

Office of the Secretary, DOT

§ 385.5

Delegations by the Secretary of Transportation to Secretarial Officers and the Director, Bureau of Transportation Statistics (BTS) of functions under Subparts I, II, and IV of the Statute appear in 49 CFR part 1. This part also sets forth the procedures governing discretionary review by the appropriate Reviewing Official of action taken under such assignments. Nothing in this part shall be construed as precluding the Department from issuing, by appropriate order, temporary delegations of authority with respect to any functions described in this part or with respect to any other functions which can be lawfully delegated.

[Docket No. T-1, 49 FR 50985, Dec. 31, 1984, as amended at 60 FR 66726, Dec. 26, 1995; Doc. No. OST-96-1268, 61 FR 19167, May 1, 1996]

§ 385.3 Scope of staff action.

Applications for relief which, pursuant to this part, may be granted by staff members under assigned authority, and proceedings on such requests shall be governed by applicable rules in the same manner as if no assignment had been made (see § 385.5). In such proceedings, each staff member may determine any procedural matters which may arise, including, inter alia, service of documents on additional persons; filing of otherwise unauthorized documents; waivers of procedural requirements; requests for hearing; requests for additional information; dismissal of applications upon the applicant's request, moot applications, or incomplete or otherwise defective applications; and extensions of time. Such determinations, except those which would terminate the matter, shall be subject to review only in connection with review of the staff member's decision on the merits. The dismissal of incomplete or otherwise defective applications under authority set forth in this part shall be without prejudice except where under otherwise applicable law the time for making application has run out or where the defect is not corrected within a reasonable time fixed by the staff member. Under the authority assigned to the staff as set forth in this part to approve, disapprove, grant, or deny, relief may be granted or denied in part and grants may be made subject to lawful and rea-

sonable conditions. Moreover, where applicable, the authority to grant relief also includes authority to renew or extend an existing authorization.

[Doc. T-1, 49 FR 50985, Dec. 31, 1984; Amdt. 1, 50 FR 7170, Feb. 21, 1985]

§ 385.4 Form of staff action.

Unless otherwise specified, staff action shall be by order or informal writing (letters, telegrams, decision marked on copy of application form, etc.). Such orders or informal writings shall contain a recital that action is taken pursuant to authority assigned herein, shall, in cases where there are "parties or interveners," or where there may be an adverse effect upon a person with a substantial interest, contain a brief reference to the right of aggrieved parties to petition the Reviewing Official for review pursuant to applicable procedural rules, including a statement of the time within which petitions must be filed (§ 385.51); shall state whether the filing of a petition shall preclude the action from becoming effective; and shall be in the name of the person exercising the assigned function. They shall contain all findings, determinations and conclusions which would be required or appropriate if they were issued by the Secretary. Upon request, the appropriate Department Official shall attest as Departmental action orders or informal writings issued pursuant to this part which have become the action of the Department (§ 385.52).

[Doc. T-1, 49 FR 50985, Dec. 31, 1984; Amdt. 1, 50 FR 7170, Feb. 21, 1985]

§ 385.5 Procedures prescribed in other regulations.

Procedures set forth in this part do not supersede procedures applicable to matters on which decision has been assigned unless otherwise specifically provided herein: *Provided, however*, That any provisions in other regulations which provide for reconsideration of nonhearing determinations are not applicable to decisions made under authority assigned herein or to decisions made upon review thereof by the Reviewing Official.