 39760, July 20, 2007; 73 FR 9463, Feb. 21, 2008]

### 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 445 12th Street, SW., Washington, DC 20554.

(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 at 236 Massachusetts Avenue, NE., Washington, DC 20002.

(iii) Electronic filings, where permitted, must be transmitted as specified by the Commission or relevant Bureau or Office.

(2) The Commission's laboratory is located near Columbia, Maryland. The mailing address is:

Federal Communications Commission,  
Equipment Authorization Division, 7435  
Oakland Mills Road, Columbia, MD 21046

(3) The Commission also maintains offices at Gettysburg, PA.

(i) The address of the Wireless Telecommunications Bureau's licensing facilities are:

(A) Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325-7245; and

(B) Federal Communications Commission, Wireless Telecommunications Bureau, Washington, DC 20554.

(ii) The mailing address of the International Telecommunications Section of the Finance Branch is: Federal Communications Commission, P.O. Box IT-70, Gettysburg, PA 17326.

(4) The locations of the field offices of the Compliance and Information Bureau are listed in §0.121.

(5) The location of the Office of General Counsel is 445 12th Street, SW, Washington, DC 20554.

(b) Applications or filings requiring the fees set forth at part 1, subpart G of the rules must be delivered to the Commission's lockbox bank in St. Louis, Missouri with the correct fee and completed Fee Form attached to the application or filing, unless otherwise directed by the Commission. In the case of any conflict between this rule subpart and other rules establishing filing locations for submissions subject to a fee, this subpart shall govern.

NOTE: Applicants seeking a waiver or deferral of fees must submit their application or filing in accordance with the addresses set forth below. Applicants claiming a statutory exemption from the fees should file their applications in accordance with paragraph (a) of this section.

(1) Applications and filings submitted by mail shall be addressed to the U.S. Bank in St. Louis, Missouri. The bank maintains separate post office boxes for the receipt of different types of applications. It will also establish special post office boxes to receive responses

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to special filings such as applications filed in response to “filing windows” established by the Commission. The address for the submission of filings will be established in the Public Notice announcing the filing dates. In all other cases, applications and filings submitted by mail should be sent to the addresses listed in the appropriate fee rules.

NOTE: Wireless Telecommunications Bureau applications that require frequency coordination by certified coordinators must be submitted to the appropriate certified frequency coordinator before filing with the Commission. After coordination, the applications are filed with the Commission as set forth herein. (See §§90.127 and 90.175 of this chapter.)

(2) Applications and other filings may also be hand carried, in person or by courier, to the U.S. Bank, Government Lockbox, 1005 Convention Plaza, St. Louis, Missouri. All applications and filings delivered in this manner must be in an envelope clearly marked for the “Federal Communications Commission,” and identified with the appropriate Post Office Box address as set out in the fee schedule (§§1.1102 through 1.1109 of this chapter). Applications should be enclosed in a separate envelope for each Post Office Box. Hand-carried or couriered applications and filings may be delivered at any time on any day. Applications or filings received by the bank before midnight on any Commission business day will be treated as having been filed on that day. Materials received by the bank after midnight, Monday through Friday, or on weekends or holidays, will be treated as having been filed on the next Commission business day.

(3) Alternatively, applications and other filings may be sent electronically via the Universal Licensing System (ULS) or the Cable Operations and Licensing System (COALS) as appropriate for use of those systems.

[52 FR 10227, Mar 31, 1987]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §0.401, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 0.403 Office hours.**

The main offices of the Commission are open from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, unless otherwise stated.

[52 FR 10228, Mar. 31, 1987]

**§ 0.405 Statutory provisions.**

The following statutory provisions, among others, will be of interest to persons having business with the Commission:

(a) The Federal Communications Commission was created by the Communications Act of 1934, 48 Stat. 1064, June 19, 1934, as amended, 47 U.S.C. 151-609.

(b) The Commission exercises authority under the Submarine Cable Landing Act, 42 Stat. 8, May 27, 1921, 47 U.S.C. 34-39. See section 5 of Executive Order 10530, 19 FR 2709, May 10, 1954, as amended, 3 CFR, 1965 ed., p. 463.

(c) The Commission exercises authority under the Communications Satellite Act of 1962, 76 Stat. 419, August 31, 1962, 47 U.S.C. 701-744.

(d) The Commission operates under the Administrative Procedure Act, 60 Stat. 237, June 11, 1946, as amended, originally codified as 5 U.S.C. 1001-1011. Pursuant to Pub. L. 89-554, September 6, 1966, 80 Stat. 378, the provisions of the Administrative Procedure Act now appear as follows in the Code:

Administrative Procedure Act	5 U.S.C.
Sec. 2-9 .....	551-558
Sec. 10 .....	701-706
Sec. 11 .....	3105, 7521, 5362, 1305
Sec. 12 .....	559

[32 FR 10570, July 19, 1967]

**§ 0.406 The rules and regulations.**

Persons having business with the Commission should familiarize themselves with those portions of its rules and regulations pertinent to such business. All of the rules have been published and are readily available. See §§0.411(b), 0.412, and 0.415. For the benefit of those who are not familiar with the rules, there is set forth in this section a brief description of their format and contents.

(a) *Format.* The rules are set forth in the Code of Federal Regulations as

chapter I of title 47. Chapter I is divided into parts numbered from 0-99. Each part, in turn, is divided into numbered sections. To allow for the addition of new parts and sections in logical sequence, without extensive renumbering, parts and sections are not always numbered consecutively. Thus, for example, part 2 is followed by part 5, and §1.8 is followed by §1.10; in this case, parts 3 and 4 and §1.9 have been reserved for future use. In numbering sections, the number before the period is the part number; and the number after the period locates the section within that part. Thus, for example, §1.1 is the first section of part 1 and §5.1 is the first section in part 5. Except in the case of accounting regulations (parts 31-35), the period should not be read as a decimal point; thus, §1.511 is not located between §§1.51 and 1.52 but at a much later point in the rules. In citing the Code of Federal Regulations, the citation, 47 CFR 5.1, for example, is to §5.1 (in part 5) of chapter I of title 47 of the Code, and permits the exact location of that rule. No citation to other rule units (e.g., subpart or chapter) is needed.

(b) *Contents.* Parts 0-19 of the rules have been reserved for provisions of a general nature. Parts 20-69 of this chapter have been reserved for provisions pertaining to common carriers. Parts 20-29 and 80-109 of this chapter have been reserved for provisions pertaining to the wireless telecommunications services. In the rules pertaining to common carriers, parts 20-25 and 80-99 of this chapter pertain to the use of radio; in the rules pertaining to common carriers, parts 21, 23, and 25 of this chapter pertain to the use of radio; parts 31-66 of this chapter pertain primarily to telephone and telegraph companies. Persons having business with the Commission will find it useful to consult one or more of the following parts containing provisions of a general nature in addition to the rules of the radio or wire communication service in which they are interested:

(1) *Part 0, Commission organization.* Part 0 describes the structure and functions of the Commission, lists delegations of authority to the staff, and sets forth information designed to assist those desiring to obtain information

from, or to do business with, the Commission. This part is designed, among other things, to meet certain of the requirements of the Administrative Procedure Act, as amended.

(2) *Part 1 of this chapter, practice and procedure.* Part 1, subpart A, of this chapter contains the general rules of practice and procedure. Except as expressly provided to the contrary, these rules are applicable in all Commission proceedings and should be of interest to all persons having business with the Commission. Part 1, subpart A of this chapter also contains certain miscellaneous provisions. Part 1, subpart B, of this chapter contains the procedures applicable in formal hearing proceedings (see §1.201 of this chapter). Part 1, subpart C, of this chapter contains the procedures followed in making or revising the rule or regulations. Part 1, subpart D, of this chapter contains rules applicable to applications for licenses in the Broadcast Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting upon such applications, and certain other matters. Part 1, subpart E, of this chapter contains general rules and procedures applicable to common carriers. Part 1, subpart F, of this chapter contain rules applicable to applications for licenses in the Wireless Telecommunications Bureau services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Part 1, subpart F, of this chapter contains rules applicable to applications for licenses in the Private Radio Services, including the forms to be used, the filing requirements, the procedures for processing and acting on such applications, and certain other matters. Part 1, subpart G, of this chapter contains rules pertaining to the application processing fees established by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272, 100 Stat. 82 (1986)) and also contains rules pertaining to the regulatory fees established by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, 107 Stat. 397 (1993)). Part 1, subpart H, of this chapter, concerning *ex parte*

presentations, sets forth standards governing communications with commission personnel in hearing proceedings and contested application proceedings. Part 1, subparts G and H, of this chapter will be of interest to all regulatees, and part 1, subpart H, of this chapter will, in addition, be of interest to all persons involved in hearing proceedings.

(3) *Part 2, frequency allocations and radio treaty matters; general rules and regulations.* Part 2 will be of interest to all persons interested in the use of radio. It contains definitions of technical terms used in the rules and regulations; provisions governing the allocation of radio frequencies among the numerous uses made of radio (e.g., broadcasting, land mobile) and radio services (e.g., television, public safety), including the Table of Frequency Allocations (§2.106); technical provisions dealing with emissions; provisions dealing with call signs and emergency communications; provisions governing authorization of radio equipment; and a list of treaties and other international agreements pertaining to the use of radio.

(4) *Part 5, experimental radio services (other than broadcast).* Part 5 deals with the temporary use of radio frequencies for research in the radio art, for communication involving other research projects, and for the development of equipment, data, or techniques.

(5) *Part 13, commercial radio operators.* Part 13 describes the procedures to be followed in applying for a commercial operator license, including the forms to be used and the examinations given, and sets forth rules governing licensed operators. It will be of interest to applicants for such licenses, licensed operators, and the licensees of radio stations which may be operated only by persons holding a commercial radio operator license.

(6) *Part 15, radio frequency devices.* Part 15 contains regulations designed to prevent harmful interference to radio communication from radio receivers and other devices which radiate radio frequency energy, and provides for the certification of radio receivers. It also provides for the certification of low power transmitters and for the op-

eration of certificated transmitters without a license.

(7) *Part 17, construction, marking, and lighting of antenna structures.* Part 17 contains criteria for determining whether applications for radio towers require notification of proposed construction to the Federal Aviation Administration, and specifications for obstruction marking and lighting of antenna structures.

(8) *Part 18, industrial, scientific and medical equipment.* Part 18 contains regulations designed to prevent harmful interference to radio communication from ultrasonic equipment, industrial heating equipment, medical diathermy equipment, radio frequency stabilized arc welders, and other equipment which uses radio energy for purposes other than communication.

(9) *Part 19, employee responsibilities and conduct.* Part 19 prescribes standards of conduct for the members and staff of the Commission.

[32 FR 10571, July 19, 1967, as amended at 32 FR 12180, Aug. 24, 1967; 37 FR 20553, Sept. 30, 1972; 52 FR 5288, Feb. 20, 1987; 58 FR 13021, Mar. 9, 1993; 59 FR 30998, June 16, 1994; 60 FR 35507, July 10, 1995; 63 FR 36596, July 7, 1998]

**§0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.**

(a) *Purpose.* This section displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (“OMB”) pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies “display” current control numbers and expiration dates assigned by the Director, OMB, for each approved information collection requirement. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and

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Records Management, (“AMD– Washington, DC 20554 by sending an e-  
 PERM”), Office of Managing Director, mail to *Judith-B.Herman@fcc.gov*.  
 Federal Communications Commission, (b) *Display*.

OMB Control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060-0004	Secs. 1.1307 and 1.1311, Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93-62.	03/31/11
3060-0009	FCC 316	06/30/11
3060-0010	FCC 323	01/31/09
3060-0016	FCC 346	03/31/11
3060-0017	FCC 347	05/31/09
3060-0027	FCC 301	08/31/11
3060-0029	FCC 302-DTV	05/31/11
3060-0031	FCC 314, FCC 315	06/30/11
3060-0053	FCC 703	06/30/11
3060-0055	FCC 327	10/31/09
3060-0056	Part 68	05/31/11
3060-0057	FCC 731	03/31/11
3060-0059	FCC 740	02/28/10
3060-0061	FCC 325	Pending OMB Approval.
3060-0065	FCC 442	06/30/11
3060-0068	FCC 702	06/30/11
3060-0075	FCC 345	06/30/11
3060-0076	FCC 395	12/31/10
3060-0084	FCC 323-E	03/31/11
3060-0093	FCC 405	01/31/09
3060-0095	FCC 395-A	Pending OMB Approval.
3060-0106	Part 43	05/31/10
3060-0110	FCC 303-S	06/30/11
3060-0113	FCC 396/396-A	12/31/09
3060-0126	Sec. 73.1820	12/31/08
3060-0132	FCC 1068A	11/30/09
3060-0139	FCC 854	Pending OMB Approval.
3060-0147	Sec. 64.804	01/31/09
3060-0149	Part 63, Section 214, Secs. 63.01, 63.602; 63.50, 63.51, 63.52, 63.53; 63.61, 63.62, 63.63; 63.65, 63.66; 63.71; 63.90; 63.500, 63.501; 63.504, 63.505 and 63.601.	03/31/11
3060-0157	Sec. 73.99	02/28/09
3060-0161	Sec. 73.61	05/31/09
3060-0166	Part 42	11/30/10
3060-0168	Sec. 43.43	09/30/09
3060-0169	Secs. 43.51 and 43.53	Pending OMB Approval.
3060-0170	Sec. 73.1030	12/31/10
3060-0171	Sec. 73.1125	12/31/10
3060-0174	Secs. 73.1212, 76.1615, and 76.1715	02/28/09
3060-0175	Sec. 73.1250	06/30/11
3060-0176	Sec. 73.1510	02/28/09
3060-0178	Sec. 73.1560	01/31/09
3060-0179	Sec. 73.1590	10/31/10
3060-0180	Sec. 73.1610	10/31/10
3060-0182	Sec. 73.1620	05/31/10
3060-0184	Sec. 73.1740	10/31/10
3060-0185	Sec. 73.3613	02/28/11
3060-0188	Call Sign Reservation and Authorization System	11/30/10
3060-0190	Sec. 73.3544	01/31/10
3060-0192	Sec. 87.103	09/30/10
3060-0202	Sec. 87.37	09/30/09
3060-0204	Sec. 90.20(a)(2)(v)	01/31/09
3060-0207	Part 11	08/31/11
3060-0208	Sec. 73.1870	09/30/09
3060-0213	Sec. 73.3525	12/31/09
3060-0214	Secs. 73.3526 and 73.3527; Secs. 76.1701 and 73.1943	Pending OMB Approval.
3060-0216	Sec. 73.3538 and Sec. 73.1690(e)	02/28/11
3060-0219	Sec. 90.20(a)(2)(xi)	11/30/08
3060-0221	Sec. 90.155 (b) and (d)	01/31/11
3060-0222	Sec. 97.213	09/30/09
3060-0223	Sec. 90.129	01/31/09
3060-0228	Sec. 80.59	07/31/10
3060-0233	Part 36	11/30/09
3060-0236	Sec. 74.703	06/30/11
3060-0248	Sec. 74.751	02/28/11
3060-0249	Secs. 74.781, 74.1281, and 78.69	10/31/09
3060-0250	Secs. 73.1207, 74.784 and 74.1284	10/31/10
3060-0259	Sec. 90.263	09/30/09

OMB Control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0261	Sec. 90.215	06/30/10
3060–0262	Sec. 90.179	03/31/11
3060–0264	Sec. 80.413	09/30/09
3060–0265	Sec. 80.868	05/31/10
3060–0270	Sec. 90.443	01/31/10
3060–0281	Sec. 90.651	06/30/10
3060–0286	Sec. 80.302	04/30/10
3060–0288	Sec. 78.33	02/28/09
3060–0289	Secs. 76.601, 76.1704, 76.1705, and 76.1717	06/30/11
3060–0290	Sec. 90.517	04/30/11
3060–0291	Sec. 90.477(a), (b)(2), (d)(2) and (d)(3)	06/30/11
3060–0292	Part 69 (Sec. 69.605)	01/31/10
3060–0295	Sec. 90.607(b)(1) and (c)(1)	04/30/10
3060–0297	Sec. 80.503	09/30/09
3060–0298	Part 61	07/31/11
3060–0307	Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band.	01/31/10
3060–0308	Sec. 90.505	04/30/10
3060–0310	FCC 322	10/31/09
3060–0311	Sec. 76.54	04/30/11
3060–0316	Secs. 76.1700, 76.1702, 76.1703, 76.1704, 76.1707, and 76.1711	02/28/11
3060–0320	Sec. 73.1350	03/31/10
3060–0325	Sec. 80.605	09/30/11
3060–0329	Sec. 2.955	01/31/09
3060–0331	FCC 321	10/31/09
3060–0332	Secs. 76.614 and 76.1706	11/30/10
3060–0340	Sec. 73.51	01/31/10
3060–0341	Sec. 73.1680	10/31/09
3060–0346	Sec. 78.27	01/31/10
3060–0347	Sec. 97.311	01/31/09
3060–0349	Secs. 73.2080, 76.73, 76.75, 76.79, and 76.1702	01/31/10
3060–0355	FCC 492 and FCC 492A	07/31/10
3060–0357	Sec. 63.701	06/30/11
3060–0360	Sec. 80.409	11/30/10
3060–0370	Part 32	04/30/11
3060–0384	Secs. 64.904 and 64.905	01/31/11
3060–0386	Sec. 73.1635	08/31/11
3060–0387	Sec. 15.201(d)	09/30/09
3060–0390	FCC 395–B	Pending OMB Approval.
3060–0391	Parts 54 and 36, Program to Monitor the Impacts of the Universal Service Support Mechanisms.	05/31/11
3060–0392	47 CFR Part 1, Subpart J, Pole Attachment Complaint Procedures	01/31/10
3060–0394	Sec. 1.420	06/30/11
3060–0395	FCC Reports 43–02, FCC 43–05 and FCC 43–07	Pending OMB Approval.
3060–0398	Secs. 2.948 and 15.117(g)(2)	08/31/09
3060–0400	Tariff Review Plan	03/31/09
3060–0404	FCC 350	02/28/11
3060–0407	Sec. 73.3598	06/30/11
3060–0410	FCC 495A and FCC 495B	Pending OMB Approval.
3060–0411	FCC 485	05/31/10
3060–0414	Terrain Shielding Policy	01/31/10
3060–0419	Secs. 76.94, 76.95, 76.105, 76.106, 76.107, and 76.1609	07/31/11
3060–0422	Sec. 68.5	09/30/10
3060–0423	Sec. 73.3588	11/30/08
3060–0430	Sec. 1.1206	04/30/11
3060–0433	FCC 320	05/31/11
3060–0434	Sec. 90.20(e)(6)	05/31/11
3060–0436	Equipment Authorization—Cordless Telephone Security Coding	06/30/09
3060–0439	Sec. 64.201	10/31/10
3060–0441	Sec. 90.621(b)(4) and (b)(5)	09/30/09
3060–0454	Secs. 43.51, 64.1001, and 64.1002	08/31/11
3060–0463	Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling, CG Docket No. 03–123, FCC 07–186.	07/31/11
3060–0466	Secs. 73.1201, 74.783, and 74.1283	12/31/10
3060–0470	Secs. 64.901 and 64.903, and RAO Letters 19 and 26	02/28/11
3060–0473	Sec. 74.1251	09/30/11
3060–0474	Sec. 74.1263	02/28/09
3060–0484	Part 4 of the Commission's Rules Concerning Disruptions to Communications	02/28/11
3060–0489	Sec. 73.37	01/31/10
3060–0496	FCC Report 43–08	03/31/10
3060–0500	Sec. 76.1713	10/31/10
3060–0501	Secs. 73.1942, 76.206 and 76.1611	01/31/09

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3060-0506	FCC 302-FM	04/30/09
3060-0508	Part 1 and Part 22 Reporting and Recordkeeping Requirements	04/30/11
3060-0511	FCC Report 43-04	10/31/08
3060-0512	FCC Report 43-01	07/31/09
3060-0513	FCC Report 43-03	07/31/09
3060-0514	Sec. 43.21(b)	03/31/09
3060-0515	Sec. 43.21(c)	08/31/11
3060-0519	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991, Order, CG Docket No. 02-278.	11/30/10
3060-0526	Sec. 69.123, Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities.	08/31/11
3060-0531	Local Multipoint Distribution Service (LMDS)	01/31/10
3060-0532	Secs. 2.1033(b)(10) and 15.121	12/31/08
3060-0537	Sec. 13.217	04/30/11
3060-0546	Sec. 76.59	03/31/09
3060-0548	Secs. 76.1708, 76.1709, 76.1620, 76.56, and 76.1614	07/31/11
3060-0550	FCC 328	09/30/11
3060-0560	Sec. 76.911	07/31/10
3060-0561	Sec. 76.913	11/30/09
3060-0562	Sec. 76.916	04/30/10
3060-0565	Sec. 76.944	12/31/09
3060-0567	Sec. 76.962	12/31/10
3060-0568	Secs. 76.970, 76.971 and 76.975	10/31/09
3060-0569	Sec. 76.975	08/31/09
3060-0572	Filing Manual for Annual International Circuit Status Reports	05/31/10
3060-0573	FCC 394	06/30/09
3060-0580	Sec. 76.1710	01/31/10
3060-0584	FCC 44 and FCC 45	04/30/09
3060-0589	FCC 159, FCC 159-B, FCC 159-C, FCC 159-E, and FCC 159-W	01/31/11
3060-0594	FCC 1220	08/31/10
3060-0599	Secs. 90.647 and 90.425	03/31/10
3060-0600	FCC 175	11/30/09
3060-0601	FCC 1200	08/31/10
3060-0607	Sec. 76.922	11/30/09
3060-0609	Sec. 76.934(e)	10/31/10
3060-0625	Sec. 24.103	04/30/10
3060-0626	Sec. 90.483	12/31/10
3060-0627	FCC 302-AM	05/31/09
3060-0633	Secs. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, and 74.1265	10/31/10
3060-0634	Sec. 73.691	02/28/10
3060-0636	Sec. 2.1075	04/30/09
3060-0645	Sec. 17.4	04/30/09
3060-0647	Annual Cable Price Survey and Supplemental Questions	08/31/09
3060-0649	Secs. 76.1601, 76.1617, 76.1697 and 76.1708	12/31/10
3060-0652	Secs. 76.309, 76.1602, 76.1603, and 76.1619	03/31/11
3060-0653	Sec. 64.703(b) and (c)	04/30/11
3060-0655	Request for Waivers of Regulatory and Application Fees Predicated on Allegations of Financial Hardship.	05/31/10
3060-0665	Sec. 64.707	10/31/10
3060-0667	Secs. 76.630, 76.1621, and 76.1622	03/31/11
3060-0668	Sec. 76.936	12/31/10
3060-0669	Sec. 76.946	02/28/11
3060-0674	Sec. 76.1618	08/31/11
3060-0678	FCC 312, Schedule S	03/31/10
3060-0681	Secs. 52.103 and 52.105	10/31/09
3060-0685	FCC 1210 and FCC 1240	04/30/09
3060-0686	Streamlining the International Section 214 Authorization Process and Tariff Requirements.	02/28/09
3060-0687	Access to Telecommunications Equipment and Services by Persons with Disabilities, CC Docket No. 87-124.	05/31/09
3060-0688	FCC 1235	11/30/10
3060-0690	Sec. 101.17	09/30/09
3060-0691	Sec. 90.665	07/31/10
3060-0692	Home Wiring Provisions	03/31/10
3060-0695	Sec. 87.219	01/31/09
3060-0698	Secs. 23.20, 25.203, and 73.1030, Radio Astronomy Coordination Zone in Puerto Rico.	11/30/10
3060-0700	FCC 1275	07/31/10
3060-0703	FCC 1205	04/30/09
3060-0704	Policy and Rules Concerning the Interstate, Interexchange Marketplace: Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61.	01/31/09
3060-0706	Cable Act Reform	Pending OMB Approval.

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3060–0707	Over-the Air Reception Devices (OTARD)	06/30/11
3060–0710	Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Docket No. 96–98.	02/28/10
3060–0711	Secs. 1.5001, 1.5002, 1.5003, 1.5004, 1.5005, 1.5006 and 1.5007, Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935.	10/31/09
3060–0713	Alternative Broadcast Inspection Program (ABIP) Compliance Notification	04/30/11
3060–0715	Telecommunications Carriers' Use of Customer Proprietary Network Information (CPNI) and Other Customer Information—CC Docket No. 96–115.	07/31/11
3060–0716	Secs. 73.88, 73.718, 73.685 and 73.1630	11/30/09
3060–0717	Secs. 64.703(a), 64.709, and 64.710	06/30/11
3060–0718	Part 101, Governing the Terrestrial Microwave Fixed Radio Service	06/30/09
3060–0719	Quarterly Report of IntraLATA Carriers Listing Payphone Automatic Number Identifications (ANIs).	01/31/10
3060–0723	Public Disclosure of Network Information by Bell Operating Companies (BOCs).	10/31/09
3060–0725	Quarterly Filing of Nondiscrimination Reports (on Quality of Service, Installation, and Maintenance) by Bell Operating Companies (BOCs).	08/31/09
3060–0727	Sec. 73.213	01/31/10
3060–0734	Secs. 53.209, 53.211 and 53.213; Sections 260 and 271–276 of the Communications Act of 1934, as amended.	07/31/11
3060–0737	Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.	06/30/09
3060–0740	Sec. 95.1015	01/31/09
3060–0741	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996—CC Docket No. 96–98.	01/31/11
3060–0742	Secs. 52.21, 52.22, 52.23, 52.24, 52.25, 52.26, 52.27, 52.28, 52.29, 52.30, 52.31, 52.32 and 52.33 and CC Docket No. 95–116.	11/30/08
3060–0743	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996—CC Docket No. 96–128.	01/31/10
3060–0745	Implementation of the Local Exchange Carrier Tariff Streamlining Provisions of the Telecommunications Act of 1996, CC Docket No. 96–187.	11/30/09
3060–0748	Sec. 64.1504	04/30/10
3060–0749	Sec. 64.1509	04/30/10
3060–0750	Secs. 73.671 and 73.673	07/31/11
3060–0751	Reports Concerning International Private Lines Interconnected to the U.S. Public Switched Network.	01/31/09
3060–0752	Sec. 64.1510	04/30/10
3060–0754	FCC 398	06/30/09
3060–0755	Secs. 59.1, 59.2, 59.3 and 59.4	03/31/09
3060–0757	FCC Auctions Customer Survey	03/31/10
3060–0758	Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations, ET Docket No. 96–256.	03/31/10
3060–0760	Access Charge Reform, CC Docket No. 96–262	Pending OMB Approval.
3060–0761	Sec. 79.1	12/31/08
3060–0763	FCC Report 43–06	04/30/09
3060–0767	Sections 1.2110, 1.2111, and 1.2112, Auction Forms and License Transfer Disclosure Requirements.	04/30/11
3060–0768	28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, and to Establish Rules and Policies for Local Multipoint Distribution Services (LMDS) and for the Fixed Satellite Service (FSS).	01/31/09
3060–0770	Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1 (New Services).	11/30/08
3060–0773	Sec. 2.803	02/28/10
3060–0774	Parts 36 and 54, Federal-State Joint Board on Universal Service	04/30/11
3060–0775	Sec. 64.1903	01/31/10
3060–0779	Amendment of Part 90 of the Commission's Rules to Provide for Use of the 220 MHz Band by the Private Land Mobile Radio Service (PLMRS), PR Docket No. 89–552.	09/30/10
3060–0782	Petition for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations.	11/30/09
3060–0783	Sec. 90.176	01/31/09
3060–0786	Petitions for LATA Association Changes by Independent Telephone Companies.	11/30/09
3060–0787	Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance.	07/31/11
3060–0788	DTV Showings/Interference Agreements	01/31/11
3060–0790	Sec. 68.110(c)	10/31/09
3060–0791	Accounting for Judgments and Other Costs Associated with Litigation, CC Docket No. 93–240.	11/30/09



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3060-0793	Federal-State Joint Board on Universal Service, Procedures for Self-Certifying as a Rural Carrier, CC Docket No. 96-45.	09/30/11
3060-0795	FCC 606	06/30/11
3060-0798	FCC 601	12/31/10
3060-0799	FCC 602	12/31/10
3060-0800	FCC 603	01/31/11
3060-0804	FCC 465, FCC 466, FCC 466-A, and FCC 467	Pending OMB Approval.
3060-0805	Secs. 90.523, 90.527, 90.545 and 90.1211	07/31/11
3060-0806	FCC 470 and FCC 471	01/31/11
3060-0807	Sec. 51.803 and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended.	09/30/10
3060-0809	Communications Assistance for Law Enforcement Act (CALEA)	01/31/11
3060-0810	Procedures for Designation of Eligible Telecommunications Carriers (ETCs) Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended.	09/30/09
3060-0812	Exemption from Payment of Regulatory Fees When Claiming Non-Profit Status.	01/31/09
3060-0813	Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems.	02/28/09
3060-0814	Sec. 54.301, Local Switching Support and Local Switching Support Data Collection Form and Instructions.	02/28/11
3060-0816	FCC 477	06/30/11
3060-0817	Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95-20.	09/30/09
3060-0819	Secs. 54.400, 54.401, 54.402, 54.403, 54.404, 54.405, 54.406, 54.407, 54.408, 54.409, 54.410, 54.411, 54.412, 54.413, 54.414, 54.415, 54.416 and 54.417, and FCC 497.	07/31/11
3060-0823	Part 64, Pay Telephone Reclassification	06/30/11
3060-0824	FCC 498	09/30/09
3060-0833	Implementation of Section 255 of the Telecommunications Act of 1996: Complaint Filings.	04/30/11
3060-0835	FCC 806, FCC 824, FCC 827 and FCC 829	04/30/09
3060-0841	Public Notice—Additional Processing Guidelines for DTV (Nonchecklist Applications).	02/28/11
3060-0844	Carriage of the Transmissions of Digital Television Broadcast Stations	11/30/10
3060-0848	Deployment of Wireline Services Offering Advanced Telecommunications Capability—CC Docket No. 98-147.	04/30/09
3060-0849	Commercial Availability of Navigation Devices, CS Docket No. 97-80	06/30/10
3060-0850	FCC 605	04/30/11
3060-0853	FCC 479, FCC 486, and FCC 500	04/30/10
3060-0854	Truth-in-Billing Format, CC Docket No. 98-170	Pending OMB Approval.
3060-0855	FCC 499-A and FCC 499-Q	09/30/10
3060-0856	FCC 472, FCC 473, and FCC 474	04/30/10
3060-0859	Suggested Guidelines for Petitions for Ruling under Section 253 of the Communications Act.	06/30/09
3060-0862	Handling Confidential Information	06/30/11
3060-0863	Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act (SHVA).	04/30/09
3060-0865	Wireless Telecommunications Bureau Universal Licensing System Record-keeping and Third-Party Disclosure Requirements.	07/31/10
3060-0874	FCC 475B, FCC 2000 Series, FCC Form E	09/30/10
3060-0876	Sec. 54.703 and Secs. 54.719, 54.720, 54.721, 54.722, 54.723, 54.724 and 54.725.	09/30/09
3060-0881	Sec. 95.861	08/31/11
3060-0882	Sec. 95.833	01/31/09
3060-0888	Secs. 76.7, 76.9, 76.61, 76.914, 76.1003, 76.1302, and 76.1513	02/28/11
3060-0894	Secs. 54.313 and 54.316 and Certification Letter Accounting for Receipt of Federal Support and Rate Comparability Review and Certification.	09/30/10
3060-0895	FCC 502	05/31/10
3060-0896	Broadcast Auction Form Exhibits	12/31/08
3060-0900	Compatibility of Wireless Services with Enhanced 911—CC Docket No. 94-102.	02/28/09
3060-0901	Reports of Common Carriers and Affiliates	04/30/09
3060-0905	Secs. 18.213 and 18.307	11/30/08
3060-0906	FCC 317	05/31/09
3060-0910	Third Report and Order in CC Docket No. 94-102 to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.	09/30/09
3060-0912	Cable Attribution Rules	11/30/09
3060-0917	FCC 160	03/31/10
3060-0918	FCC 161	03/31/10
3060-0920	FCC 318	06/30/11
3060-0921	Petitions for LATA Boundary Modification for the Deployment of Advanced Services.	09/30/09

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3060–0922	FCC 397	09/30/09
3060–0927	Auditor’s Annual Independence and Objectivity Certification	04/30/09
3060–0928	FCC 302–CA	01/31/10
3060–0931	Maritime Mobile Services Identity (MMSI)	06/30/09
3060–0932	FCC 301–CA	02/28/11
3060–0936	Secs. 95.1215 and 95.1217	08/31/09
3060–0937	Establishment of a Class A Television Service, MM Docket No. 00–10	09/30/10
3060–0938	FCC 319	09/30/09
3060–0942	Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.	03/31/10
3060–0943	Sec. 54.809	10/31/09
3060–0944	Review of Commission Consideration of Applications Under the Cable Landing License Act.	03/31/09
3060–0949	FCC 159–W	03/31/10
3060–0950	Bidding Credits for Tribal Lands, WT Docket No. 99–266	09/30/10
3060–0951	Sec. 1.1204(b) Note, and Sec. 1.1206(a) Note 1	01/31/10
3060–0952	Proposed Demographic Information and Notifications, CC Docket Nos. 98–147 and 96–98.	01/31/10
3060–0953	Wireless Medical Telemetry Service, ET Docket No. 99–255, FCC 00–211	04/30/10
3060–0955	2 GHz Mobile Satellite Service Reports	02/28/10
3060–0957	Requests for Waiver of Deadline on Location-Capable Handset Deployment (4th MO&O in CC Docket No. 94–102).	12/31/10
3060–0960	Secs. 76.122, 76.123, 76.124 and 76.127	04/30/11
3060–0962	Redesignation of the 18 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the Ka-Band, and the Allocation of Additional Spectrum for Broadcast Satellite Service Use.	11/30/08
3060–0967	Sec. 79.2	09/30/10
3060–0968	FCC 501	09/30/10
3060–0971	Sec. 52.15	01/31/11
3060–0972	FCC 507, FCC 508 and FCC 509	01/31/11
3060–0973	Sec. 64.1120(e)	10/31/10
3060–0975	Secs. 68.3 and 1.4000	11/30/10
3060–0978	Sec. 20.18, 911 Service, Fourth Report and Order	04/30/09
3060–0979	Spectrum Audit Letter	09/30/09
3060–0980	Sec. 76.66, Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA) Rules, Local Broadcast Signal Carriage Issues and Re-transmission Consent Issues.	08/31/11
3060–0982	Implementation of Low Power Television (LPTV) Digital Data Services Pilot Project.	11/30/10
3060–0984	Secs. 90.35(b)(2) and 90.175(b)(1)	09/30/10
3060–0986	FCC 525	07/31/11
3060–0987	911 Callback Capability: Non-initialized Phones	10/31/08
3060–0989	Secs. 63.01, 63.03 and 63.04	11/30/08
3060–0991	AM Measurement Data	04/30/11
3060–0992	Sec. 54.507(d)(1)–(4)	12/31/10
3060–0994	Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.	01/31/10
3060–0995	Sec. 1.2105(c)	03/31/11
3060–0996	AM Auction Section 307(b) Submissions	02/28/11
3060–0997	Sec. 52.15(k)	04/30/11
3060–0998	Sec. 87.109	08/31/10
3060–0999	Sec. 20.19	07/31/11
3060–1000	Sec. 87.147	12/31/10
3060–1003	Communications Disaster Information Reporting System (DIRS)	07/31/10
3060–1004	Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.	09/30/09
3060–1005	Numbering Resource Optimization—Phase 3	07/31/11
3060–1007	Streamlining and Other Revisions of Part 25 of the Commission’s Rules	07/31/10
3060–1008	Reallocation and Service Rules for the 698–746 MHz Band (Television Channels 52–59).	Pending OMB Approval.
3060–1009	FCC 499–M	01/31/09
3060–1013	Mitigation of Orbital Debris	03/31/11
3060–1014	Ku-Band NGSO FSS	04/30/09
3060–1015	Ultra Wideband Transmission Systems Operating Under Part 15	04/30/09
3060–1021	Sec. 25.139	06/30/11
3060–1022	Sec. 101.1403	01/31/09
3060–1023	Sec. 101.103	01/31/09
3060–1024	Sec. 101.1413	01/31/09
3060–1025	Sec. 101.1440	01/31/09
3060–1026	Sec. 101.1417	01/31/09
3060–1027	Sec. 27.602	03/31/09
3060–1028	International Signaling Point Code (ISPC)	05/31/11

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3060-1029	Data Network Identification Code (DNIC)	08/31/11
3060-1030	Service Rules for Advanced Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz Bands.	06/30/10
3060-1031	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems—Petition of City of Richardson, TX; Order on Reconsideration II.	10/31/09
3060-1033	FCC 396-C	05/31/10
3060-1034	Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service.	12/31/10
3060-1035	FCC 309, FCC 310 and FCC 311	01/31/09
3060-1036	Potential Reporting Requirements on Local Exchange Carriers to Assist Expedient Implementation of Wireless E911 Service.	05/31/09
3060-1038	Digital Television Transition Information Questionnaires	01/31/10
3060-1039	FCC 620 and FCC 621	Pending OMB Approval.
3060-1040	Broadcast Ownership Rules, Report and Order in MB Docket No. 02-777 and MM Docket Nos. 02-235, 02-327, and 00-244.	02/28/10
3060-1041	Remedial Measures for Failure to Construct Digital Television Stations (DTV Policy Statement).	06/30/09
3060-1042	Request for Technical Support—Help Request Form	11/30/10
3060-1043	Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67.	03/31/11
3060-1044	Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, and WC Docket No. 04-313, FCC 04-290, Order on Remand.	03/31/10
3060-1045	FCC 324	11/30/09
3060-1046	Part 64, Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.	06/30/11
3060-1047	Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order, CG Docket Nos. 03-123, FCC 05-203.	02/28/09
3060-1048	Sec. 1.929(c)(1)	03/31/10
3060-1050	Sec. 97.303	11/30/10
3060-1053	Sec. 64.604, Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Two-Line Captioned Telephone Order,...	05/31/10
3060-1054	FCC 422-IB	02/28/10
3060-1055	FCC 423-IB	02/28/10
3060-1056	FCC 421-IB	02/28/10
3060-1057	FCC 420-IB	02/28/10
3060-1058	FCC 608	01/31/11
3060-1059	Global Mobile Personal Communications by Satellite (GMPCS)/E911 Call Centers.	01/31/11
3060-1060	Wireless E911 Coordination Initiative Letter	10/31/10
3060-1061	Earth Stations on Board Vessels (ESVs)	04/30/11
3060-1062	Schools and Libraries Universal Service Support Mechanism—Notification of Equipment Transfers.	07/31/10
3060-1063	Global Mobile Personal Communications by Satellite (GMPCS) Authorization, Marketing and Importation Rules.	03/31/10
3060-1064	Regulatory Fee Assessment True-Ups	06/30/11
3060-1065	Sec. 25.701	06/30/10
3060-1066	FCC 312-R	03/31/10
3060-1067	FCC 312-EZ	05/31/10
3060-1069	Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets, NPRM, MB Docket No. 94-246, FCC 04-173.	08/31/10
3060-1070	Allocations and Service Rules for the 71-76 GHz, 81-86 GHz, and 92-95 GHz Bands.	12/31/08
3060-1078	Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act), CG Docket No. 04-53.	11/30/10
3060-1079	Sec. 15.240, Radio Frequency Identification Equipment (RFID)	02/28/11
3060-1080	Collections for the Prevention or Elimination of Interference and for the Reconfiguration of the 800 MHz Band.	08/31/11
3060-1081	Federal-State Joint Board on Universal Service, CC Docket No. 96-45	10/31/08
3060-1083	Secs. 64.1300 through 64.1340	06/30/11
3060-1084	Rules and Regulations Implementing Minimum Customer Account Record Obligations on All Local and Interexchange Carriers (CARE), CG Docket No. 02-386.	06/30/10
3060-1085	Collection of Location Information, Provision of Notice and Reporting on Interconnected Voice Over Internet Protocol (VoIP) E911 Compliance.	01/31/09
3060-1086	Secs. 74.786, 74.787, 74.790, 74.794 and 74.796	07/31/11
3060-1087	Section 15.615, Broadband Over Power Lines (BPL)	07/31/11
3060-1088	FCC 1088 Series	03/31/10

OMB Control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–1089	Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Emergency Access Notice of Proposed Rulemaking and IP Relay/VRS Fraud....	10/31/10
3060–1092	FCC 609–T and FCC 611–T	01/31/11
3060–1094	Licensing, Operation, and Transition of the 2500–2690 MHz Band	10/31/09
3060–1095	Surrenders of Authorization for International Carrier, Space Station and Earth Station Licensees.	12/31/09
3060–1096	Prepaid Calling Card Service Provider Certification, WC Docket No. 05–68	02/28/10
3060–1098	Rural Health Care Support Mechanism	03/31/10
3060–1100	Sec. 15.117	09/30/10
3060–1101	Children’s Television Requests for Preemption Flexibility	06/30/10
3060–1103	Sec. 76.41	07/31/10
3060–1104	Sec. 83.682(d)	03/31/11
3060–1105	Digital TV Transition Report	06/30/11
3060–1108	Consummations of Assignments and Transfers of Control Authorization	09/30/10
3060–1110	Sunset of the Cellular Radiotelephone Service Analog Service Requirement and Related Matters, MO&O, FCC 07–103.	10/31/10
3060–1111	Sections 225 and 255, Interconnected Voice Over Internet Protocol (VoIP) Services.	01/31/11
3060–1112	Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight.	01/31/11
3060–1114	Information Needed in Requests for Waiver of June 26, 2008 Deadline for Rebanding Completion.	09/30/08
3060–1115	Secs. 15.124, 27.20, 54.418, 73.674, and 76.1630	Pending OMB Approval.
3060–1116	Submarine Cable Reporting	10/31/08
3060–1117	Viewer Notification Requirements in the Third DTV Periodic Report and Order, FCC 07–228.	Pending OMB Approval.
3060–1118	DTV Retailer Site Visit Program	12/31/08
3060–1119	Section 12.3, Information Collection Regarding Redundancy, Resiliency and Reliability of 911 and E911 Networks and/or Systems as Set Forth in the Commission’s Rules.	08/31/11
3060–XXXX	Service Quality Measurement Plan for Interstate Special Access and Monthly Usage Reporting Requirements (272 Sunset Rulemaking).	Pending OMB Approval.

[73 FR 57544, Oct. 3, 2008]

**§ 0.409 Commission policy on private printing of FCC forms.**

The Commission has established a policy regarding the printing of blank FCC forms by private companies if they elect to do so as a matter of expediency and convenience to their clients or consumers. The policy is as follows:

(a) Blank FCC forms may be reproduced by private companies at their own expense provided the following conditions are met:

(1) Use a printing process resulting in a product that is at least comparable in quality to the original document, without change to the page size, image size, configuration of pages, folds or perforations, and matching as closely as possible the paper weight, paper color and ink color.

(2) Delete in its entirety any and all U.S. Government Printing Office (GPO) indicia that may appear in the margin(s).

(3) If the printer wishes to identify a foreign country in which the forms are

printed, a marginal notation must be added stating “No U.S. Government funds were used to print this document.”

(4) Do not add to the form any other symbol, word or phrase that might be construed as personalizing the form or advertising on it.

(5) Except as specified above, do not delete from or add to any part of the form, or attach anything thereto.

(6) Assure that the form being reproduced is an edition currently acceptable by the Commission, which will endeavor to keep the public advised of revisions to its forms, but cannot assume responsibility to the extent of eliminating any element of risk against the use of obsolete forms.

(b) These guidelines do not apply to forms which respondents may wish to reproduce as completed facsimiles on automated equipment to satisfy application or report requirements. Requests for permission to submit such

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forms to the Commission should be addressed to the Office of Managing Director.

[53 FR 27861, July 25, 1988]

### PRINTED PUBLICATIONS

#### § 0.411 General reference materials.

The following reference materials are available in many libraries and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402:

(a) *Statutory materials.* Laws pertaining to communications are contained in Title 47 of the United States Code. Laws enacted since the printing of the last supplement to the Code are printed individually as slip laws, and these are compiled chronologically in the United States Statutes at Large. The Acts of Congress from 1910-62 pertaining to radio have been compiled in a single volume, *Radio Laws of the United States* (1962 ed.). See §§ 0.405 and 0.414.

(b) *Regulatory materials*—(1) *The Code of Federal Regulations.* The rules and regulations of the Commission are contained in chapter I of title 47 of the Code of Federal Regulations. Chapter I is divided into the following four subchapters, which may be purchased separately: Subchapter A—General; Subchapter B—Common Carrier Services; Subchapter C—Broadcast Radio Services; and Subchapter D—Private Radio Services. Most persons will find that they need subchapter A, containing the general rules, and one of the other volumes, depending upon their area of interest. These four volumes are revised annually to reflect changes in the rules. See §§ 0.406, 0.412, and 0.415. The Code of Federal Regulations is fully indexed and contains numerous finding aids. See 1 CFR appendix C.

(2) *The Federal Register.* As rules are adopted, amended, or repealed, the changes are published in the FEDERAL REGISTER, which is published daily except on legal holidays. Notices of proposed rule making, other rule making documents, statements of general policy, interpretations of general applicability, and other Commission documents having general applicability and legal effect are also published in the FEDERAL REGISTER. Summaries of the

full Notices of proposed rule making and other rule making decisions adopted by the Commission constitute rule-making documents for purposes of FEDERAL REGISTER publication. The FEDERAL REGISTER is fully indexed and contains numerous findings aids.

[32 FR 10571, July 19, 1967, as amended at 44 FR 39180, July 5, 1979; 51 FR 7444, Mar. 4, 1986]

#### § 0.413 The Commission's printed publications.

The Commission's printed publications are described in §§ 0.414 through 0.420. These publications may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[64 FR 60722, Nov. 8, 1999]

#### § 0.414 The Communications Act and other statutory materials.

This publication, with packets of revised pages, contains the Communications Act of 1934, with amendments through 1964; the Administrative Procedure Act, with amendments through 1964; the Judicial Review Act; the Communications Satellite Act of 1962; and selected sections of the Criminal Code pertaining to communications. It also contains indexes to the Communications Act and the Administrative Procedure Act. Persons who do not have ready access to the United States Code, or who refer frequently to these materials, may find this volume to be useful.

[32 FR 10571, July 19, 1967]

#### § 0.415 The rules and regulations (looseleaf service).

(a) In this service, the rules are divided into 10 volumes, each containing several related parts. Each volume may be purchased separately from the Superintendent of Documents. The purchase price for a volume includes a subscription to replacement pages reflecting changes in the rules contained therein until such time as the volume is revised. Each volume is revised periodically, depending primarily on the frequency with which the rules it contains have been amended. When a volume is revised, the revised volume and

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replacement pages therefor will be furnished to those who renew their subscriptions.

(b) [Reserved]

[41 FR 21449, May 26, 1976, as amended at 45 FR 49935, July 28, 1980; 51 FR 31304, Sept. 2, 1986]

## §0.416 The Federal Communications Commission Record.

Texts adopted by the Commission or a member of its staff on delegated authority and released through the Office of Media Relations are published in the FCC Record. The FCC Record is published biweekly in pamphlet form. The pamphlets are available on a subscription basis from the Superintendent of Documents. Each biweekly pamphlet contains a table of contents and current index. A consolidated index is published on a periodic basis.

[64 FR 60722, Nov. 8, 1999]

## §0.417 The Annual Reports.

At the end of each fiscal year, the Commission publishes an Annual Report containing general information concerning the Commission and the history of regulation, a summary of developments during the year, and selected industry statistics.

[32 FR 10571, July 19, 1967]

## §0.420 Other Commission publications.

The following additional Commission publications may be purchased from the Superintendent of Documents:

(a) Statistics of Communications Common Carriers.

(b) Figure M-3, Estimated AM Ground Conductivity of the United States (set of two maps).

(c) Television Network Program Procurement Report, 2d Interim Report, Part 2, by the Office of Network Study.

[32 FR 10571, July 19, 1967, as amended at 44 FR 39180, July 5, 1979]

FORMS AND DOCUMENTS AVAILABLE  
UPON REQUEST

## §0.421 Application forms.

All forms for use in submitting applications for radio authorization, together with instructions and information as to filing such forms, may be ob-

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tained at the Washington offices of the Commission or at any of the field offices listed in §0.121. For information concerning the forms to be used and filing requirements, see subparts D, E, F, and G, of part 1 of this chapter and the appropriate substantive rules.

[40 FR 17254, Apr. 18, 1975]

## §0.422 Current action documents and public notices.

Documents adopted by the Commission, public notices and other public announcements are released through the Office of Media Relations. These documents are also available on the Commission's website at *www.fcc.gov* and can be obtained from the Commission's duplicating contractor.

[64 FR 60722, Nov. 8, 1999]

## §0.423 Information bulletins.

Information bulletins and fact sheets containing information about communications issues and the Federal Communications Commission are available on the Commission's web site at *www.fcc.gov*, *ftp.fcc.gov* or may be requested from the Consumer and Governmental Affairs Bureau.

[64 FR 60722, Nov. 8, 1999, as amended at 67 FR 13221, Mar. 21, 2002]

LISTS CONTAINING INFORMATION  
COMPILED BY THE COMMISSION

## §0.431 The FCC service frequency lists.

Lists of frequency assignments to radio stations authorized by the Commission are recapitulated periodically by means of an automated record system. All stations licensed by the Commission are included, except the following: Aircraft, amateur, personal (except General Mobile Radio Service), Civil Air Patrol, and disaster. The resulting documents, the FCC service frequency lists, consist of several volumes arranged by nature of service, in frequency order, including station locations, call signs and other technical particulars of each assignment. These documents are available for public inspection in Washington, D.C., in the Office of Engineering and Technology. Copies may be purchased from the

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Commission's duplicating contractor. See §0.465(a).

[64 FR 60722, Nov. 8, 1999]

### §0.434 Data bases and lists of authorized broadcast stations and pending broadcast applications.

Periodically the FCC makes available copies of its data bases and lists containing information about authorized broadcast stations, pending applications for such stations, and rule-making proceedings involving amendments to the TV and FM Table of Allotments. The data bases, and the lists prepared from the data bases, contain frequencies, station locations, and other particulars. The lists are available for public inspection at the FCC's Reference Information Center at 445 12th Street, SW., Washington, DC. Paper copies of the lists may be purchased from the FCC's duplicating contractor; see §0.465(a). Many of the data bases may be viewed at the Commission's web site at *www.fcc.gov* and *ftp.fcc.gov* under mass media services. Microfiche copies of these lists are maintained by the Reference Information Center. These lists are derived from the data bases and can be used as an alternative research source to the Broadcast Application Processing System (BAPS).

[64 FR 60722, Nov. 8, 1999]

### PUBLIC INFORMATION AND INSPECTION OF RECORDS

SOURCE: 74 FR 14078, Mar. 30, 2009, unless otherwise noted.

#### §0.441 General.

(a) Any person desiring to obtain information from the Commission may do so by contacting the Consumer and Governmental Affairs Bureau (CGB). Requests for information and general inquiries may be submitted by:

(1) Internet at *http://www.fcc.gov/cgb/fccinfo* or *http://www.fcc.gov/foia*.

(2) Telephone at 1-888-CALL-FCC (1-888-225-5322).

(3) TDD/TDY at 1-888-TELL-FCC (1-888-835-5322).

(4) Correspondence to: Consumer and Governmental Affairs Bureau, 445 12th Street, SW., Washington, DC 20554.

(5) Visiting the Reference Information Center of the Consumer and Governmental Affairs Bureau at Room CY-A257 of the Commission's main office at 445 12th Street, SW., Washington, DC 20554.

(6) Facsimile at 1-866-418-0232.

(7) Contacting the Commission's Copy Contractor, see §0.465(a).

(b) The Commission's FOIA Public Liaison is available to assist any person requesting information from the Commission in resolving any concerns related to a Freedom of Information Act request. See *http://www.fcc.gov/foia/*.

### §0.442 Disclosure to other Federal government agencies of information submitted to the Commission in confidence.

(a) The disclosure of records to other Federal government agencies is generally governed by the Paperwork Reduction Act, 44 U.S.C. 3510, rather than the Freedom of Information Act. The acceptance of materials in confidence under §0.457 or §0.459, or any other statute, rule or Commission order, does not preclude their disclosure to other federal agencies.

(b) Information submitted to the Commission in confidence pursuant to §0.457(c)(2) and (3), (d) and (g) or §0.459, or any other statute, rule or order, may be disclosed to other agencies of the Federal government upon request or upon the Commission's own motion, provided:

(1) Specific Commission assurances against such disclosure have not been given;

(2) The other agency has established a legitimate need for the information;

(3) Disclosure is made subject to the provisions of 44 U.S.C. 3510(b); and

(4) Disclosure is not prohibited by the Privacy Act or other provisions of law.

(c) The Commission's staff may give assurances against disclosure of information to other Federal agencies only with the prior written approval of the General Counsel. In no event will assurance against disclosure to other

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agencies be given in advance of submission of the information to the Commission if submission is required by statute or by the provisions of this chapter; but the notice provisions of paragraph (d) of this section will apply to such required submissions.

(d)(1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, a party who furnished records to the Commission with a request for confidential treatment, see §0.459, will be notified at the time that the request for disclosure is submitted and will be afforded ten calendar days in which to submit an opposition to disclosure. This notification may be made either individually or by public notice.

(2) If the agency requesting the records provides in writing to the satisfaction of the Commission that notice to the party who furnished the records to the Commission will interfere unduly with its law enforcement, national security or homeland defense activities and further states that it will notify that party of the Commission's disclosure once the potential for such interference is eliminated, the Commission will not give notice of disclosure.

(3) A party who furnished records to the Commission in confidence will not be afforded prior notice when the disclosure is made to the Comptroller General of the United States, in the Government Accountability Office. Such a party will instead be notified of disclosure of the records to the Comptroller General either individually or by public notice.

(4) If disclosure is opposed and the Commission decides to make the records available to the other agency, the party who furnished the records to the Commission will be afforded ten calendar days from the date of the ruling to move for a judicial stay of the Commission's action. If the party does not move for stay within this period, the records will be disclosed.

(e) Except as provided in paragraph (d)(3) of this section, nothing in this section is intended to govern disclosure of information to Congress or the Comptroller General.

### **§0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.**

(a) Adjudicatory opinions and orders of the Commission, or its staff acting on delegated authority, are sent to the parties by mail, delivery service, or e-mail, unless the Commission determines that individual delivery would be unduly burdensome and instead issues a public notice of its decision. As part of the record, these documents are generally available for inspection in accordance with §0.453 and §0.455. In addition, many adjudicatory orders and opinions are available on the Commission's Web site, <http://www.fcc.gov>. In appropriate circumstances, the Commission may redact the copy made available to the public in order to protect information not routinely available to the public under §0.457, which is treated confidentially pursuant to a request under §0.459, or which is confidential pursuant to other statutes, regulations or orders.

(b) Texts adopted by the Commission or a member of its staff on delegated authority and released through the Office of Media Relations are published in the FCC Record. Older materials of this nature are available in the FCC Reports. In the event that such older materials are not published in the FCC Reports, reference should be made to the FEDERAL REGISTER or Pike and Fischer Communications Regulation.

(c) All rulemaking documents or summaries thereof are published in the FEDERAL REGISTER and are available on the Commission's Web site. The complete text of the Commission decision also is released by the Commission and is available for inspection and copying during normal business hours in the Office of Media Relations, the Reference Information Center, via the Electronic Comment Filing System (ECFS), or as otherwise specified in the rulemaking document published in the FEDERAL REGISTER. The complete texts of rulemaking decisions may also be purchased from the Commission's copy contractor.

(d) Formal policy statements and interpretations designed to have general applicability are published in the FEDERAL REGISTER, the FCC Record, FCC



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Reports, or Pike and Fischer Communications Regulation. Commission decisions and other Commission documents not entitled formal policy statements or interpretations may contain substantive interpretations and statements regarding policy, and these are published as part of the document in the FCC Record, FCC Reports or Pike and Fischer Communications Regulation. General statements regarding policy and interpretations furnished to individuals, in correspondence or otherwise, are not ordinarily published.

(e) If the documents described in paragraphs (a) through (d) of this section are published in the FEDERAL REGISTER, the FCC Record, FCC Reports, or Pike and Fischer Communications Regulation, they are indexed, and they may be relied upon, used or cited as precedent by the Commission or private parties in any manner. If they are not so published, they may not be relied upon, used or cited as precedent, except against persons who have actual notice of the document in question or by such persons against the Commission. No person is expected to comply with any requirement or policy of the Commission unless he or she has actual notice of that requirement or policy or a document stating it has been published as provided in this paragraph. Nothing in this paragraph, however, shall be construed as precluding a reference to a recent document that is pending publication.

(f) Subparts A and B of this part describe the functions of the staff and list the matters on which authority has been delegated to the staff. All general instructions to the staff and limitations upon its authority are set forth in those subparts or in decisions of the Commission published in the FEDERAL REGISTER. Instructions to the staff in particular matters or cases are privileged and/or protected and are not published or made available for public inspection.

(g) To the extent required to prevent a clearly unwarranted invasion of personal privacy, or to prevent disclosure of information required or authorized to be withheld by another statute, the Commission may delete identifying details or confidential information when it makes available or publishes any

document described in this section. The justification for any such deletion will be fully explained in a preamble to the document.

### **§0.451 Inspection of records: Generally.**

(a) *Records which are routinely available for public inspection.* Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Procedures governing requests for inspection of such records are set out in §0.460.

(b) *Records which are not routinely available for public inspection.* Records which are not listed in §0.453 or §0.455 are not routinely available for public inspection. Such records fall into two categories.

(1) The first category consists of those records or kinds of records listed in §0.457 and of particular records withheld from public inspection under §0.459. The Commission has determined that there is a statutory basis for withholding these records from public inspection. In some cases, the Commission is prohibited from permitting the inspection of records. In other cases, the records are the property of another agency, and the Commission has no authority to permit their inspection. In still other cases, the Commission is authorized, for reason of policy, to withhold records from inspection, but is not required to do so.

(2) The second category consists of records that are not listed in §0.453, §0.455, or §0.457 and have not been withheld from inspection under §0.459. In some cases, these records have not been identified for listing. In other cases (*e.g.*, the general correspondence files), the Commission is unable to determine either that all records in a class should be routinely available for inspection or that all records in that class should not be routinely available for inspection, and individualized determination is required.

(3) Procedures governing requests for inspection of these records are set forth in §0.461.

(4) Procedures governing demands by competent authority for inspection of these records are set forth in §0.463.

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(5) Except as provided in §§0.461 and 0.463, or pursuant to §19.735-203 of this chapter, no officer or employee of the Commission shall permit the inspection of records which are not routinely available for public inspection under §0.453 or §0.455, or disclose information contained therein.

(c) *Copies.* Section 0.465 applies to requests for copies of Commission records which are routinely available for public inspection under §0.453 and §0.455 and those which are made available for inspection under §0.461. Sections 0.467 and 0.465(c)(3) apply to requests for certified copies of Commission records.

(d) *Search and copying fees.* Section 0.465(c)(2) prescribes the per page fee for copying records made available for inspection under §0.460 or §0.461. Section 0.466 prescribes fees to cover the expense of searching for and reviewing records made available for inspection under §0.460 or §0.461. Review of initial fee determinations under §§0.467 through 0.470 and initial fee reduction or waiver determinations under §0.470(e) may be sought under §0.461(j).

NOTE TO PARAGRAPH (d): The Commission may require advance payment pursuant to §0.469 before releasing documents.

### §0.453 Public reference rooms.

The Commission maintains the FCC Reference Information Center as its public reference room at its offices in Washington, DC. Much of the information available from the public reference room may also be retrieved from the Commission's main Web site at <http://www.fcc.gov> and its electronic reading room at <http://www.fcc.gov/foia/e-room.html>:

(a) *The Reference Information Center.* Maintains files containing the record of all docketed cases, petitions for rule making and related papers. A file is maintained for each docketed hearing case and for each docketed rule making proceeding. Cards summarizing the history of such cases for the years before 1984 are available for inspection. Information summarizing the history of such cases for the years from 1984 through present is available online on the Electronic Comment Filing System (ECFS).

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(b) *Broadcast Services.* The following files and documents are available, including:

(1) Applications for radio and television broadcast station construction permits, licenses, modifications of facilities, license renewal, assignments and transfer of control, including any Commission correspondence or rulings pertaining to those applications;

(2) Petitions to deny, informal objections, and complaints directed against the stations and/or station applications;

(3) Ownership reports filed by licensees pursuant to §73.3615 of this chapter;

(4) Television network application contracts, radio and television time brokerage agreements, and other documents required to be filed under §73.3613 of this chapter;

(5) Children's television programming reports filed by commercial television licensees pursuant to §73.3526 of this chapter;

(6) Annual DTV ancillary/supplementary services reports filed by commercial and non-commercial educational digital television licensees pursuant to §73.624 of this chapter;

(7) Station requests for declaratory rulings, special temporary authorizations, and other waivers;

(8) Annual employment reports filed by licensees and permittees of broadcast stations pursuant to §73.3612 of this chapter; and

(9) Responses from licensees to random audits of their Equal Employment Opportunity programs conducted pursuant to §73.2080 of this chapter.

(c) *Common Carrier Services*, including:

(1) Annual reports filed by carriers under §43.21 of this chapter;

(2) Reports of proposed changes in depreciation rates filed by carriers under §43.43 of this chapter;

(3) Rate-of-return reports filed by price-cap and rate-of-return incumbent local exchange carriers under §65.600 of this chapter;

(4) All applications for common carrier authorizations acted upon by the Enforcement Bureau, and related files;

(5) All formal and informal complaints against common carriers filed under §1.711 through §1.735 of this

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chapter, all documents filed in connection therewith, and all communications related thereto;

(6) Annual employment reports filed by common carrier licensees or permittees pursuant to §1.815 of this chapter;

(7) Enforcement proceedings and public inquiries and related materials;

(8) Cost Allocation Manuals and related materials;

(9) Currently effective tariffs filed by Communications Common Carriers pursuant to various FCC Rules and Regulations; and

(10) Recent revisions to tariff filings and the Reference Information Center Log, which is prepared daily and lists the tariff filings received the previous day.

(d) *Wireless Telecommunications Services and Auction* related data including:

(1) Pending files containing applications for additional facilities or modifications of existing facilities;

(2) Cellular and Paging Granted Station files and related materials;

(3) Pending cellular and paging applications and related files;

(4) Electronically stored application and licensing data for commercial radio operators and for all authorizations in the Wireless Radio services are available for public inspection via the Commission's Web site, <http://wireless.fcc.gov/uls>. Wireless Radio services include Commercial and Private Mobile Radio, Common Carrier and Private Operational Field point-to-point Microwave, Local Television Transmission Service (LTTS), Digital Electronic Message Service (DEMS), Aviation Ground and Marine Coast applications; and

(5) Petitions and related materials.

(e) *International Services* as follows, except to the extent they are excluded from routine public inspection under another section of this chapter:

(1) Satellite and earth station applications files and related materials under part 25 of this chapter;

(2) Section 214 applications and related files under part 63 of this chapter, to the extent that they concern international communications facilities and services;

(3) International Fixed Public Radio applications and related files under part 23 of this chapter;

(4) Files relating to submarine cable landing licenses and applications for such licenses since June 30, 1934, except for maps showing the exact location of submarine cables, which are withheld from inspection under sec. 4(j) of the Communications Act, 47 U.S.C. 154(j) (see §0.457(c)(1)(i));

(5) International broadcast applications, applications for permission to deliver programming to foreign stations, and related files under part 73 of this chapter; and

(6) Contracts and other arrangements filed under §43.51 of this chapter, except for those that are filed with a request for confidential treatment (see §0.459) or are deemed confidential pursuant to sec. 412 of the Communications Act (see also §0.457(c)(3)).

(f) *Cable and other Multichannel Video Program Distribution Services*. The following files and records are available, including:

(1) Complaints regarding multichannel video programming, all documents filed in connection therewith, and all communications related thereto, unless the cable operator has submitted a request pursuant to §0.459 that such information not be made routinely available for public inspection;

(2) Special relief petitions and files pertaining to cable television operations;

(3) Special relief petitions and files pertaining to DBS television operations;

(4) Petitions and related documents concerning the enforcement of regulations governing the installation of over-the-air reception devices (OTARD) pursuant to §1.4000 of this chapter;

(5) Filings by cable television operators, including Cable Signal Leakage Reports (Form 320 and §76.1804 of this chapter), Cable System Registration Statements (§76.1801 of this chapter), Cable System Operator Changes (§76.1610 of this chapter), Cable Aeronautical Frequency Notifications (§76.1804 of this chapter), Cable Annual Report (Form 325 and §76.403 of this chapter), and filings related to CARS licenses (part 78 of this chapter).

NOTE TO PARAGRAPH (f)(5): This data also is available at <http://www.fcc.gov/coals>. Electronic submissions for cable filings (excluding CARS) are mandatory. Original forms

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are not available for information filed electronically, but the Reference Information Center or the Commission's Copy Contractor may assist in producing paper copies of information found in the COALS database;

(6) Annual employment reports filed by multichannel video programming distributors pursuant to §76.1802 of this chapter; and

(7) Responses from multichannel video programming distributors to random audits of their Equal Employment Opportunity programs conducted pursuant to §76.77 of this chapter.

### **§0.455 Other locations at which records may be inspected.**

Except as provided in §§0.453, 0.457, and 0.459, records are routinely available for inspection in the Reference Information Center or the offices of the Bureau or Office which exercises responsibility over the matters to which those records pertain (see §0.5), or will be made available for inspection at those offices upon request. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. Examples of the records available from Bureaus and Offices are set forth in paragraphs (a) through (c).

(a) *Media Bureau.* (1) Rulings under secs. 312(a)(7), 315, and 317 of the Communications Act of 1934, as amended;

(2) All materials associated with a rate proceeding for basic cable service and associated equipment over which the Commission has assumed jurisdiction pursuant to §76.913 of this chapter;

(3) All materials associated with Commission review of franchise authority decisions concerning the rate charged for the basic cable service tier and associated equipment pursuant to §76.944 of this chapter;

(4) All materials associated with local government requests for authorization to regulate basic cable rates pursuant to §76.910 of this chapter (Form 328);

(5) All materials associated with the certification of Open Video System (OVS) operators pursuant to §76.1502 of this chapter;

(6) A list of all registered cable communities is maintained electronically at <http://www.fcc.gov/mb>; and

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(7) Public notices issued related to CARS licenses, Cable Special Relief Petitions, and other filings are available electronically at [http://www.fcc.gov/Document\\_Indexes/Media/](http://www.fcc.gov/Document_Indexes/Media/).

(b) *Office of Managing Director.* (1) All minutes of Commission actions, containing a record of all final votes, minutes of actions and internal management matters as provided in §0.457(b)(1) and (c)(1)(i). These records and files are available for inspection in the Office of the Secretary.

(2) Files containing information concerning the history of the Commission's rules. These files are available for inspection in the Office of the Secretary.

(3) Reports filed by employees pursuant to 5 CFR parts 2634 and 3902 and applications for inspection of such reports. See §0.460(k).

(c) *International Bureau.* (1) The treaties and other international and bilateral agreements listed in §73.1650 of this chapter are available for inspection in the office of the Chief, Strategic Analysis and Negotiations Division, International Bureau.

(2) Contracts and other arrangement filed under §43.51 of this chapter and reports of negotiations regarding foreign communication matters filed under §43.52 of this chapter, except those kept confidential pursuant to sec. 412 of the Communications Act. See §0.457(c)(3).

(3) Files relating to international settlements under part 64 of this chapter.

### **§0.457 Records not routinely available for public inspection.**

The records listed in this section are not routinely available for public inspection pursuant to 5 U.S.C. 552(b). The records are listed in this section by category, according to the statutory basis for withholding those records from inspection; under each category, if appropriate, the underlying policy considerations affecting the withholding and disclosure of records in that category are briefly outlined. Except where the records are not the property of the Commission or where the disclosure of those records is prohibited by law, the Commission will entertain requests from members of the public under §0.461 for permission to

inspect particular records withheld from inspection under the provisions of this section, and will weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in the light of the facts of the particular case. In making such requests, there may be more than one basis for withholding particular records from inspection. The listing of records by category is not intended to imply the contrary but is solely for the information and assistance of persons making such requests. Requests to inspect or copy the transcripts, recordings or minutes of closed agency meetings will be considered under §0.607 rather than under the provisions of this section.

(a) *Materials that are specifically authorized under criteria established by Executive Order (E.O.) to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, 5 U.S.C. 552(b)(1).* (1) Classified materials and information will not be made available for public inspection, including materials classified under E.O. 10450, "Security Requirements for Government Employees"; E.O. 10501, as amended, "Safeguarding Official Information in the Interests of the Defense of the United States"; and E.O. 12958, "Classified National Security Information," or any other executive order concerning the classification of records. See also 47 U.S.C. 154(j).

(2) Materials referred to another Federal agency for classification will not be disclosed while such a determination is pending.

(b) *Materials that are related solely to the internal personnel rules and practices of the Commission, 5 U.S.C. 552(b)(2).* (1) Materials related solely to internal management matters, including minutes of Commission actions on such matters (see paragraph (f) of this section).

(2) Materials relating to the negotiation of contracts.

(c) *Materials that are specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552b, provided that such statute either requires that the materials be withheld from the public in such a manner as to leave no discretion on the issue, or es-*

*tablishes particular criteria for withholding or refers to particular types of materials to be withheld).* The Commission is authorized under the following statutory provisions to withhold materials from public inspection.

(1) Section 4(j) of the Communications Act, 47 U.S.C. 154(j), provides, in part, that, "The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense." Pursuant to that provision, it has been determined that the following materials should be withheld from public inspection (see also paragraph (a) of this section):

(i) Maps showing the exact location of submarine cables.

(ii) Minutes of Commission actions on classified matters.

(iii) Maps of nation-wide point-to-point microwave networks.

(2) Under section 213 of the Communications Act, 47 U.S.C. 213(f), the Commission is authorized to order, with the reasons therefor, that records and data pertaining to the valuation of the property of common carriers and furnished to the Commission by the carriers pursuant to the provisions of that section, shall not be available for public inspection. If such an order has been issued, the data and records will be withheld from public inspection, except under the provisions of §0.461. Normally, however, such data and information is available for inspection.

(3) Under sec. 412 of the Communications Act, 47 U.S.C. 412, the Commission may withhold from public inspection certain contracts, agreements and arrangements between common carriers relating to foreign wire or radio communication. Any person may file a petition requesting that such materials be withheld from public inspection. To support such action, the petition must show that the contract, agreement or arrangement relates to foreign wire or radio communications; that its publication would place American communication companies at a disadvantage in meeting the competition of foreign communication companies; and that the public interest would be served by keeping its terms confidential. If the Commission orders that such materials be kept confidential, they will be made

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available for inspection only under the provisions of §0.461.

(4) Section 605 of the Communications Act, 47 U.S.C. 605(a), provides, in part, that, “no person not being authorized by the sender shall intercept any communication [by wire or radio] and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communications to any person.” In executing its responsibilities, the Commission regularly monitors radio transmissions. Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in sec. 605, the Commission is prohibited from divulging information obtained in the course of these monitoring activities; and such information, and materials relating thereto, will not be made available for public inspection.

(5) Section 1905 of the federal criminal code, the Trade Secrets Act, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information. See paragraph (d) of this section and §19.735–203 of this chapter.

(d) *Trade secrets and commercial or financial information obtained from any person and privileged or confidential—categories of materials not routinely available for public inspection, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905.*

(1) The materials listed in this paragraph have been accepted, or are being accepted, by the Commission on a confidential basis pursuant to 5 U.S.C. 552(b)(4). To the extent indicated in each case, the materials are not routinely available for public inspection. If the protection afforded is sufficient, it is unnecessary for persons submitting such materials to submit therewith a request for non-disclosure pursuant to §0.459. A persuasive showing as to the reasons for inspection will be required in requests submitted under §0.461 for inspection of such materials.

(i) Financial reports submitted by radio or television licensees.

(ii) Applications for equipment authorizations (type acceptance, type approval, certification, or advance approval of subscription television systems), and materials relating to such applications, are not routinely available for public inspection prior to the

effective date of the authorization. The effective date of the authorization will, upon request, be deferred to a date no earlier than that specified by the applicant. Following the effective date of the authorization, the application and related materials (including technical specifications and test measurements) will be made available for inspection upon request (see §0.460). Portions of applications for equipment certification of scanning receivers and related materials will not be made available for inspection.

(iii) Information submitted in connection with audits, investigations and examination of records pursuant to 47 U.S.C. 220.

(iv) Programming contracts between programmers and multichannel video programming distributors.

(v) The rates, terms and conditions in any agreement between a U.S. carrier and a foreign carrier that govern the settlement of U.S. international traffic, including the method for allocating return traffic, if the U.S. international route is exempt from the international settlements policy under §43.51(e)(3) of this chapter.

(vi) Outage reports filed under Part 4 of this chapter.

(vii) The following records, relating to coordination of satellite systems pursuant to procedures codified in the International Telecommunication Union (ITU) Radio Regulations:

(A) Records of communications between the Commission and the ITU related to the international coordination process, and

(B) Documents prepared in connection with coordination, notification, and recording of frequency assignments and Plan modifications, including but not limited to minutes of meetings, supporting exhibits, supporting correspondence, and documents and correspondence prepared in connection with operator-to-operator arrangements.

NOTE TO PARAGRAPH (d): The content of the communications described in paragraph (d)(1)(vii)(A) of this section is in some circumstances separately available through the ITU’s publication process, or through records available in connection with the Commission’s licensing procedures.

(2) Unless the materials to be submitted are listed in paragraph (d)(1) of

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this section and the protection thereby afforded is adequate, any person who submits materials which he or she wishes withheld from public inspection under 5 U.S.C. 552(b)(4) must submit a request for non-disclosure pursuant to §0.459. If it is shown in the request that the materials contain trade secrets or privileged or confidential commercial, financial or technical data, the materials will not be made routinely available for inspection; and a persuasive showing as to the reasons for inspection will be required in requests for inspection submitted under §0.461. In the absence of a request for non-disclosure, the Commission may, in the unusual instance, determine on its own motion that the materials should not be routinely available for public inspection.

(e) *Interagency and intra-agency memoranda or letters, 5 U.S.C. 552(b)(5).* Inter-agency and intra-agency memoranda or letters and the work papers of members of the Commission or its staff will not be made available for public inspection, except in accordance with the procedures set forth in §0.461. Normally such papers are privileged and not available to private parties through the discovery process, since their disclosure would tend to restrain the commitment of ideas to writing, would tend to inhibit communication among Government personnel, and would, in some cases, involve premature disclosure of their contents.

(f) *Personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy, 5 U.S.C. 552(b)(6).* Under E.O. 10561, the Commission maintains an Official Personnel Folder for each of its employees. Such folders are under the jurisdiction and control, and are a part of the records, of the U.S. Office of Personnel Management. Except as provided in the rules of the Office of Personnel Management (5 CFR 293.311), such folders will not be made available for public inspection by the Commission. In addition, other records of the Commission containing private, personal or financial information concerning particular employees and Commission contractors will be withheld from public inspection.

(g) *Under 5 U.S.C. 552(b)(7), records compiled for law enforcement purposes, to*

*the extent that production of such records:*

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source;

(5) Would disclose investigative techniques or procedures or would disclose investigative guidelines if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

### §0.458 Nonpublic information.

Any person regulated by or practicing before the Commission coming into possession of written nonpublic information (including written material transmitted in electronic form) as described in §19.735-203(a) of this chapter under circumstances where it appears that its release was inadvertent or otherwise unauthorized shall be obligated to and shall promptly return the information to the Commission's Office of Inspector General without further distribution or use. See 47 CFR 19.735-203.

### §0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

(a)(1) Any person submitting information or materials to the Commission may submit therewith a request that such information not be made routinely available for public inspection. (If the materials are specifically listed in §0.457, such a request is unnecessary.) A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from any materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified. In

the latter circumstance, where confidential treatment is sought only for a portion of a document, the person submitting the document shall submit a redacted version for the public file.

(2) Comments and other materials may not be submitted by means of the Commission's Electronic Comment Filing System (ECFS) with a request for confidential treatment under this section.

(3) The Commission may use abbreviated means for indicating that the submitter of a record seeks confidential treatment, such as a checkbox enabling the submitter to indicate that the record is confidential. However, upon receipt of a request for inspection of such records pursuant to §0.461, the submitter will be notified of such request pursuant to §0.461(d)(3) and will be requested to justify the confidential treatment of the record, as set forth in paragraph (b) of this section.

(b) Except as provided in §0.459(a)(3), each such request shall contain a statement of the reasons for withholding the materials from inspection (see §0.457) and of the facts upon which those records are based, including:

- (1) Identification of the specific information for which confidential treatment is sought;
- (2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;
- (3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;
- (4) Explanation of the degree to which the information concerns a service that is subject to competition;
- (5) Explanation of how disclosure of the information could result in substantial competitive harm;
- (6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;
- (7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;
- (8) Justification of the period during which the submitting party asserts

that material should not be available for public disclosure; and

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

(c) Casual requests (including simply stamping pages "confidential") which do not comply with the requirements of paragraphs (a) and (b) of this section will not be considered.

(d)(1) If a response in opposition to a confidentiality request is filed, the party requesting confidentiality may file a reply within ten business days. All responses or replies filed under this paragraph must be served on all parties.

(2) Requests which comply with the requirements of paragraphs (a) and (b) of this section will be acted upon by the appropriate custodian of records (see §0.461(d)(1)), who is directed to grant the request if it demonstrates by a preponderance of the evidence that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. 552. If the request for confidentiality is granted, the ruling will be placed in the public file in lieu of the materials withheld from public inspection.

(3) The Commission may defer acting on requests that materials or information submitted to the Commission be withheld from public inspection until a request for inspection has been made pursuant to §0.460 or §0.461. The information will be accorded confidential treatment, as provided for in §§0.459(g) and 0.461, until the Commission acts on the confidentiality request and all subsequent appeal and stay proceedings have been exhausted.

(e) If the materials are submitted voluntarily (*i.e.*, absent any requirement by statute, regulation, or the Commission), the person submitting them may request the Commission to return the materials without consideration if the request for confidentiality should be denied. In that event, the materials will ordinarily be returned (*e.g.*, an application will be returned if it cannot be considered on a confidential basis). Only in the unusual instance where the public interest so requires will the materials be made



available for public inspection. However, no materials submitted with a request for confidentiality will be returned if a request for inspection has been filed under § 0.461. If submission of the materials is required by the Commission and the request for confidentiality is denied, the materials will be made available for public inspection once the period for review of the denial has passed.

(f) If no request for confidentiality is submitted, the Commission assumes no obligation to consider the need for non-disclosure but, in the unusual instance, may determine on its own motion that the materials should be withheld from public inspection. See § 0.457(g).

(g) If a request for confidentiality is denied, the person who submitted the request may, within ten business days, file an application for review by the Commission. If the application for review is denied, the person who submitted the request will be afforded ten business days in which to seek a judicial stay of the ruling. If these periods expire without action by the person who submitted the request, the materials will be returned to the person who submitted them or will be placed in a public file. Notice of denial and of the time for seeking review or a judicial stay will be given by telephone, with follow-up notice in writing. The first day to be counted in computing the time periods established in this paragraph is the day after the date of oral notice. Materials will be accorded confidential treatment, as provided in § 0.459(g) and § 0.461, until the Commission acts on any timely applications for review of an order denying a request for confidentiality, and until a court acts on any timely motion for stay of such an order denying confidential treatment.

(h) If the request for confidentiality is granted, the status of the materials is the same as that of materials listed in § 0.457. Any person wishing to inspect them may submit a request for inspection under § 0.461.

(i) Third party owners of materials submitted to the Commission by another party may participate in the proceeding resolving the confidentiality of the materials.

**§ 0.460 Requests for inspection of records which are routinely available for public inspection.**

(a) Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Subject to the limitations set out in this section, a person who wants to inspect such records need only appear at the specified location and ask to see the records. Many such records also are available through the Commission's Web site, located at <http://www.fcc.gov> and the Commission's electronic reading room, located on its Web site at <http://www.fcc.gov/foia/e-room.html>. Commission documents listed in §§ 0.416 and 0.445 are published in the FCC Record, and many such documents or summaries thereof are also published in the FEDERAL REGISTER.

(b) A person who wishes to inspect the records must appear at the specified location during the office hours of the Commission and must inspect the records at that location. (Procedures governing requests for copies are set out in § 0.465.) However, arrangements may be made in advance, by telephone or by correspondence, to make the records available for inspection on a particular date, and there are many circumstances in which such advance arrangements will save inconvenience. If the request is for a large number of documents, for example, a delay in collecting them is predictable. Current records may be in use by the staff when the request is made. Older records may have been forwarded to another location for storage.

(c) The records in question must be reasonably described by the person requesting them so as to permit their location by staff personnel. The information needed to locate the records will vary, depending on the records requested. Advice concerning the kind of information needed to locate particular records will be furnished in advance upon request. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

(d) If it appears that there will be an appreciable delay in locating or producing the records (as where a large

number of documents is the subject of a single request or where an extended search for a document appears to be necessary), the requester may be directed to submit or confirm the request in writing in appropriate circumstances.

(e)(1) Written requests shall be directed to the Commission's copy contractor pursuant to the procedures set forth in §0.465. Requests shall be captioned "Request For Inspection Of Records," shall be dated, shall list the mailing address, telephone number (if any) of the person making the request, and the e-mail address (if any) and for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document. Written requests shall, in addition, specify the maximum search fee the person making the request is prepared to pay (see §0.467).

(2) Written requests shall be delivered or mailed directly to the Commission's copy contractor (see §0.465(a)).

(f) When a written request is received by the copy contractor, it will be date-stamped.

(g) All requests limited to records listed in §§0.453 and 0.455 will be granted, subject to paragraph (k) of this section. Requests for records listed in those sections shall not be combined with requests for other records.

(h) The records will be produced for inspection at the earliest possible time.

(i) Records shall be inspected within 7 days after notice is given that they have been located and are available for inspection. After that period, they will be returned to storage and additional charges may be imposed for again producing them.

(j) In addition to the other requirements of this section, the following provisions apply to the reports filed with the Commission pursuant to 5 CFR parts 2634 and 3902.

(1) Such reports shall not be obtained or used:

(i) For any unlawful purpose;

(ii) For any commercial purpose, other than by news and communications media for dissemination to the general public;

(iii) For determining or establishing the credit rating of any individual; or

(iv) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) Such reports may not be made available to any person nor may any copy thereof be provided to any person except upon a written application by such person stating:

(i) That person's name, occupation and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copying is requested; and

(iii) That such person is aware of the prohibitions on the obtaining or use of the report. Further, any such application for inspection shall be made available to the public throughout the period during which the report itself is made available to the public.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 397; 18 U.S.C. 207(j))

**§0.461 Requests for inspection of materials not routinely available for public inspection.**

Any person desiring to inspect Commission records that are not listed in §0.453 or §0.455 shall file a request for inspection meeting the requirements of this section. The FOIA Public Liaison is available to assist persons seeking records under this section. See §0.441(a).

(a)(1) Records include:

(i) Any information that would be an agency record subject to the requirements of the Freedom of Information Act when maintained by the Commission in any format, including an electronic format; and

(ii) Any information maintained for the Commission by an entity under Government contract, for purposes of records management.

(2) The records in question must be reasonably described by the person requesting them, so as to permit their location by staff personnel with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the title or name, author, recipient, and subject matter of the record. Requests should also specify

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the date or time period for the records sought. The custodian of records sought may contact the requester to obtain further information about the records sought to assist in locating them.

(3) The person requesting records under this section may specify the form or format of the records to be produced provided that the records may be made readily reproducible in the requested form or format.

(b)(1) Requests shall be captioned "Freedom of Information Act Request," shall be dated, shall list the telephone number (if any), street address, and e-mail address (if any) of the person making the request, and should reasonably describe, for each document requested (see §0.461(a)(1)), all information known to the person making the request that would be helpful in identifying and locating the document.

(2) The request shall, in addition, specify the maximum search fee the person making the request is prepared to pay or a request for waiver or reduction of fees if the requester is eligible (see §0.470(e)). By filing a FOIA request, the requester agrees to pay all applicable fees charged under §0.467, unless the person making the request seeks a waiver of fees (see §0.470(e)), in which case the Commission will rule on the waiver request before proceeding with the search.

(c) If the records are of the kinds listed in §0.457 or if they have been withheld from inspection under §0.459, the request shall, in addition, contain a statement of the reasons for inspection and the facts in support thereof. In the case of other materials, no such statement need accompany the request, but the custodian of the records may require the submission of such a statement if he or she determines that the materials in question may lawfully be withheld from inspection.

(d)(1) Requests shall be

(i) Delivered or mailed to the Managing Director, FCC, 445—12th Street, SW., Room 1-A836, Washington, DC 20554;

(ii) Sent by e-mail to [foia@fcc.gov](mailto:foia@fcc.gov);

(iii) Filed electronically through the Internet at <http://www.fcc.gov/foia/#reqform>; or

(iv) Sent by facsimile to (202) 418-2826 or (202) 418-0521. If the request is filed by mail or facsimile, an original and two copies of the request shall be submitted. If the request is enclosed in an envelope, the envelope shall be marked, "Freedom of Information Act Request."

(2) For purposes of this section, the custodian of the records is the Chief of the Bureau or Office where the records are located. The Chief of the Bureau or Office may designate an appropriate person to act on a FOIA request.

(3) If the request is for materials submitted to the Commission by third parties and not open to routine public inspection under §0.457(d), §0.459, or another Commission rule or order, or if a request for confidentiality is pending pursuant to §0.459, or if the custodian of records has reason to believe that the information may contain confidential commercial information, one copy of the request will be provided by the custodian of the records (see §0.461(e)) to the person who originally submitted the materials to the Commission. If there are many persons who originally submitted the records and are entitled to notice under this paragraph, the custodian of records may use a public notice to notify the submitters of the request for inspection. The submitter or submitters will be given ten calendar days to respond to the FOIA request. See §0.459(d)(1). If a submitter has any objection to disclosure, he or she is required to submit a detailed written statement specifying all grounds for withholding any portion of the information (see §0.459). This response shall be served on the party seeking to inspect the records. The requester may submit a reply within ten business days unless a different period is specified by the custodian of records. The reply shall be served on all parties that filed a response. In the event that a submitter fails to respond within the time specified, the submitter will be considered to have no objection to disclosure of the information.

NOTE TO PARAGRAPH (d)(3): Under the ex parte rules, §1.1206(a)(7) of this chapter, a proceeding involving a FOIA request is a permit-but-disclose proceeding, but is subject to the special service rules in this paragraph. We also note that while the FOIA request itself is a permit-but-disclose proceeding, a

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pleading in a FOIA proceeding may also constitute a presentation in another proceeding if it addresses the merits of that proceeding.

(e)(1) When the request is received by the Managing Director, it will be assigned to the Freedom of Information Act (FOIA) Control Office, where it will be date-stamped and assigned to the appropriate custodian of the records. A FOIA request is then considered properly received. This will occur no later than ten calendar days after the request is first received by the agency.

(2)(i) Except for the purpose of making a determination regarding expedited processing under paragraph (h) of this section, the time for processing a request for inspection of records will be tolled

(A) While the custodian of records seeks reasonable clarification of the request;

(B) Until clarification with the requester of issues regarding fee assessment occurs, including:

(1) While there is an unresolved fee waiver issue pending under §0.470(e), unless the requester has provided a written statement agreeing to pay some or all of the fees pending the outcome of the waiver question;

(2) Following the denial of a fee waiver, unless the requester had provided a written statement agreeing to pay the fees if the fee waiver was denied;

(3) Where advance payment is required pursuant to §0.469 and has not been made.

(ii) Only one Commission request for information shall be deemed to toll the time for processing a request for inspection of records under §0.461(e)(2)(i)(A). Such request must be made no later than ten calendar days after a request is properly received by the custodian of records under §0.461(e)(1).

(3) The FOIA Control Office will send an acknowledgement to the requester notifying the requester of the control number assigned to the request, the due date of the response, and the telephone contact number (202–418–0440) to be used by the requester to obtain the status of the request. Requesters may also obtain the status of an FOIA request via e-mail at *foia@fcc.gov*.

(4) Multiple FOIA requests by the same or different FOIA requesters may

be consolidated for disposition. See also §0.470(b)(2).

(f) Requests for inspection of records will be acted on as follows by the custodian of the records.

(1) If the Commission is prohibited from disclosing the records in question, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2)(i) If records in the possession of the Commission are the property of another agency, the request will be referred to that agency and the person who submitted the request will be so advised, with the reasons for referral.

(ii) If it is determined that the FOIA request seeks only records of another agency or department, the FOIA requester will be so informed by the FOIA Control Officer and will be directed to the correct agency or department.

(3) If it is determined that the Commission does not have authority to withhold the records from public inspection, the request will be granted.

(4) If it is determined that the Commission does have authority to withhold the records from public inspection, the considerations favoring disclosure and non-disclosure will be weighed in light of the facts presented, and the request will be granted, either conditionally or unconditionally, or denied.

(5) If there is a statutory basis for withholding part of a document from inspection, that part will be deleted and the remainder will be made available for inspection. Records disclosed in part shall be marked or annotated to show the amount of information deleted unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted and the exemption under which the deletion is made also shall be indicated on the record, if technically feasible.

(6) In locating and recovering records responsive to an FOIA request, only those records within the Commission's possession and control as of the date of its receipt of the request shall be considered.

(g)(1) The custodian of the records will make every effort to act on the request within twenty business days

after it is received and date-stamped by the FOIA Control Office. However, if a request for clarification has been made under §0.461(e)(2)(i)(A) or an issue is outstanding regarding the payment of fees for processing the FOIA request is pending under §0.461(e)(2)(i)(B), the counting of time will start upon resolution of these requests. If it is not possible to locate the records and to determine whether they should be made available for inspection within twenty business days, the custodian may, in any of the following circumstances, extend the time for action by up to ten business days:

(i) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(ii) It is necessary to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) It is necessary to consult with another agency having a substantial interest in the determination of the request, or among two or more components of the Commission having substantial subject matter interest therein.

(2) The custodian of the records will notify the requester in writing of any extension of time exercised pursuant to paragraph (g) of this section. The custodian of the records may also call the requester to extend the time provided a subsequent written confirmation is provided. If it is not possible to locate the records and make the determination within the extended period, the person or persons who made the request will be provided an opportunity to limit the scope of the request so that it may be processed within the extended time limit, or an opportunity to arrange an alternative time frame for processing the request or a modified request, and asked to consent to an extension or further extension. If the requester agrees to an extension, the custodian of the records will confirm the agreement in a letter or e-mail specifying the length of the agreed-upon extension. If he or she does not agree to an extension, the request will be denied, on the grounds that the custodian

has not been able to locate the records and/or to make the determination within the period for a ruling mandated by the Freedom of Information Act, 5 U.S.C. 552. In that event, the custodian will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that person may file an application for review by the Commission. When action is taken by the custodian of the records, written notice of the action will be given. Records will be made available with the written notice of action or as soon thereafter as is feasible.

(3) If the custodian of the records grants a request for inspection of records submitted to the Commission in confidence under §0.457(d), §0.459, or some other Commission rule or order, the custodian of the records will give the submitter written notice of the decision and of the submitter's right to seek review pursuant to §0.461(i).

(h)(1) Requesters who seek expedited processing of FOIA requests shall submit such requests, along with their FOIA requests, to the Managing Director, as described in §0.461(d). If the request is enclosed in an envelope, the envelope shall be marked "Request for Expedited Proceeding—FOIA Request." An original and two copies of the request for expedition shall be submitted, but only one copy is necessary if submitted by e-mail or by the Internet. When the request is received by the Managing Director, it, and the accompanying FOIA request, will be assigned to the FOIA Control Office, where it will be date-stamped and assigned to the custodian of records.

(2) Expedited processing shall be granted to a requester demonstrating a compelling need that is certified by the requester to be true and correct to the best of his or her knowledge and belief.

(3) For purposes of this section, *compelling need* means—

(i) That failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public concerning

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actual or alleged Federal Government activity.

(4)(i) Notice of the determination whether to grant expedited processing shall be provided to the requester by the custodian of records within ten calendar days after receipt of the request by the FOIA Control Office. Once the determination has been made to grant expedited processing, the custodian shall process the FOIA request as soon as practicable.

(ii) If a request for expedited processing is denied, the person seeking expedited processing may file an application for review within five business days after the date of the written denial. The application for review and the envelope containing it (if any) shall be captioned "Review of FOIA Expedited Proceeding Request." The application for review shall be delivered or mailed to the General Counsel. (For general procedures relating to applications for review, see §1.115 of this chapter.) The Commission shall act expeditiously on the application for review, and shall notify the custodian of records and the requester of the disposition of such an application for review.

(1)(1) If a request for inspection of records submitted to the Commission in confidence under §0.457(d), §0.459, or another Commission rule or order is granted in whole or in part, an application for review may be filed by the person who submitted the records to the Commission, by a third party owner of the records or by a person with a personal privacy interest in the records, or by the person who filed the request for inspection of records within the ten business days after the date of the written ruling. The application for review and the envelope containing it (if any) shall be captioned "Review of Freedom of Information Action." The application for review shall be filed within ten business days after the date of the written ruling, shall be delivered or mailed to the General Counsel, and shall be served on the person who filed the request for inspection of records and any other parties to the proceeding. The person who filed the request for inspection of records may respond to the application for review within ten business days after it is filed.

(2) The first day to be counted in computing the time period for filing the application for review is the day after the date of the written ruling. If an application for review is not filed within this period, the records will be produced for inspection.

(3) If an application for review is denied, the person filing the application for review will be notified in writing and advised of his or her rights.

(4) If an application for review filed by the person who submitted, owns, or has a personal privacy interest in the records to the Commission is denied, or if the records are made available on review which were not initially made available, the person will be afforded ten business days from the date of the written ruling in which to move for a judicial stay of the Commission's action. The first day to be counted in computing the time period for seeking a judicial stay is the day after the date of the written ruling. If a motion for stay is not made within this period, the records will be produced for inspection.

(j) Except as provided in paragraph (i) of this section, an application for review of an initial action on a request for inspection of records, a fee determination (see §§0.467 through 0.470), or a fee reduction or waiver decision (see §0.470(e)) may be filed only by the person who made the request. The application shall be filed within 30 calendar days after the date of the written ruling by the custodian of records. The application for review and the envelope (if any) shall be captioned, "Review of Freedom of Information Action." The application shall be delivered or mailed to the General Counsel. If the proceeding involves records subject to confidential treatment under §0.457 or §0.459, or involves a person with an interest as described in §0.461(i), the application for review shall be served on such persons. That person may file a response within ten business days after the application for review is filed. If the records are made available for review, the person who submitted them to the Commission will be afforded ten business days after the date of the written ruling to seek a judicial stay. See paragraph (i) of this section. The first day to be counted in computing

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the time period for filing the application for review or seeking a judicial stay is the day after the date of the written ruling.

NOTE TO PARAGRAPHS (i) AND (j): The General Counsel may review applications for review with the custodian of records and attempt to informally resolve outstanding issues with the consent of the requester. For general procedures relating to applications for review, see §1.115 of this chapter.

(k)(1)(i) The Commission will make every effort to act on an application for review of an action on a request for inspection of records within twenty business days after it is filed. In the following circumstances and to the extent time has not been extended under paragraphs (g)(1)(i), (ii), or (iii) of §0.461(g) of this section, the Commission may extend the time for acting on the application for review up to ten business days. (The total period of extensions taken under this paragraph and under paragraph (g) of this section without the consent of the person who submitted the request shall not exceed ten business days.):

(A) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) It is necessary to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(C) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the Commission having substantial subject matter interest therein.

(ii) If these circumstances are not present, the person who made the request may be asked to consent to an extension or further extension. If the requester or person who made the request agrees to an extension, the General Counsel will confirm the agreement in a letter specifying the length of the agreed-upon extension. If the requester or person who made the request does not agree to an extension, the Commission will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that

person may file a complaint in an appropriate United States district court.

(2) The Commission may at its discretion or upon request consolidate for consideration related applications for review filed under §0.461(i) or §0.461(j).

(1)(1) Subject to the application for review and judicial stay provisions of paragraphs (i) and (j) of this section, if the request is granted, the records will be produced for inspection at the earliest possible time.

(2) If a request for inspection of records becomes the subject of an action for judicial review before the custodian of records has acted on the request, or before the Commission has acted on an application for review, the Commission may continue to consider the request for production of records.

(m) Staff orders and letters ruling on requests for inspection are signed by the official (or officials) who give final approval of their contents. Decisions of the Commission ruling on applications for review will set forth the names of the Commissioners participating in the decision.

(n) Records shall be inspected within seven days after notice is given that they have been located and are available for inspection. After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

### **§0.463 Disclosure of Commission records and information in legal proceedings in which the Commission is a non-party.**

(a) This section sets forth procedures to be followed with respect to the production or disclosure of any material within the custody and control of the Commission, any information relating to such material, or any information acquired by any person while employed by the Commission as part of the person's official duties or because of the person's official status.

(b) In the event that a demand is made by a court or other competent authority outside the Commission for the production of records or testimony (e.g., a subpoena, order, or other demand), the General Counsel shall promptly be advised of such demand, the nature of the records or testimony sought, and all other relevant facts and

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circumstances. The General Counsel, in consultation with the Managing Director, will thereupon issue such instructions as he or she may deem advisable consistent with this subpart.

(c) A party in a court or administrative legal proceeding in which the Commission is a non-party who wishes to obtain records or testimony from the Commission shall submit a written request to the General Counsel. Such request must be accompanied by a statement setting forth the nature of the proceeding (including any relevant supporting documentation, e.g., a copy of the Complaint), the relevance of the records or testimony to the proceeding (including a proffer concerning the anticipated scope and duration of the testimony), a showing that other evidence reasonably suited to the requester's needs is not available from any other source (including a request submitted pursuant to §0.460 or §0.461 of the Commission's rules), and any other information that may be relevant to the Commission's consideration of the request for records or testimony. The purpose of the foregoing requirements is to assist the General Counsel in making an informed decision regarding whether the production of records or the testimony should be authorized.

(d) In deciding whether to authorize the release of records or to permit the testimony of present or former Commission personnel, the General Counsel, in consultation with the Managing Director, shall consider the following factors:

- (1) Whether the request or demand would involve the Commission in issues or controversies unrelated to the Commission's mission;
- (2) Whether the request or demand is unduly burdensome;
- (3) Whether the time and money of the Commission and/or the United States would be used for private purposes;
- (4) The extent to which the time of employees for conducting official business would be compromised;
- (5) Whether the public might misconstrue variances between personal opinions of employees and Commission policy;
- (6) Whether the request or demand demonstrates that the records or testi-

mony sought are relevant and material to the underlying proceeding, unavailable from other sources, and whether the request is reasonable in its scope;

(7) Whether, if the request or demand were granted, the number of similar requests would have a cumulative effect on the expenditure of Commission resources;

(8) Whether the requestor has agreed to pay search and review fees as set forth in §0.467 of this subpart;

(9) Whether disclosure of the records or the testimony sought would otherwise be inappropriate under the circumstances; and

(10) Any other factor that is appropriate.

(e) Among those demands and requests in response to which compliance will not ordinarily be authorized are those with respect to which any of the following factors exist:

(1) Disclosure of the records or the testimony would violate a statute, Executive Order, rule, or regulation;

(2) The integrity of the administrative and deliberative processes of the Commission would be compromised;

(3) Disclosure of the records or the testimony would not be appropriate under the rules of procedure governing the case or matter in which the demand arose;

(4) Disclosure of the records, including release *in camera*, or the testimony, is not appropriate or required under the relevant substantive law concerning privilege;

(5) Disclosure of the records, except when *in camera* and necessary to assert a claim of privilege, or of the testimony, would reveal information properly classified or other matters exempt from unrestricted disclosure; or

(6) Disclosure of the records or the testimony could interfere with ongoing Commission enforcement proceedings or other legal or administrative proceedings, compromise constitutional rights, reveal the identity of an intelligence source or confidential informant, or disclose trade secrets or similarly confidential commercial or financial information.

(f) The General Counsel, following consultation with the Managing Director and any relevant Commission Bureau or Office, is authorized to approve



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non-privileged testimony by a present or former employee of the Commission or the production of non-privileged records in response to a valid demand issued by competent legal authority, or a request for records or testimony received under this section, and to assert governmental privileges on behalf of the Commission in litigation that may be associated with any such demand or request.

(g) Any employee or former employee of the Commission who receives a demand for records of the Commission or testimony regarding the records or activities of the Commission shall promptly notify the General Counsel so that the General Counsel may take appropriate steps to protect the Commission's rights.

(Secs. 4(i), 303(r), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r); 5 U.S.C. 301; 47 CFR 0.231(d))

### **§0.465 Request for copies of materials which are available, or made available, for public inspection.**

(a) The Commission awards a contract to a commercial duplication firm to make copies of Commission records and offer them for sale to the public. In addition to the charge for copying, the contractor may charge a search fee for locating and retrieving the requested documents from the Commission's files.

NOTE TO PARAGRAPH (a): The name, address, telephone number, and schedule of fees for the current copy contractor are published at the time of contract award of renewal in a public notice and periodically thereafter. Current information is available at <http://www.fcc.gov/foia> and <http://www.fcc.gov/cgb>. Questions regarding this information should be directed to the Reference Information Center of the Consumer and Governmental Affairs Bureau at 202-418-0270.

(b) Audio or video recordings or transcripts of Commission proceedings are available to the public through the Commission's current copy contractor. In some cases, only some of these formats may be available.

(c)(1) Contractual arrangements which have been entered into with commercial firms, as described in this section, do not in any way limit the right of the public to inspect Commission records or to retrieve whatever information may be desired. Coin-oper-

ated and debit card copy machines are available for use by the public.

(2) The Commission has reserved the right to make copies of its records for its own use or for the use of other agencies of the U.S. Government. When it serves the regulatory or financial interests of the U.S. Government, the Commission will make and furnish copies of its records free of charge. In other circumstances, however, if it should be necessary for the Commission to make and furnish copies of its records for the use of others, the fee for this service shall be ten cents (\$0.10) per page or \$5 per computer disk in addition to charges for staff time as provided in §0.467. For copies prepared with other media, such as computer tapes, microfiche, videotape, the charge will be the actual direct cost including operator time. Requests for copying should be accompanied by a statement specifying the maximum copying fee the person making the request is prepared to pay. If the Commission estimates that copying charges are likely to exceed the greater of \$25 or the amount which the requester has indicated that he/she is prepared to pay, then it shall notify the requester of the estimated amount of fees. Such a notice shall offer the requester the opportunity to confer with Commission personnel with the object of revising or clarifying the request.

NOTE TO PARAGRAPH (c)(2): The criterion considered in acting on a waiver request is whether "waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public." 5 U.S.C. 552(a)(4)(A). A request for a waiver or reduction of fees will be decided by the General Counsel as set forth in §0.470(e).

(3) *Certified Documents.* Copies of documents which are available or made available, for inspection under §0.451 through §0.465, will be prepared and certified, under seal, by the Secretary or his or her designee. Requests shall be in writing, specifying the exact documents, the number of copies desired, and the date on which they will be required. The request shall allow a reasonable time for the preparation and certification of copies. The fee for preparing copies shall be the same as that

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charged by the Commission as described in §0.465(c)(2). The fee for certification shall be \$10 for each document.

(d)(1) Computer maintained databases produced by the Commission and available to the public may be obtained from the FCC's Web site at <http://www.fcc.gov> or if unavailable on the Commission's Web site, from the copy contractor.

NOTE TO PARAGRAPH (d)(1): The Commission awards a contract to provide the public with access to FCC databases from the copy contractor. See note to paragraph (a) of this section.

(2) Copies of computer generated data stored as paper printouts or electronic media and available to the public may also be obtained from the Commission's copy contractor (see paragraph (a) of this section).

(3) Copies of computer source programs and associated documentation produced by the Commission and available to the public may be obtained from the Office of the Managing Director.

(e) This section does not apply to records available on the Commission's Web site, <http://www.fcc.gov>, or printed publications which may be purchased from the Superintendent of Documents or private firms (see §§0.411 through 0.420), nor does it apply to application forms or information bulletins, which are prepared for the use and information of the public and are available upon request (see §§0.421 and 0.423) or on the Commission's Web site, <http://www.fcc.gov/formpage.html>.

(f) Anyone requesting copies of documents pursuant to this section may either come in person to the Commission (see §0.461) or request that the copy contractor fulfill the request. If a request goes directly to the contractor, the requester will be charged by the contractor pursuant to the price list set forth in the latest contract.

### §0.466 Definitions.

(a) For the purpose of §§0.467 and 0.468, the following definitions shall apply:

(1) The term *direct costs* means those expenditures which the Commission actually incurs in searching for and duplicating (and in case of commercial requesters, reviewing) documents to re-

spond to a FOIA request. Direct costs include the salary of the employee performing the work (the basic rate of pay for the employee plus twenty percent of that rate to cover benefits), and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses, such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material contained within documents. Such activity should be distinguished, however, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (a)(3) of this section).

(3) The term *review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(4) of this section) to determine whether any portion of a document located is exempt from disclosure. It also includes processing any documents for disclosure, e.g., performing such functions that are necessary to excise them or otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of FOIA exemptions.

(4) The term *commercial use* request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial interests of the requester. In determining whether a requester properly falls within this category, the Commission shall determine the use to which a requester will put the documents requested. Where the Commission has reasonable cause to question the use to which a requester will put the documents sought, or where that use is not clear from the request itself, the Commission shall seek additional clarification before assigning the request to a specific category. The dissemination of records by a representation of the news media (see §0.466(a)(7)) shall not be considered to be for a commercial use.

(5) The term *educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of professional education

and an institution of vocational education, which operates a program or programs of scholarly research.

(6) The term *non-commercial scientific institution* refers to an institution that is not operated on a commercial basis as that term is referenced in paragraph (a)(4) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(7) The term *representative of the news media* refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term *news* means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of news) who make their products available for purchase or subscription by, or free distribution to, the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Commission may also consider the past publication record of the requester in making such a determination. See 5 U.S.C. 552(a)(4)(A)(ii).

(8) The term *all other requester* refers to any person not within the definitions in paragraphs (a)(4) through (a)(7) of this paragraph.

(b) [Reserved]

#### §0.467 Search and review fees.

(a)(1) Subject to the provisions of this section, an hourly fee shall be

charged for recovery of the full, allowable direct costs of searching for and reviewing records requested under §0.460 or §0.461, unless such fees are reduced or waived pursuant to §0.470. The fee is based on the pay grade level of the FCC's employee(s) who conduct(s) the search or review, or the actual hourly rate of FCC contractors or other non-FCC personnel who conduct a search.

NOTE TO PARAGRAPH (a)(1): The fees for FCC employees will be modified periodically to correspond with modifications in the rate of pay approved by Congress and any such modifications will be announced by public notice and will be posted on the Commission's Web site, <http://www.fcc.gov/foia/#feeschedule>.

(2) The fees specified in paragraph (a)(1) of this section are computed at Step 5 of each grade level based on the General Schedule and include twenty percent for personnel benefits. Search and review fees will be assessed in ¼ hour increments.

(b) Search fees may be assessed for time spent searching, even if the Commission fails to locate responsive records or if any records located are determined to be exempt from disclosure.

(c) The Commission shall charge only for the initial review, *i.e.*, the review undertaken initially when the Commission analyzes the applicability of a specific exemption to a particular record. The Commission shall not charge for review at the appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs of such a subsequent review, under these circumstances, are properly assessable.

(d) The fee charged will not exceed an amount based on the time typically required to locate records of the kind requested.

(e)(1) If the Commission estimates that search charges are likely to exceed the greater of \$25 or the amount which the requester indicated he/she is prepared to pay, then it shall notify the requester of the estimated amount of fees. Such a notice shall offer the requester the opportunity to confer with Commission personnel with the object

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of revising or clarifying the request. See §0.465(c)(2) and §470(d).

(2) The time for processing a request for inspection shall be tolled while conferring with the requester about his or her willingness to pay the fees required to process the request. See §0.461(e).

(f) When the search has been completed, the custodian of the records will give notice of the charges incurred to the person who made the request.

(g) The fee shall be paid to the Financial Management Division, Office of Managing Director, or as otherwise directed by the Commission.

(h) Records shall be inspected within seven days after notice is given that they have been located and are available for inspection. See §0.461(n). After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

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Interest shall be charged those requesters who fail to pay the fees charged. The agency will begin assessing interest charges on the amount billed starting on the 31st day following the day on which the billing was sent. The date on which the payment is received by the agency will determine whether and how much interest is due. The interest shall be set at the rate prescribed in 31 U.S.C. 3717.

### §0.469 Advance payments.

(a) The Commission may not require advance payment of estimated FOIA fees except as provided in paragraph (b) or where the Commission estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250.00 and the requester has no history of payment. Where allowable charges are likely to exceed \$250.00 and the requester has a history of prompt payment of FOIA fees the Commission may notify the requester of the estimated cost and obtain satisfactory assurance of full payment. Notification that fees may exceed \$250.00 is not, however, a prerequisite for collecting fees above that amount.

(b) Where a requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), the Commission may re-

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quire the requester to pay the full amount owed plus any applicable interest as provided in §0.468, and to make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requester.

(c) When the Commission acts under paragraph (a) of this section, the administrative time limits prescribed in §§0.461(g) and (k) (*i.e.*, twenty business days from receipt of initial requests and twenty business days from receipt of appeals from initial denials, plus permissible extensions of these time limits (see §0.461(g)(1)(i) through (iii) and §0.461(k)(1)(i) through (iii)) will begin only after the agency has received the fee payments described in this section. See §0.461(e)(2)(ii) and §0.467(e)(2).

### §0.470 Assessment of fees.

(a)(1) *Commercial use requesters.* (i) When the Commission receives a request for documents for commercial use, it will assess charges that recover the full direct cost of searching for, reviewing and duplicating the records sought pursuant to §§0.466 and 0.467, above.

(ii) Commercial use requesters shall not be assessed search fees if the Commission fails to comply with the time limits under §0.461(g)(1), if no unusual or exceptional circumstances (§0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(2) *Educational and non-commercial scientific institution requesters and requesters who are representatives of the news media.* (i) The Commission shall provide documents to requesters in these categories for the cost of reproduction only, pursuant to §0.465 above, excluding reproduction charges for the first 100 pages, provided however, that requesters who are representatives of the news media shall be entitled to a reduced assessment of charges only when the request is for the purpose of distributing information.

(ii) Educational requesters or requesters who are representatives of the news media shall not be assessed fees for the cost of reproduction if the Commission fails to comply with the time limits under §0.461(g)(1), if no unusual

or exceptional circumstances (§0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(3) *All other requesters.* (i) The Commission shall charge requesters who do not fit into any of the categories above fees which cover the full, reasonable direct cost of searching for and reproducing records that are responsive to the request, pursuant to §§0.465 and 0.467, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge.

(ii) All other requesters shall not be assessed search fees if the Commission fails to comply with the time limits under §0.461(g)(1), if no unusual or exceptional circumstances (§0.461(g)(1)(i) through (iii)) apply to the processing of the request.

(b)(1) The 100 page restriction on assessment of reproduction fees in paragraphs (a)(2) and (a)(3) of this section refers to 100 paper copies of a standard size, which will normally be "8½ x 11" or "11 x 14," or microfiche containing the equivalent of 100 pages or 100 pages of computer printout.

(2) When the agency reasonably believes that a requester or group of requesters is attempting to segregate a request into a series of separate individual requests for the purpose of evading the assessment of fees, the agency will aggregate any such requests and assess charges accordingly.

(c) When a requester believes he or she is entitled to a reduced fee assessment pursuant to paragraphs (a)(2) and (a)(3) of this section, or a waiver pursuant to paragraph (e) of this section, the requester must include, in his or her original FOIA request, a statement explaining with specificity, the reasons demonstrating that he or she qualifies for a reduced fee or a fee waiver. Included in this statement should be a certification that the information will not be used to further the commercial interests of the requester.

NOTE TO PARAGRAPH (C): Anyone requesting a reduced fee or a fee waiver must submit the request directly to the Commission and not to the contractor who will provide documents only at the contract price.

(d) If the Commission reasonably believes that a commercial interest exists, based on the information provided pursuant to paragraph (c) of this sec-

tion, the requester shall be so notified and given an additional ten business days to provide further information to justify receiving a reduced fee. See §0.467(e)(2). During this time period, the materials will be available for inspection to the extent that the time period exceeds the time period for responding to FOIA requests, as appropriate.

(e)(1) Copying, search and review charges shall be waived or reduced by the General Counsel when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. 552(a)(4)(A)(iii). Simply repeating the fee waiver language of section 552(a)(4)(A)(iii) is not a sufficient basis to obtain a fee waiver.

(2) The criteria used to determine whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government include:

(i) Whether the subject of the requested records concerns the operations or activities of the government;

(ii) Whether the disclosure is likely to contribute to an understanding of government operations or activities; and

(iii) Whether disclosure of the requested information will contribute to public understanding as opposed to the individual understanding of the requester or a narrow segment of interested persons.

(3) The criteria used to determine whether disclosure is primarily in the commercial interest of the requester include:

(i) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

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(4) This request for fee reduction or waiver must accompany the initial request for records and will be decided under the same procedures used for record requests.

(5) If no fees or de minimis fees would result from processing a FOIA request and a fee waiver or reduction has been sought, the General Counsel will not reach a determination on the waiver or reduction request.

(f) Whenever the total fee calculated under this section is \$15 or less, no fee will be charged.

(g) Review of initial fee determinations under §§0.467 through 0.470 and initial fee reduction or waiver determinations under §0.470(e) may be sought under §0.461(j).

### PLACES FOR MAKING SUBMITTALS OR REQUESTS, FOR FILING APPLICATIONS, AND FOR TAKING EXAMINATIONS

#### §0.471 Miscellaneous submittals or requests.

Persons desiring to make submittals or requests of a general nature should communicate with the Secretary of the Commission.

[36 FR 15121, Aug. 13, 1971]

#### §0.473 Reports of violations.

Reports of violations of the Communications Act or of the Commission's rules and regulations may be submitted to the Commission in Washington or to any field office.

[32 FR 10578, July 19, 1967]

#### §0.475 Applications for employment.

Persons who wish to apply for employment should communicate with the Associate Managing Director-Personnel Management.

(Secs. 4(i), 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[49 FR 13368, Apr. 4, 1984]

#### §0.481 Place of filing applications for radio authorizations.

For locations for filing applications, and appropriate fees, see §§1.1102 through 1.1107 of this chapter.

[69 FR 41130, July 7, 2004]

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#### §0.482 Application for waiver of wireless radio service rules.

All requests for waiver of the rules (see §1.925 of this chapter) governing the Wireless Radio Services (see §1.907 of this chapter) that require a fee (see §1.1102 of this chapter) shall be submitted via the Universal Licensing System or to the U.S. Bank, St. Louis, Missouri at the address set forth in §1.1102. Waiver requests that do not require a fee should be submitted via the Universal Licensing System or to: Federal Communications Commission, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325-7245. Waiver requests attached to applications must be submitted in accordance with §0.401(b) or §0.401(c) of the rules.

[63 FR 68919, Dec. 14, 1998, as amended at 73 FR 9018, Feb. 19, 2008]

#### §0.483 Applications for amateur or commercial radio operator licenses.

(a) Application filing procedures for amateur radio operator licenses are set forth in part 97 of this chapter.

(b) Application filing procedures for commercial radio operator licenses are set forth in part 13 of this chapter. Detailed information about application forms, filing procedures, and places to file applications for commercial radio operator licenses is contained in the bulletin "Commercial Radio Operator Licenses and Permits." This bulletin is available from any Commission field office or the FCC, Washington, DC 20554.

[47 FR 53378, Nov. 26, 1982]

#### §0.484 Amateur radio operator examinations.

Generally, examinations for amateur radio operation licenses shall be administered at locations and times specified by volunteer examiners. (See §97.509). When the FCC conducts examinations for amateur radio operator licenses, they shall take place at locations and times designated by the FCC.

[58 FR 13021, Mar. 9, 1993]

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### § 0.485 Commercial radio operator examinations.

Generally, written and telegraphy examinations for commercial radio operator licenses shall be conducted at locations and times specified by commercial operator license examination managers. (See §13.209 of this chapter). When the FCC conducts these examinations, they shall take place at locations and times specified by the FCC.

[58 FR 9124, Feb. 19, 1993]

### § 0.489 Applications for ship radio inspection and periodical survey.

Applications for ship radio inspection or for periodical survey shall be forwarded to the radio district office nearest the desired port of inspection or place of survey.

[28 FR 12413, Nov. 22, 1963. Redesignated at 32 FR 10578, July 19, 1967]

### § 0.491 Application for exemption from compulsory ship radio requirements.

Applications for exemption filed under the provisions of sections 352(b) or 383 of the Communications Act; Regulation 4, chapter I of the Safety Convention; Regulation 5, chapter IV of the Safety Convention; or Article IX of the Great Lakes Agreement, must be filed as a waiver request using the procedures specified in §0.482 of this part. Emergency requests must be filed via the Universal Licensing System or at the Federal Communications Commission, Office of the Secretary.

[71 FR 15618, Mar. 29, 2006]

### § 0.493 Non-radio common carrier applications.

All such applications shall be filed at the Commission's offices in Washington, DC.

[28 FR 12413, Nov. 22, 1963. Redesignated at 32 FR 10578, July 19, 1967]

## Subpart D—Mandatory Declassification of National Security Information

AUTHORITY: Secs. 4(i), 303(r), Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)).

SOURCE: 47 FR 53377, Nov. 26, 1982, unless otherwise noted.

### § 0.501 General.

Executive Order 12356 requires that information relating to national security be protected against unauthorized disclosure as long as required by national security considerations. The Order also provides that all information classified under Executive Order 12356 or predecessor orders be subject to a review for declassification upon receipt of a request made by a United States citizen or permanent resident alien, a Federal agency, or a state or local government.

### § 0.502 Purpose.

This subpart prescribes the procedures to be followed in submitting requests, processing such requests, appeals taken from denials of declassification requests and fees and charges.

### § 0.503 Submission of requests for mandatory declassification review.

(a) Requests for mandatory review of national security information shall be in writing, addressed to the Managing Director, and reasonably describe the information sought with sufficient particularity to enable Commission personnel to identify the documents containing that information and be reasonable in scope.

(b) When the request is for information originally classified by the Commission, the Managing Director shall assign the request to the appropriate bureau or office for action.

(c) Requests related to information, either derivatively classified by the Commission or originally classified by another agency, shall be forwarded, together with a copy of the record, to the originating agency. The transmittal may contain a recommendation for action.

### § 0.504 Processing requests for declassification.

(a) Responses to mandatory declassification review requests shall be governed by the amount of search and review time required to process the request. A final determination shall be made within one year from the date of

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receipt of the request, except in unusual circumstances.

(b) Upon a determination by the bureau or office that the requested material originally classified by the Commission no longer warrants protection, it shall be declassified and made available to the requester, unless withholding is otherwise authorized under law.

(c) If the information may not be declassified or released in whole or in part, the requester shall be notified as to the reasons for the denial, given notice of the right to appeal the denial to the Classification Review Committee, and given notice that such an appeal must be filed within 60 days of the date of denial in order to be considered.

(d) The Commission's Classification Review Committee, consisting of the Managing Director (Chairman), the General Counsel or his designee, and the Chief, Internal Review and Security Division, shall have authority to act, within 30 days, upon all appeals regarding denials of requests for mandatory declassification of Commission-originated classifications. The Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued classification is no longer required. If the Committee determines that continued classification is required under the criteria of the Order, the requester shall be promptly notified and advised that an application for review may be filed with the Commission pursuant to 47 CFR 1.115.

### § 0.505 Fees and charges.

(a) The Commission has designated a contractor to make copies of Commission records and offer them for sale (See § 0.465).

(b) An hourly fee is charged for recovery of the direct costs of searching for requested documents (See § 0.466).

### § 0.506 FOIA and Privacy Act requests.

Requests for declassification that are submitted under the provisions of the Freedom of Information Act, as amended, (See § 0.461), of the Privacy Act of 1974, (See § 0.554) shall be processed in accordance with the provisions of those Acts.

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### Subpart E—Privacy Act Regulations

AUTHORITY: Secs. 4, 303, 49 Stat. as amended, 1066, 1082 (47 U.S.C. 154, 303).

SOURCE: 40 FR 44512, Sept. 26, 1975, unless otherwise noted.

#### § 0.551 Purpose and scope; definitions.

(a) The purpose of this subpart is to implement the Privacy Act of 1974, 5 U.S.C. 552(a), and to protect the rights of the individual in the accuracy and privacy of information concerning him which is contained in Commission records. The regulations contained herein cover any group of records under the Commission's control from which information about individuals is retrievable by the name of an individual or by some other personal identifier.

(b) In this subpart:

(1) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(2) *Record* means any item, collection or grouping of information about an individual that is maintained by the Commission, including but not limited to, such individual's education, financial transactions, medical history, and criminal or employment history, and that contains such individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(3) *System of Records* means a group of records under the control of the Commission from which information is retrievable by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(4) *Routine Use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(5) *System Manager* means the Commission official responsible for the



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storage, maintenance, safekeeping, and disposal of a system of records.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13368, Apr. 4, 1984]

### §0.552 Notice identifying Commission systems of records.

The Commission publishes in the FEDERAL REGISTER upon establishment or revision a notice of the existence and character of the system of records, including for each system of records:

- (a) The name and location of the system;
- (b) The categories of individuals on whom records are maintained in the system;
- (c) The categories of records maintained in the system;
- (d) Each routine use of the records contained in the system, including the categories of users and the purposes of such use;
- (e) The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;
- (f) The title and business address of the system manager;
- (g) The address of the agency office to which inquiries should be addressed and the addresses of locations at which the individual may inquire whether a system contains records pertaining to himself;
- (h) The agency procedures whereby an individual can be notified how access can be gained to any record pertaining to that individual contained in a system of records, and the procedure for correcting or contesting its contents; and
- (i) The categories of sources of records in the system.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13368, Apr. 4, 1984]

### §0.553 New uses of information.

Before establishing a new routine use of a system of records, the Commission will publish a notice in the FEDERAL REGISTER of its intention to do so, and

will provide at least 30 days for public comment on such use. The notice will contain:

- (a) The name of the system of records for which the new routine use is to be established;
- (b) The authority for the system;
- (c) The categories of records maintained;
- (d) The proposed routine use(s); and
- (e) The categories of recipients for each proposed routine use.

### §0.554 Procedures for requests pertaining to individual records in a system of records.

(a) Upon request, the Commission will notify individuals as to whether it maintains information about them in a system of records and, subject to the provisions of §0.555(b), will disclose the substance of such information to that individual. In order to properly request notification or access to record information, reference must be made to the Notice described in §0.552. A table of contents, which is alphabetized by bureau or office, precedes the system descriptions and allows members of the public to easily identify record systems of interest to them. An individual may inquire into information contained in any or all systems of records described in the Notice. However, each inquiry shall be limited to information from systems located within a single bureau or office and shall be addressed to that bureau or office.

(b) Reasonable identification is required of all individuals making requests pursuant to paragraph (a) of this section in order to assure that disclosure of any information is made to the proper person.

(1) Individuals who choose to register a request for information in person may verify their identity by showing any two of the following: social security card; drivers license; employee identification card; medicare card; birth certificate; bank credit card; or other positive means of identification. Documents incorporating a picture and/or signature of the individual shall be produced if possible. If an individual cannot provide suitable documentation for identification, that individual will be required to sign an identity statement stipulating that knowingly or

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willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

NOTE: An individual's refusal to disclose his social security number shall not constitute cause in and of itself, for denial of a request.

(2) All requests for record information sent by mail shall be signed by the requestor and shall include his printed name, current address and telephone number (if any). Commission officials receiving such requests will attempt to verify the identity of the requestor by comparing his or her signature to those in the record. If the record contains no signatures and if positive identification cannot be made on the basis of other information submitted, the requestor will be required to sign an identity statement and stipulate that knowingly or willfully seeking or obtaining access to records about another person under false pretense is punishable by a fine of up to \$5,000.

(3) If positive identification cannot be made on the basis of the information submitted, and if data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom the record pertains, the Commission reserves the right to deny access to the record pending the production of additional more satisfactory evidence of identity.

NOTE: The Commission will require verification of identity only where it has determined that knowledge of the existence of record information or its substance is not subject to the public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, as amended.

(c) All requests for notification of the existence of record information or for access to such information shall be delivered to the business address of the system manager responsible for the system of records in question, except that requests relating to official personnel records shall be addressed to the Associate Managing Director—Personnel Management. Such addresses can be found in the FEDERAL REGISTER Notice described in §0.552.

(d) A written acknowledgement of receipt of a request for notification and/

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or access will be provided within 10 days (excluding Saturdays, Sundays, and legal public holidays) to the individual making the request. Such an acknowledgement may, if necessary, request any additional information needed to locate a record. A search of all systems of records identified in the individual's request will be made to determine if any records pertaining to the individual are contained therein, and the individual will be notified of the search results as soon as the search has been completed. Normally, a request will be processed and the individual notified of the search results within 30 days (excluding Saturdays, Sundays, and legal holidays) from the date the inquiry is received. However, in some cases, as where records have to be recalled from Federal Record Centers, notification may be delayed. If it is determined that a record pertaining to the individual making the request does exist, the notification will state approximately when the record will be available for personal review. No separate acknowledgement is required if the request can be processed and the individual notified of the search results within the ten-day period.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13368, Apr. 4, 1984]

### §0.555 Disclosure of record information to individuals.

(a) Individuals having been notified that the Commission maintains a record pertaining to them in a system of records may request access to such record in one of three ways: by in person inspection at the system location; by transfer of the record to a nearer location; or by mail.

(1) Individuals who wish to review their records at the system location must do so during regular Commission business hours (8:00 a.m.—4:30 p.m., Monday through Friday). For personal and administrative convenience, individuals are urged to arrange to review a record by appointment. Preferences as to specific dates and times can be made by writing or calling the system manager responsible for the system of records in question at least two days in

advance of the desired appointment date, and by providing a telephone number where the individual can be reached during the day in case the appointment must be changed. Verification of identity is required as in §0.554(b)(1) before access will be granted an individual appearing in person. Individuals may be accompanied by a person of his or her own choosing when reviewing a record. However, in such cases, a written statement authorizing discussion of their record in the presence of a Commission representative having physical custody of the records.

(2) Individuals may request that a record be transferred to a Commission field office or installation in the vicinity of his or her home and that access be granted at that location. The addresses of Commission field offices are listed in §0.121. A request to transfer records must specify the exact location where the records should be sent and a telephone number to call when the information is available for review at the field location. Paragraph (a)(1) of this section regarding personal appointments, verification of identity accompanying persons, and disclosure of original records applies equally to this paragraph.

(3) Individuals may request that copies of records be sent directly to them. In such cases, individuals must verify their identity as §0.554(b)(2) and provide an accurate return address. Records shall be sent only to that address.

(b) The disclosure of record information under this section is subject to the following limitations:

(1) Records containing medical information pertaining to an individual are subject to individual access under this section unless, in the judgment of the system manager having custody of the records after consultation with a medical doctor, access to such record information could have an adverse impact on the individual. In such cases, a copy of the record will be delivered to a medical doctor named by the individual.

(2) Classified material, investigative material compiled for law enforcement purposes, investigatory material compiled solely for determining suitability

for Federal employment or access to classified information, and certain testing or examination material shall be removed from the records to the extent permitted in the Privacy Act of 1974, 5 U.S.C. 552(a). Section 0.561 of this subpart sets forth the systems of records maintained by the Commission which are either totally or partially exempt from disclosure under this subparagraph.

(c) No fee will be imposed if the number of pages of records requested is 25 or less. Requests involving more than 25 pages shall be submitted to the duplicating contractor (see §0.456(a)).

(d) The provisions of this section in no way give an individual the right to access any information compiled in reasonable anticipation of a civil action or proceeding.

(e) In the event that a determination is made denying an individual access to records pertaining to that individual for any reason, such individual may either:

(1) Seek administrative review of the adverse determination. Such a request shall be in writing and should be addressed to the system manager who made the initial decision. In addition, the request for review shall state specifically why the initial decision should be reversed.

(2) Seek judicial relief in the district courts of the United States pursuant to paragraph (g)(1)(B) of the Act.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 40 FR 58858, Dec. 19, 1975; 49 FR 13369, Apr. 4, 1984]

#### **§0.556 Request to correct or amend records.**

(a) An individual may request the amendment of information contained in their record. Except as otherwise provided in this paragraph, the request to amend should be submitted in writing to the system manager responsible for the records. Requests to amend the official personnel records of active FCC employees should be submitted to the Associate Managing Director—Human Resources Management, 445 12th Street, SW., Washington, D.C. 20554. Requests to amend official personnel

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records of former FCC employees should be sent to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415. Any request to amend should contain as a minimum:

(1) The identity verification information required by §0.554(b)(2) and the information needed to locate the record as required by §0.554(a).

(2) A brief description of the item or items of information to be amended; and

(3) The reason for the requested change.

(b) A written acknowledgement of the receipt of a request to amend a record will be provided within 10 days (excluding Saturdays, Sundays, and legal public holidays) to the individual requesting the amendment. Such an acknowledgement may, if necessary, request any additional information needed to make a determination. There will be no acknowledgement if the request can be reviewed, processed, and the individual notified of compliance or denial within the 10 day period.

(c) The responsible system manager, or in the case of official personnel records of active FCC employees, the Associate Managing Director—Personnel Management, shall (normally within 30 days) take one of the following actions regarding a request to amend:

(1) If the system manager agrees that an amendment to the record is warranted, the system manager shall:

(i) So advise the individual in writing;

(ii) Correct the record in compliance with the individual's request; and

(iii) If an accounting of disclosures has been made, advise all previous recipients of the fact that the record has been corrected and of the substance of the correction.

(2) If the system manager, after an initial review, does not agree that all or any portion of the record merits amendment, the system manager shall:

(i) Notify the individual in writing of such refusal to amend and the reasons therefore;

(ii) Advise the individual that further administrative review of the initial de-

cision by the full Commission may be sought pursuant to the procedures set forth in §0.557. (In cases where the request to amend involves official personnel records, review is available exclusively from the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415; and

(iii) Inform the individual of the procedures for requesting Commission review pursuant to §0.557.

(d) In reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, or completeness of the record in light of each data element placed into controversy and the use of the record in making decisions that could possibly affect the individual. Moreover, the system manager shall adjudge the merits of any request to delete information based on whether or not the information in controversy is both relevant and necessary to accomplish a statutory purpose required of the Commission by law or executive order of the President.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

### §0.557 Administrative review of an initial decision not to amend a record.

(a) Individuals have 30 days from the date of the determination not to amend a record consistent with their request to seek further administrative review by the full Commission. Such a request shall be in writing and should be addressed to either the system manager who made the initial adverse decision, or, in the case of official personnel records of active FCC employees, to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415. Any request for administrative review must:

(1) Clearly identify the questions presented for review (e.g., whether the record information in question is, in fact, accurate; whether information

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subject to a request to delete is relevant and necessary to the purpose for which it is maintained);

(2) Specify with particularity why the decision reached by the system manager is erroneous or inequitable; and

(3) Clearly state how the record should be amended or corrected.

(b) The Commission shall conduct an independent review of the record in controversy using the standards of review set out in §0.556(d). It may seek such additional information as is necessary to make its determination. Final administrative review shall be completed not later than 30 days (excluding Saturdays, Sundays and legal public holidays) from the date on which the individual requests such review unless the Chairman determines that a fair and equitable review cannot be made within the 30 day period. In such event, the individual will be informed in writing of the reasons for the delay and the approximate date on which the review is expected to be completed.

(c) If upon review of the record in controversy the Commission agrees with the individual that the requested amendment is warranted, the Commission will proceed in accordance with §0.556(c)(1) (i) through (iii).

(d) If after the review, the Commission also refuses to amend the record as requested, it shall:

(1) Notify the individual in writing of its refusal and the reasons therefore;

(2) Advise the individual that a concise statement of the reasons for disagreeing with the decision of the Commission may be filed;

(3) Inform the individual:

(i) That such a statement should be signed and addressed to the system manager having custody of the record in question;

(ii) That the statement will be made available to any one to whom the record is subsequently disclosed together with, at the Commission's discretion, a summary of its reasons for refusing to amend the record; and

(iii) That prior recipients of the record will be provided a copy of the statement of dispute to the extent that an accounting of such disclosures is maintained; and

(4) Advise the individual that judicial review of the Commission's decision not to amend the record in any district court of the United States is available.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984]

### §0.558 Advice and assistance.

Individuals who have questions regarding the procedures contained in this subpart for gaining access to a particular system of records or for contesting the contents of a record, either administratively or judicially, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Office of General Counsel, 445 12th Street, SW., Washington, DC 20554.

Individuals who request clarification of the Notice described in §0.552 or who have questions concerning the characterization of specific systems of records as set forth therein, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Performance Evaluation and Records Management, Office of the Managing Director, 445 12th Street, SW., Washington, DC 20554

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

### §0.559 Disclosure of disputed information to persons other than the individual to whom it pertains.

If the Commission determines not to amend a record consistent with an individual's request, and if the individual files a statement of disagreement pursuant to §0.557(d)(2), the Commission shall clearly annotate the record so that the disputed portion becomes apparent to anyone who may subsequently have access to, use or disclose the record. A copy of the individual's statement of disagreement shall accompany any subsequent disclosure of the record. In addition, the Commission may include a brief summary of

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its reasons for not amending the record when disclosing the record. Such statements become part of the individual's record for granting access, but are not subject to the amendment procedures of §0.556.

### §0.560 Penalty for false representation of identity.

Any individual who knowingly and willfully requests or obtains under false pretenses any record concerning an individual from any system of records maintained by the Commission shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000.

### §0.561 Exemptions.

The following systems of records are totally or partially exempt from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from §§0.554 through 0.557 of this subpart:

(a) *System name.* Radio Operator Records—FCC/FOB-1. Parts of this system of records are exempt pursuant to Section (k)(2) of the Act because they contain investigatory material compiled solely for law enforcement purposes.

(b) *System name.* Violators File (records kept on individuals who have been subjects of FCC field enforcement actions)—FCC/FOB-2. Parts of this system of records are EXEMPT because they are maintained as a protective service for individuals described in section 3056 of title 18, and because they are necessary for Commission employees to perform their duties, pursuant to sections (k) (1), (2), and (3) of the Act.

(c) *System name.* Attorney Misconduct Files—FCC/OGC-2. This system of records is exempt pursuant to section 3(k)(2) of the Act because it is maintained for law enforcement purposes.

(d) *System name.* Licensees or Unlicensed Persons Operating Radio Equipment Improperly—FCC. Parts of this system of records are exempt pursuant to section 3(k)(2) of the Act because they embody investigatory material compiled solely for law enforcement purposes.

(e) *System name.* Personnel Investigation Records—FCC/Central-6. Parts of these systems of records are exempt be-

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cause they embody investigatory material pursuant to sections 3(k)(2) and 3(k)(5) of the Act as applicable.

(f) *System name.* Criminal Investigative Files—FCC/OIG-1. Compiled for the purpose of criminal investigations. This system of records is exempt pursuant to section (j)(2) of the Act because the records contain investigatory material compiled for criminal law enforcement purposes.

(g) *System name.* General Investigative Files—FCC/OIG-2. Compiled for law enforcement purposes. This system of records is exempt pursuant to section (k)(2) of the Act because the records contain investigatory material compiled for law enforcement purposes.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13369, Apr. 4, 1984; 58 FR 11549, Feb. 26, 1993]

## Subpart F—Meeting Procedures

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

SOURCE: 42 FR 12867, Mar. 7, 1977, unless otherwise noted.

### §0.601 Definitions.

For purposes of this section:

(a) The term *agency* means:

(1) The Commission,

(2) A board of Commissioners (see §0.212),

(3) The Telecommunications Committee (see §0.215), and

(4) Any other group of Commissioners hereafter established by the Commission on a continuing or *ad hoc* basis and authorized to act on behalf of the Commission.

(b) The term *meeting* means the deliberations among a quorum of the Commission, a Board of Commissioners, or a quorum of a committee of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business, except that the term does not include deliberations to decide whether to announce a meeting with less than seven days notice, or whether a meeting should be open or closed. (The term includes conference telephone calls, but

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does not include the separate consideration of Commission business by Commissioners.) For purposes of this subpart each item on the agenda of a meeting is considered a meeting or a portion of a meeting.

[42 FR 12867, Mar. 7, 1977, as amended at 48 FR 56391, Dec. 21, 1983; 64 FR 2149, Jan. 13, 1999]

### § 0.602 Open meetings.

(a) All meetings shall be conducted in accordance with the provisions of this subpart.

(b) Except as provided in § 0.603, every portion of every meeting shall be open to public observation. Observation does not include participation or disruptive conduct by observers, and persons engaging in such conduct will be removed from the meeting.

(c) The right of the public to observe open meetings does not alter those rules in this chapter which relate to the filing of motions, pleadings, or other documents. Unless such pleadings conform to the other procedural requirements of this chapter, pleadings based upon comments or discussions at open meetings, as a general rule, will not become part of the official record, will receive no consideration, and no further action by the Commission will be taken thereon.

(d) Deliberations, discussions, comments or observations made during the course of open meetings do not themselves constitute action of the Commission. Comments made by Commissioners may be advanced for purposes of discussion and may not reflect the ultimate position of a Commissioner.

[42 FR 12867, Mar. 7, 1977, as amended at 45 FR 63491, Sept. 25, 1980]

### § 0.603 Bases for closing a meeting to the public.

Except where the agency finds that the public interest requires otherwise, an agency or advisory committee meeting may be closed to the public, and information pertaining to such meetings which would otherwise be disclosed to the public under § 0.605 may be withheld, if the agency determines that an open meeting or the disclosure of such information is likely to:

(a) Disclose matters that: (1) Are specifically authorized under criteria es-

tablished by executive order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to such executive order (see § 0.457(a));

(b) Relate solely to the internal personnel rules and practices of an agency (see § 0.457(b));

(c) Disclose matters specifically exempted from disclosure, by statute (other than the Freedom of Information Act, 5 U.S.C. 552). *Provided*, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld (see § 0.457(c));

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential (see § 0.457(d));

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (see § 0.457(f));

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

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(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except where the agency has already disclosed to the public the content or nature of the disclosed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures specified in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for hearing.

### §0.605 Procedures for announcing meetings.

(a) Notice of all open and closed meetings will be given.

(b) The meeting notice will be submitted for publication in the FEDERAL REGISTER on or before the date on which the announcement is made. Copies will be available in the Press and News Media Division on the day the announcement is made. Copies will also be attached to "FCC Actions Alert", which is mailed to certain individuals and groups who have demonstrated an interest in representing the public in Commission proceedings.

(c)(1) If the agency staff determines that a meeting should be open to the public, it will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Chief, Press and News Media Division, who has been designated to respond to requests for information about the meeting.

(2) If the staff determines that a meeting should be closed to the public, it will refer the matter to the General Counsel, who will certify that there is (or is not) a legal basis for closing the meeting to the public. Following action by the General Counsel, the matter may be referred to the agency for a

vote on the question of closing the meeting (See §0.606).

(d)(1) If the question of closing a meeting is considered by the agency but no vote is taken, the agency will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Chief, Press and News Media Division.

(2) If a vote is taken, the agency will, in the same announcement and within one day after the vote, make public the vote of each participating Commissioner.

(3) If the vote is to close the meeting, the agency will also, in that announcement, set out a full written explanation of its action, including the applicable provision(s) of §0.603, and a list of persons expected to attend the meeting, including Commission personnel, together with their affiliations. The Commissioners, their assistants, the General Counsel, the Executive Director, the Chief, Press and News Media Division, and the Secretary are expected to attend all Commission meetings. The appropriate Bureau or Office Chief and Division Chief are expected to attend meetings which relate to their responsibilities (see subpart A of this part).

(4) If a meeting is closed, the agency may omit from the announcement information usually included, if and to the extent that it finds that disclosure would be likely to have any of the consequences listed in §0.603.

(e) If the prompt and orderly conduct of agency business requires that a meeting be held less than one week after the announcement of the meeting, or before that announcement, the agency will issue the announcement at the earliest practicable time. In addition to other information, the announcement will contain the vote of each member of the agency who participated in the decision to give less than seven days notice, and the particular reason for that decision.

(f) If, after announcement of a meeting, the time or place of the meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time.



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(g) If the subject matter or the determination to open or close a meeting is changed, the agency will publicly announce the change and the vote of each member at the earliest practicable time. The announcement will contain a finding that agency business requires the change and that no earlier announcement of the change was possible.

(47 U.S.C. 154, 155, 303)

[42 FR 12867, Mar. 7, 1977, as amended at 44 FR 12425, Mar. 7, 1979; 44 FR 70472, Dec. 7, 1979; 64 FE 2150, Jan. 13, 1999]

### §0.606 Procedures for closing a meeting to the public.

(a) For every meeting closed under §0.603, the General Counsel will certify that there is a legal basis for closing the meeting to the public and will state each relevant provision of §0.603. The staff of the agency will refer the matter to the General Counsel for certification before it is referred to the agency for a vote on closing the meeting. Certifications will be retained in a public file in the Office of the Secretary.

(b) The agency will vote on the question of closing a meeting.

(1) If a member of the agency requests that a vote be taken;

(2) If the staff recommends that a meeting be closed and one member of the agency requests that a vote be taken; or

(3) If a person whose interests may be directly affected by a meeting requests the agency to close the meeting for any of the reasons listed in §0.603 (e), (f) or (g), or if any person requests that a closed meeting be opened, and a member of the agency requests that a vote be taken. (Such requests may be filed with the Secretary at any time prior to the meeting and should briefly state the reason(s) for opening or closing the meeting. To assure that they reach the Commission for consideration prior to the meeting, they should be submitted at the earliest practicable time and should be called specifically to the attention of the Secretary—in person or by telephone. It will be helpful if copies of the request are furnished to the members of the agency and the General Counsel. The filing of a request shall not stay the holding of a meeting.)

(c) A meeting will be closed to the public pursuant to §0.603 only by vote of a majority of the entire membership of the agency. The vote of each participating Commissioner will be recorded. No Commissioner may vote by proxy.

(d) A separate vote will be taken before any meeting is closed to the public and before any information is withheld from the meeting notice. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings (a vote on each question, if both are presented), if each meeting involves the same particular matters and is scheduled to be held no later than 30 days after the first meeting in the series.

(e) Less than seven days notice may be given only by majority vote of the entire membership of the agency.

(f) The subject matter or the determination to open or close a meeting will be changed only if a majority of the entire membership of the agency determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible.

[42 FR 12867, Mar. 7, 1977, as amended at 71 FR 15618, Mar. 29, 2006]

### §0.607 Transcript, recording or minutes; availability to the public.

(a) The agency will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting closed to the public, except that in a meeting closed pursuant to paragraph (h) or (j) of §0.603, the agency may maintain minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any item will be identified in the minutes.

(b) A public file of transcripts (or minutes) of closed meetings will be maintained in the Office of the Secretary. The transcript of a meeting will

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be placed in that file if, after the meeting, the responsible Bureau or Office Chief determines, in light of the discussion, that the meeting could have been open to the public or that the reason for withholding information concerning the matters discussed no longer pertains. Transcripts placed in the public file are available for inspection under §0.460. Other transcripts, and separable portions thereof which do not contain information properly withheld under §0.603, may be made available for inspection under §0.461. When a transcript, or portion thereof, is made available for inspection under §0.461, it will be placed in the public file. Copies of transcripts may be obtained from the duplicating contractor pursuant to §0.465(a). There will be no search or transcription fee. Requests for inspection or copies of transcripts shall specify the date of the meeting, the name of the agenda and the agenda item number; this information will appear in the notice of the meeting. Pursuant to §0.465(c)(3), the Commission will make copies of the transcript available directly, free of charge, if it serves the financial or regulatory interests of the United States.

(c) The Commission will maintain a copy of the transcript or minutes for a period of at least two years after the meeting, or until at least one year after conclusion of the proceeding to which the meeting relates, whichever occurs later.

(d) The Commissioner presiding at the meeting will prepare a statement setting out the time and place of the meeting, the names of persons other than Commission personnel who were present at the meeting, and the names of Commission personnel who participated in the discussion. These statements will be retained in a public file in the Minute and Rules Branch, Office of the Secretary.

[42 FR 12867, Mar. 7, 1977, as amended at 71 FR 15618, Mar. 29, 2006]

### Subpart G—Intergovernmental Communication

SOURCE: 66 FR 8091, Jan. 29, 2001, unless otherwise noted.

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### §0.701 Intergovernmental Advisory Committee.

(a) *Purpose and term of operations.* The Intergovernmental Advisory Committee (IAC) is established to facilitate intergovernmental communication between municipal, county, state and tribal governments and the Federal Communications Commission. The IAC will commence operations with its first meeting convened under this section and is authorized to undertake its mission for a period of two years from that date. At his discretion, the Chairman of the Federal Communications Commission may extend the IAC's term of operations for an additional two years, for which new members will be appointed as set forth in paragraph (b) of this section. Pursuant to Section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1534(b), the IAC is not subject to, and is not required to follow, the procedures set forth in the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988).

(b) *Membership.* The IAC will be composed of the following 15 members (or their designated employees): Four elected municipal officials (city mayors and city council members); two elected county officials (county commissioners or council members); one elected or appointed local government attorney; one elected state executive (governor or lieutenant governor); three elected state legislators; one elected or appointed public utilities or public service commissioner; and three elected or appointed Native American tribal representatives. The Chairman of the Commission will appoint members through an application process initiated by a Public Notice, and will select a Chairman and a Vice Chairman to lead the IAC. The Chairman of the Commission will also appoint members to fill any vacancies and may replace an IAC member, at his discretion, using the appointment process. Members of the IAC are responsible for travel and other incidental expenses incurred while on IAC business and will not be reimbursed by the Commission for such expenses.

(c) *Location and frequency of meetings.* The IAC will meet in Washington, DC four times a year. Members must attend a minimum of fifty percent of the

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IAC's yearly meetings and may be removed by the Chairman of the IAC for failure to comply with this requirement.

(d) *Participation in IAC meetings.* Participation at IAC meetings will be limited to IAC members or employees designated by IAC members to act on their behalf. Members unable to attend an IAC meeting should notify the IAC Chairman a reasonable time in advance of the meeting and provide the name of the employee designated on their behalf. With the exception of Commission staff and individuals or groups having business before the IAC, no other persons may attend or participate in an IAC meeting.

(e) *Commission support and oversight.* The Chairman of the Commission, or Commissioner designated by the Chairman for such purpose, will serve as a liaison between the IAC and the Commission and provide general oversight for its activities. The IAC will also communicate directly with the Chief, Consumer & Governmental Affairs Bureau, concerning logistical assistance and staff support, and such other matters as are warranted.

[68 FR 52519, Sept. 4, 2003]

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