

§ 385.6 Referral to the Reviewing Official.

When the staff member finds that the public interest so requires, or that, with respect to other than matters requiring immediate action as hereafter specified, there will be insufficient time for discretionary review of his or her decision upon petition, the staff member shall, in lieu of exercising the authority, submit the matter to the Reviewing Official for decision. In any case in which the staff member finds that immediate action is required with respect to any matter assigned herein, the disposition of which is governed by prior precedent and policy, the staff member may take appropriate action and specify that the filing of a petition for review shall not preclude such action from becoming effective.

§ 385.7 Exercise of authority by superiors.

Any assignment of authority to a staff member other than the Chief Administrative Law Judge, the Administrative Law Judge, and the Deputy General Counsel, shall also be deemed to be made, severally, to each such staff member's respective superiors. In accordance with the Department's principle of management responsibility, the superior may choose to exercise the assigned power personally. Moreover, the Secretary may at any time exercise any authority assigned herein.

§ 385.8 Exercise of authority in "acting" capacity.

Unless the assignment provides otherwise, staff members serving in an "acting" capacity may exercise the authority assigned to the staff members for whom they are acting.

Subpart B—Assignment of Functions to Staff Members**§ 385.10 Authority of Chief Administrative Law Judge, Office of Hearings.**

The Chief Administrative Law Judge has authority to:

(a) Consolidate, upon recommendation of the Director, Office of International Aviation (or such staff member of the Office of International Aviation as he or she may designate), into

one proceeding cases involving the investigation of a tariff or of complaints concerned with related tariffs.

(b) With respect to matters to be decided after notice and hearing:

(1) Dismiss applications or complaints (except those falling under subpart D of part 302 of this chapter (Procedural Regulations)) when such dismissal is requested or consented to by the applicant or complainant, or where such party has failed to prosecute such application or complaint;

(2) Dismiss proceedings upon his or her finding that the proceeding has become moot or that no further basis for continuation exists; and

(3) Dismiss an application subject to dismissal as stale under part 302 of this chapter.

[49 FR 50985, Dec. 31, 1984, as amended at 55 FR 20448, May 17, 1990; 65 FR 6457, Feb. 9, 2000]

§ 385.11 Authority of the Administrative Law Judges, Office of Hearings.

The Administrative Law Judges, Office of Hearings, have authority to take the following actions in matters to which they are respectively assigned:

(a) Grant or deny intervention in formal proceedings.

(b) With respect to matters to be decided after notice and hearing, dismiss applications or complaints (except those falling under subpart D of part 302 of this chapter (Procedural Regulations)) when such dismissal is requested or consented to by the applicant or complainant, or where such party has failed to prosecute such application or complaint.

(c) Grant requests for consolidation of applications for route authority within the scope of the proceeding before him or her, and deny requests for consolidation of applications for route authority not within the scope of the proceeding.

(d) Approve or disapprove proposed settlements of enforcement proceedings submitted under § 302.215 of this chapter.

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