an order instituting a formal proceeding. Motions for such waivers and any answers shall be filed in the applicable docket in accordance with § 302.11 of the Department's Procedural Regulations (14 CFR 302.11) and served upon all parties to the proceeding.

(d) *Status and expedition requests.* Paragraph (a) of this section shall not apply to oral or written communications asking about the status, or requesting expeditious treatment, of a public proceeding. However, any request for expeditious treatment should be made in accordance with the Rules of Practice, particularly Rule 11, § 302.11 of this chapter.

(e) *National defense and foreign policy.* In nonhearing cases, paragraph (a) of this section shall not apply to communications concerning national defense or foreign policy matters, including international aviation matters. In hearing cases, any communications on those subjects that would be barred by paragraph (a) of this section are permitted if the communicator's position with respect thereto cannot otherwise be fairly presented, but such communications shall not be included as part of the record on which decisions must be made.

(f) *Communications not considered.* A communication in violation of this section shall not be considered part of a record, or included as available material, for decision in any proceeding.

[Docket No. 82, 50 FR 2380, Jan. 16, 1985, as amended by Amdt. No. 300–7, 52 FR 18904, May 20, 1987; 60 FR 10312, Feb. 24, 1995; 60 FR 43528, Aug. 22, 1995; 60 FR 43528, Aug. 22, 1995; 65 FR 6456, Feb. 9, 2000]

§ 300.3 Reporting of communications.

(a) *General.* The following types of substantive communication shall be reported as specified in paragraph (b) of this section:

(1) Any communication in violation of § 300.2(a) of this chapter.

(2) Information given upon determination of an emergency under § 300.2(c)(5) of this chapter.

(3) Information given at the request of a DOT employee in a tariff matter under § 300.2(c)(6) of this chapter.

(4) Communications in nonhearing cases to be decided within 30 days under § 300.2(c)(7) of this chapter.

(5) Communications in nonhearing cases arising under 49 U.S.C. 41731–42, made under § 300.2(c)(8).

(b) *Public filing.* (1) A written communication shall be placed onto the electronic docket management system (DMS) in the file of the docket number corresponding to the proceeding, which shall be available for inspection and copying during business hours in Office of Docket Operations and Media Management.

(2) An oral communication shall be summarized by the DOT employee receiving it. One copy shall be put into a public file as described in paragraph (b)(1) of this section, and another copy shall be mailed to the communicator.

(3) Electronic copies of written communications and oral summaries shall be posted to the DOT's electronic docket. Such docketed materials may be searched, viewed, and downloaded through the Internet at *http://dms.dot.gov.*

(4) Copies of all filings under this part dealing with discontinuances or reductions of air transportation shall be mailed to the directly affected local communities, State agencies, and airport managers.

(c) *Status and expedition requests.* A DOT decisionmaker who receives a communication asking about the status or requesting expeditious treatment of a public proceeding, other than a communication concerning national defense or foreign policy (including international aviation), shall either:

(1) Refer the communicator to Office of Docket Operations and Media Management.

(2) If the DOT decisionmaker responds by advising on the status, put a memorandum describing the exchange in the public file as described in paragraph (b)(1) of this section.

[Docket No. 82, 50 FR 2380, Jan. 16, 1985, as amended at 60 FR 43528, Aug. 22, 1995; Doc. No. OST–2002–12200, 67 FR 30325, May 6, 2002]

§ 300.4 Separation of functions in hearing cases.

(a) This section applies after the initiation of a hearing or enforcement case by the Department.

(b) A DOT employee who is participating in a hearing case on behalf of an