

## SUBCHAPTER E—ORGANIZATION

### PART 385—STAFF ASSIGNMENTS AND REVIEW OF ACTION UNDER ASSIGNMENTS

### Subpart A—General Provisions

#### § 385.1 Definitions.

*Department* means Department of Transportation.

*Petition for review* means a petition asking the appropriate Reviewing Official to exercise his or her discretionary right of review of staff action.

*Precedent* means applicable judicial decisions and decisions by the Department, or by the Board where consistent with Department policy.

*Reviewing Official* means the Assistant Secretary for Aviation and International Affairs, the General Counsel, or the Director of the Bureau of Transportation Statistics, as appropriate to the subject matter under review, but not with regard to Deputy General Counsel and Administrative Law Judge decisions made under this part.

*Staff action* means the exercise of a function under Subparts I, II and IV of Subtitle VII of Title 49 of the United States Code (Transportation) by a staff member pursuant to assignment under this part.

*Staff members* means officers and employees of the Department who are assigned authority under this part.

*Statute* means Subtitle VII of Title 49 of the United States Code (Transportation).

[Docket No. T-1, 49 FR 50985, Dec. 31, 1984, as amended by Amdt. 1-261, 59 FR 10061, Mar. 3, 1994; 60 FR 66726, Dec. 26, 1995; Doc. No. OST-96-1268, 61 FR 19167, May 1, 1996]

#### § 385.2 Applicability.

This part describes the organization of the Department insofar as, pursuant to authority conferred on it by section 40113 of the Statute, the Department has adopted rules herein or elsewhere which make continuing assignments of authority with respect to any of its functions of making orders or other determinations, many of which are not required to be made on an evidentiary record upon notice and hearing or which are not the subject of contest, and Department personnel have been assigned to perform such functions.

### Subpart A—General Provisions

Sec.

- 385.1 Definitions.
- 385.2 Applicability.
- 385.3 Scope of staff action.
- 385.4 Form of staff action.
- 385.5 Procedures prescribed in other regulations.
- 385.6 Referral to the Reviewing Official.
- 385.7 Exercise of authority by superiors.
- 385.8 Exercise of authority in "acting" capacity.

### Subpart B—Assignment of Functions to Staff Members

- 385.10 Authority of Chief Administrative Law Judge, Office of Hearings.
- 385.11 Authority of the Administrative Law Judges, Office of Hearings.
- 385.12 Authority of the Director, Office of Aviation Analysis.
- 385.13 Authority of the Director, Office of International Aviation.
- 385.14 Authority of the General Counsel.
- 385.15 Authority of the Deputy General Counsel.
- 385.16 Heads of Offices and Assistant General Counsels.
- 385.17 Authority of the Assistant General Counsel for Regulation and Enforcement.
- 385.18 Authority of the Chief, Coordination Section, Documentary Services Division.
- 385.19 Authority of the Director, Office of Aviation Information, Bureau of Transportation Statistics.
- 385.20 Authority of the Inspector General.
- 385.21 Authority of the Chief, Accounting Division, Office of Budget and Policy, Federal Transit Administration.

### Subpart C—Procedure on Review of Staff Action

- 385.30 Persons who may petition for review.
- 385.31 Petitions for review.
- 385.32 Effective date of staff action.
- 385.33 Review by the staff.
- 385.34 Decision by the Reviewing Official.

AUTHORITY: 49 U.S.C. Subtitle I, Chapters 401, 411, 413, 415, 417.

SOURCE: Docket No. T-1, 49 FR 50985, Dec. 31, 1984, unless otherwise noted.

### § 385.3

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-

### 14 CFR Ch. II (1-1-08 Edition)

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.