

Facility	Address	Waste description
		(7) Reopener: (A) If, anytime after disposal of the delisted waste Bekaert possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within ten (10) days of first possessing or being made aware of that data. (B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph (1), Bekaert must report the data, in writing, to the Regional Administrator or his delegate within ten (10) days of first possessing or being made aware of that data. (C) If Bekaert fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires the EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Regional Administrator or his delegate determines that the reported information requires action the EPA, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notification shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed the EPA action is not necessary. The facility shall have ten (10) days from the date of the Regional Administrator or his delegate's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the EPA actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (8) Notification Requirements: Bekaert must do following before transporting the delisted waste: (A) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, sixty (60) days before beginning such activities. (B) Update the one-time written notification if Bekaert ships the delisted waste into a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 11

[FCC 03-167]

Reorganization of the Enforcement Bureau and Establishment of the Office of Homeland Security

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its rules to promote more efficient and effective organizational structure and to promote homeland security. Specifically, the Commission is revising its rules to reflect the creation of the Office of Homeland Security within the

Enforcement Bureau, describe the Office's functions and delegated authority, and make other conforming changes. The Commission is also revising its rules to clarify how an Emergency Relocation Board will operate during times of emergency under the Commission's Continuity of Operations Plan (COOP) and setting out the line of succession to chair the Board when no Commissioner is available to serve on the Board.

DATES: These rule changes became effective on July 8, 2003.

FOR FURTHER INFORMATION CONTACT: Sharlene Lofty, Enforcement Bureau, Office of Homeland Security, at (202) 418-2761, or via the Internet at sharlene.lofty@fcc.gov.

SUPPLEMENTARY INFORMATION: On July 8, 2003, the Commission adopted an Order (FCC 03-167) revising its rules to reflect the reorganization of the Enforcement Bureau. Commissioner Copps issued a

separate statement when this action was taken. In order to promote a more efficient and effective organizational structure and to promote homeland security, the Commission created the Office of Homeland Security within the Enforcement Bureau. The Commission revised its rules to reflect the creation of the Office of Homeland Security, describe its functions and delegated authority, and make other conforming changes. Additionally, the Commission revised its rules to clarify the functions of an Emergency Relocation Board during times of emergency under the Commission's COOP and the line of succession to chair the Board.

Authority for the adoption of the foregoing revisions is contained in sections 4(i), 4(j), 5(b), 5(c), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(b), and 303(r).

The amendments adopted herein pertain to agency organization,

procedure and practice. Consequently, the notice and comment provision of the Administrative Procedure Act contained in 5 U.S.C. 553(b) is inapplicable.

The Commission will not send a copy of this Order to the U.S. General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because it concerns rules of agency organization, procedure, or practice that do not “substantially affect the rights or obligations of non-agency parties.” This Order does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Pub. L. 104–13. Therefore it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107–198, *see* 44 U.S.C. 3506(c)(4).

Accordingly, it is ordered that parts 0 and 11 of the Commission’s Rules, set forth in Title 47 of the Code of Federal Regulations, are amended as set forth in the rule changes.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies), Reporting and recordkeeping requirements.

47 CFR Part 11

Cable television, Instructional television fixed services, Multipoint distribution systems, Radio, Television.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0 and 11 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

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

■ 2. Section 0.11 is amended by adding paragraph (a)(11) to read as follows:

§ 0.11 Functions of the Office.

(a) * * *

(11) Develop and maintain the Commission’s Continuity of Operations Plan (COOP).

* * * * *

■ 3. Section 0.111 is amended by revising paragraphs (a)(22) and (c) to read as follows:

§ 0.111 Functions of the Bureau.

(a) * * *

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

* * * * *

(c) Under the general direction of the Defense Commissioner, coordinate the homeland security activities of the Commission, including national security and emergency preparedness and defense mobilization, and provide support to the Defense Commissioner with respect to his or her participation in the Joint Telecommunications Resources Board, and the National Security Telecommunications Advisory Committee and other organizations. Recommend national emergency plans and preparedness programs covering Commission functions during national emergency conditions. Support the Chief 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. The Chief, Enforcement Bureau, or that person’s designee, acts as FCC Alternate Homeland Security and Defense Coordinator and principal to the National Communications System. Perform such alternate functions as may be delegated during a national emergency or following activation of the President’s war emergency powers as specified in section 706 of the Communications Act.

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■ 4. Section 0.181 is amended by revising the undesignated center heading, the undesignated introductory paragraph and paragraphs (a), (b), (c), (e) and (f) to read as follows:

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 homeland security, national security and emergency preparedness, and defense 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.

* * * * *

(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 interruption. In the event of an emergency, the Defense Commissioner, in consultation with the Managing Director, will decide whether to activate the Commission’s Continuity of Operations Plan.

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■ 5. Section 0.182 is amended by revising paragraphs (b), (c), (d), (e), and (f) to read as follows:

§ 0.182 Chief, Enforcement Bureau.

* * * * *

(b) In coordination with the Office of Managing Director, which has responsibility for developing the Commission’s Continuity of Operations Plan (COOP), acts as Alternate 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.

(c) Keeps the Defense Commissioner informed as to significant developments in the field of homeland security.

(d) Serves as the FCC’s representative on the National Communications System’s Committees.

(e) Under the general direction of the Defense Commissioner coordinates the homeland security, national security and emergency preparedness, and defense activities of the Commission, including, Continuity of Government Planning, the Emergency Alert System (EAS) 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. Maintains liaison with FCC Bureaus/ Offices; represents the Defense Commissioner with other Government

agencies and organizations, the telecommunications industry and FCC licensees on homeland security matters; and, as requested, represents the Commission at meetings and conferences.

(f) 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.

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■ 6. Section 0.185 is amended by revising the undesignated introductory paragraph and paragraphs (a) and (d), and by adding paragraph (e) to read as follows:

§ 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, Enforcement Bureau in the performance of that person's duties with respect to homeland security, national security and emergency preparedness, and defense activities will have the following duties and responsibilities:

(a) To keep the Chief, Enforcement 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.

* * * * *

(d) To perform such other duties related to the Commission's homeland security, national security and emergency preparedness, and defense activities as may be assigned to them by the Commission.

(e) To serve as Homeland Security Liaison to the Enforcement Bureau or designate the Deputy Chief of the Bureau or Office as Homeland Security Liaison to the Enforcement Bureau.

■ 7. Section 0.186 is revised to read as follows:

§ 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.

■ 8. Section 0.381 is revised to read as follows:

§ 0.381 Defense Commissioner.

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

■ 9. Section 0.387 is amended by revising paragraph (b) to read as follows:

§ 0.387 Other national security and emergency preparedness delegations; cross reference.

* * * * *

(b) For authority of the Chief of the Enforcement Bureau to declare a general communications emergency, see § 0.182(f).

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 10. The authority citation for Part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

■ 11. Section 11.21 is amended by revising the undesignated introductory paragraph to read as follows:

§ 11.21 State and Local Area Plans and FCC Mapbook.

EAS plans contain guidelines which must be followed by broadcast and cable personnel, emergency officials and National Weather Service (NWS) personnel to activate the EAS. The plans include the EAS header codes and messages that will be transmitted by key EAS sources (NP, LP, SP and SR). State and local plans contain unique methods of EAS message distribution such as the use of RBDS. The plans must be reviewed and approved by the Director, Office of Homeland Security, Enforcement Bureau, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

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■ 12. Section 11.43 is revised to read as follows:

§ 11.43 National level participation.

Entities that wish to voluntarily participate in the national level EAS may submit a written request to the Director, Office of Homeland Security, Enforcement Bureau.

■ 13. Section 11.47 is amended by revising paragraph (b) to read as follows:

§ 11.47 Optional use of other communications methods and systems.

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(b) Other technologies and public service providers, such as DBS, low earth orbiting satellites, etc., that wish to participate in the EAS may contact the FCC's Office of Homeland Security, Enforcement Bureau, or their State Emergency Communications Committee for information and guidance.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 20, and 43

[CC Docket No. 99-301, FCC 04-81]

Local Competition and Broadband Reporting

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on reconsideration.

SUMMARY: In this document, the Federal Communications Commission denies