

§§ 301–11.100 through 301–11.102 of this title.

[FR Doc. 03–10313 filed 4–25–03; 8:45 am]

BILLING CODE 6820–14–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[FCC 03–48]

#### Amendment of the Commission's Rules Concerning Non-Discrimination on the Basis of Disability in the Commission's Programs and Activities

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends our rules, entitled “Enforcement of Non-discrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Communications Commission,” 47 CFR 1.1801 *et seq.*, to update the Commission's section 504 regulations. The rules modified by this document pertain to agency organization, procedure and practice. Consequently, the notice and comment provisions of the Administrative Procedure Act are inapplicable.

**DATES:** Effective April 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Susan Magnotti, 202/418–0871, Fax 202/418–4562, TTY 202/418–0538, [smagnott@fcc.gov](mailto:smagnott@fcc.gov), Disability Rights Office, Consumer & Governmental Affairs Bureau.

**SUPPLEMENTARY INFORMATION:** This is the full text of the Commission's Order (Order) in the Amendment of Part 1, Subpart N of the Commission's Rules Concerning Non-Discrimination on the Basis of Disability in the Commission's Programs and Activities, FCC 03–48, adopted March 4, 2003 and released March 12, 2003, with the exception of Chairman's and Commissioners' separate statements, and Appendix B of the Order, which is the FCC Section 504 Programs and Activities Accessibility Handbook (Handbook). The full text of the Order, including the separate statements and the Handbook, is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, or copies may be purchased from the Commission's copy contractor, Quallex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554 (202/863–2893), [QUALEXINT@AOL.COM](mailto:QUALEXINT@AOL.COM).

#### Text of the Report and Order

By the Commission: Chairman Powell and Commissioners Copps and Adelstein issuing separate statements.

1. As originally enacted, section 504 of the Rehabilitation Act of 1973 prohibited discrimination against individuals with disabilities under any “program or activity” receiving Federal financial assistance.<sup>1</sup> In 1978, Congress amended section 504 to cover any program or activity conducted by any Executive Branch agency or the United States Postal Service. The 1978 amendment required covered agencies to promulgate regulations enforcing section 504's prohibitions. On April 15, 1987, the Commission released a *Report and Order* that adopted with minor modifications the Department of Justice's prototype regulations for implementing and enforcing section 504.<sup>2</sup> The *Report and Order* noted that the legislative history of the 1978 amendments indicated that Congress intended the amendments to apply to all federal agencies, including independent regulatory agencies such as this Commission.<sup>3</sup> Except for adding consumer complaint procedures, the Commission has not updated its section 504 regulations since 1987.

2. By this Order, we amend part 1, subpart N of our rules, entitled “Enforcement of Non-discrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Communications Commission,” 47 CFR 1.1801 *et seq.*, to update the Commission's section 504 regulations. Specifically, we amend subpart N throughout to replace the terms “handicap,” “individual with a handicap,” and “individuals with handicaps” with the terms “disability,” “individual with a disability,” and “individuals with disabilities,” respectively, in keeping with the most current statutory terms used in the Americans with Disabilities Act.<sup>4</sup> We amend §§ 1.1803 and 1.1810 of the Commission's rules to specify filing and

signature formats for persons with disabilities who wish to file using alternative media. We add a new § 1.1805 to our rules to provide for the Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook (Section 504 Handbook). The Section 504 Handbook is intended as a guide to implement the Commission's responsibilities under section 504 of the Rehabilitation Act.<sup>5</sup> This handbook describes the methods and procedures for accommodation available at the Commission to achieve a consistent and complete accommodations policy. It is for internal staff use and public information only, and is not intended to create any rights, responsibilities, or independent causes of action against the Federal Government.

3. In addition, we amend § 1.1803 to define the term “programs or activities” as that term is used in subpart N. We amend § 1.1810 to require that the self-evaluation process be held every three years, during which time we will seek public comment on the accessibility of our programs and activities as required by section 504 of the Rehabilitation Act of 1973. Finally, we amend § 1.1849 to add a procedure for individuals who are requesting accessibility to the Commission's programs and facilities. We note that requests for accommodation requiring the assistance of other persons (e.g., an American Sign Language interpreter) can best be provided if the request is made five business days before a Commission event.<sup>6</sup>

4. The modifications to part 1, subpart N undertaken by this Order are rules that pertain to agency organization, procedure and practice. Consequently, the notice and comment provisions of the Administrative Procedure Act are inapplicable.<sup>7</sup> The procedural rule modifications will be effective immediately upon publication in the **Federal Register**.<sup>8</sup>

5. Accordingly, *it is ordered that*, pursuant to section 5 of the

<sup>1</sup> The Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394, 29 U.S.C. 794, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1617, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955, and the Rehabilitation Act Amendments of 1986, section 103(d), Pub. L. 99–506, 100 Stat. 1810, creates specific causes of action for persons who are aggrieved by discriminatory treatment as defined in the Act.

<sup>2</sup> *Amendment of Part 1 of the Commission's Rules to Implement Section 504 of the Rehabilitation Act of 1973, as amended*, 29 U.S.C. section 794, Gen. Docket No. 84–533, *Report and Order*, 2 FCC Rcd 2199 (1987) (*Report and Order*).

<sup>3</sup> See *Report and Order* at 2199, paragraph 2.

<sup>4</sup> 42 U.S.C. 12101 *et seq.*

<sup>5</sup> The Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394, 29 U.S.C. 794, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1617, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955, and the Rehabilitation Act Amendments of 1986, section 103(d), Pub. L. 99–506, 100 Stat. 1810, creates specific causes of action for persons who are aggrieved by discriminatory treatment as defined in the Act.

<sup>6</sup> Even if the request for accommodation is made less than five days before the relevant event, the Commission will make every effort to secure the services of a person to provide the requested assistance.

<sup>7</sup> 5 U.S.C. 553(b)(3)(A).

<sup>8</sup> See 5 U.S.C. 553(d).

Communications Act of 1934, as amended, 47 U.S.C. 155, part 1, subpart N of the Commission's rules is amended as set forth in the attached Appendix, effective April 28, 2003.

#### List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

#### Final Rules

■ For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

#### PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e), and 29 U.S.C. 794.

■ 2. Part 1 subpart N is revised to read as follows:

#### Subpart N—Enforcement of Nondiscrimination on the Basis of Disability In Programs or Activities Conducted By the Federal Communications Commission

##### § 1.1801 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 (section 504) to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

##### § 1.1802 Applications.

This part applies to all programs or activities conducted by the Federal Communications Commission. The programs or activities of entities that are licensed or certified by the Federal Communications Commission are not covered by these regulations.

##### § 1.1803 Definitions.

For purposes of this part, the term—

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Commission. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled

materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TTY/TDDs), interpreters, Computer-aided realtime transcription (CART), captioning, notetakers, written materials, and other similar services and devices.

*Commission* means Federal Communications Commission.

*Complete complaint* means a written statement, or a complaint in audio, Braille, electronic, and/or video format, that contains the complainant's name and address and describes the Commission's alleged discriminatory action in sufficient detail to inform the Commission of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. The signature of the complainant, or signature of someone authorized by the complainant to do so on his or her behalf, shall be provided on print complaints. Complaints in audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which for this purpose shall be considered to be functionally equivalent to a complainant's signature. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property.

*General Counsel* means the General Counsel of the Federal Communications Commission.

*Individual with a disability* means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes, but is not limited to—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or

mental illness, and specific learning disabilities;

(iii) Diseases and conditions such as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(2) *Major life activities* include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Commission as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Commission as having such impairment.

*Managing Director* means the individual delegated authority as described in 47 CFR 0.11.

*Programs or Activities* mean any activity of the Commission permitted or required by its enabling statutes, including but not limited to any licensing or certification program, proceeding, investigation, hearing, meeting, board or committee.

*Qualified individual with a disability* means—

(1) With respect to any Commission program or activity under which an individual is required to perform services or to achieve a level of accomplishment, an individual with a disability who, with or without reasonable modification to rules, policies, or practices or the provision of auxiliary aids, meets the essential eligibility requirements for participation in the program or activity and can achieve the purpose of the program or activity; or

(2) With respect to any other program or activity, an individual with a disability who, with or without reasonable modification to rules, policies, or practices or the provision of auxiliary aids, meets the essential eligibility requirements for participation

in, or receipt of benefits from, that program or activity; or

(3) The definition of that term as defined for purposes of employment in 29 CFR 1630.2(m), which is made applicable to this part by § 1.1840.

*Section 504* means section 504 of the Rehabilitation Act of 1973, Public Law 93–112, 87 Stat. 394, 29 U.S.C. 794, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93–516, 88 Stat. 1617, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Public Law 95–602, 92 Stat. 2955, and the Rehabilitation Act Amendments of 1986, sec. 103(d), Public Law 99–506, 100 Stat. 1810. As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

*Section 504 Officer* is the Commission employee charged with overseeing the Commission's section 504 programs and activities.

**§ 1.1805 Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook.**

The Consumer & Governmental Affairs Bureau shall publish a "Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook" ("Section 504 Handbook") for Commission staff, and shall update the Section 504 Handbook as necessary and at least every three years. The Section 504 Handbook shall be available to the public in hard copy upon request and electronically on the Commission's Internet website. The Section 504 Handbook shall contain procedures for releasing documents, holding meetings, receiving comments, and for other aspects of Commission programs and activities to achieve accessibility. These procedures will ensure that the Commission presents a consistent and complete accommodation policy pursuant to 29 U.S.C. 794, as amended. The Section 504 Handbook is for internal staff use and public information only, and is not intended to create any rights, responsibilities, or independent cause of action against the Federal Government.

**§ 1.1810 Review of compliance.**

(a) The Commission shall, beginning in 2004 and at least every three years thereafter, review its current policies and practices in view of advances in relevant technology and achievability. Based on this review, the Commission shall modify its practices and procedures to ensure that the

Commission's programs and activities are fully accessible.

(b) The Commission shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the review process by submitting comments. Written comments shall be signed by the commenter or by someone authorized to do so on his or her behalf. The signature of the commenter, or signature of someone authorized by the commenter to do so on his or her behalf, shall be provided on print comments. Comments in audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which for this purpose shall be considered to be functionally equivalent to a commenter's signature.

(c) The Commission shall maintain on file and make available for public inspection for four years following completion of the compliance review—

(1) A description of areas examined and problems identified;

(2) All comments and complaints filed regarding the Commission's compliance; and

(3) A description of any modifications made.

**§ 1.1811 Notice.**

The Commission shall make available to employees, applicants, participants, beneficiaries, and other interested persons information regarding the regulations set forth in this part, and their applicability to the programs or activities conducted by the Commission. The Commission shall make such information available to such persons in such manner as the Section 504 Officer finds necessary to apprise such persons of the protections against discrimination assured them by section 504.

**§ 1.1830 General prohibitions against discrimination.**

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Discriminatory actions prohibited.

(1) The Commission, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate

in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Commission may not deny a qualified individual with a disability the opportunity to participate in any program or activity even where the Commission is also providing equivalent permissibly separate or different programs or activities for persons with disabilities.

(3) The Commission may not, directly or through contractual or other arrangements, utilize criteria or methods of administration—

(i) That have the purpose or effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability; or

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(4) The Commission may not, in determining the site or location of a facility, make selections—

(i) That have the purpose or effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity conducted by the Commission; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(5) The Commission, in the selection of procurement contractors, may not use criteria that subject qualified

individuals with disabilities to discrimination on the basis of disability.

(6) The Commission may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may the Commission establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the Commission are not, themselves, covered by this part.

(7) The Commission shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Commission can demonstrate that making the modifications would fundamentally alter the nature of the program, service, or activity.

(c) This part does not prohibit the exclusion of persons without disabilities from the benefits of a program limited by Federal statute or Executive order to individuals with disabilities, or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive order to a different class of individuals with disabilities.

(d) The Commission shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

#### **§ 1.1840 Employment.**

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, as established by the Equal Employment Opportunity Commission in 29 CFR parts 1614 and 1630, as well as the procedures set forth in the Basic Negotiations Agreement Between the Federal Communications Commission and National Treasury Employees Union, as amended, and Subchapter III of the Civil Service Reform Act of 1978, 5 U.S.C. 7121(d), shall apply to employment in federally conducted programs or activities.

#### **§ 1.1849 Program accessibility: Discrimination prohibited.**

(a) Except as otherwise provided in § 1.1850, no qualified individual with a disability shall, because the

Commission's facilities are inaccessible to, or unusable, by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Individuals shall request accessibility to the Commission's programs and facilities by contacting the Commission's Section 504 Officer. Such contact may be made in the manner indicated in the FCC Section 504 Handbook. The Commission will make every effort to provide accommodations requiring the assistance of other persons (e.g., American Sign Language interpreters, communication access realtime translation (CART) providers, transcribers, captioners, and readers) if the request is made to the Commission's Section 504 Officer a minimum of five business days in advance of the program. If such requests are made fewer than five business days prior to an event, the Commission will make every effort to secure accommodation services, although it may be less likely that the Commission will be able to secure such services.

#### **§ 1.1850 Program accessibility: Existing facilities.**

(a) *General.* Except as otherwise provided in this paragraph, the Commission shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require the Commission to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity, or in undue financial and administrative burdens. In those circumstances where Commission personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Commission has the burden of proving that compliance with § 1.1850(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Managing Director, in consultation with the Section 504 Officer, after considering all Commission resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching

that conclusion. If an action would result in such an alteration or such burdens, the Commission shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

(b) *Methods.* The Commission may comply with the requirements of this section through such means as the redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. The Commission is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Commission, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Commission shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(c) *Time period for compliance.* The Commission shall comply with the obligations established under this section within sixty (60) days of the effective date of this subpart, except that where structural changes in facilities are undertaken, such changes shall be made within three (3) years of the effective date of this part.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Commission shall develop, within six (6) months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete such changes. The Commission shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transitional plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the Commission's facilities that limit the accessibility of its programs or activities to individuals with disabilities;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one (1) year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

#### **§ 1.1851 Building accessibility: New construction and alterations.**

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Commission shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities. The definitions, requirements and standards of the Architectural Barriers Act, 42 U.S.C. 4151–4157, as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

#### **§ 1.1870 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the Commission.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791.

(c) Complaints alleging violation of section 504 with respect to the Commission's programs and activities shall be addressed to the Managing Director and filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TWB–204, Washington, DC 20554.

(d) *Acceptance of complaint.* (1) The Commission shall accept and investigate all complete complaints, as defined in § 1.1803 of this part, for which it has jurisdiction. All such complaints must be filed within one-hundred eighty (180) days of the alleged act of discrimination. The Commission may extend this time period for good cause.

(2) If the Commission receives a complaint that is not complete as defined in § 1.1803 of this part, the complainant will be notified within

thirty (30) days of receipt of the incomplete complaint that additional information is needed. If the complainant fails to complete the complaint within thirty (30) days of receipt of this notice, the Commission shall dismiss the complaint without prejudice.

(e) If the Commission receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Commission shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151–4157, is not readily accessible to and usable by individuals with disabilities.

(g) Within one-hundred eighty (180) days of the receipt of a complete complaint, as defined in § 1.1803, for which it has jurisdiction, the Commission shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within ninety (90) days of receipt from the Commission of the letter required by § 1.1870(g). The Commission may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TWB–204, Washington, DC 20554.

(j) The Commission shall notify the complainant of the results of the appeal within sixty (60) days of the receipt of the appeal request. If the Commission determines that it needs additional information from the complainant, and requests such information, the Commission shall have sixty (60) days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in (g) and (j) of this section may be extended with the permission of the General Counsel.

(l) The Commission may delegate its authority for conducting complaint investigations to other federal agencies, except that the authority for making the

final determination may not be delegated to another agency.

[FR Doc. 03–10284 Filed 4–25–03; 8:45 am]

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 73**

[DA 03–631; MM Docket No. 01–181, RM–10201; MM Docket No. 01–190, RM–10210; MM Docket No. 01–217, RM–10236; MM Docket No. 01–220, RM–10239; MM Docket No. 01–226, RM–10254; MM Docket No. 01–228, RM–10256; MM Docket No. 01–233, RM–10261; MM Docket No. 01–282, RM–10293; MM Docket No. 01–283, RM–10294; MM Docket No. 01–284, RM–10295, MM Docket No. 01–285, RM–10296]

**Radio Broadcasting Services; Alton, Missouri; Comanche, Texas; Dickens, Texas; Hamlin, Texas; Hollis, Oklahoma; Junction, Texas; McCamey, Texas; Mooreland, Oklahoma; Santa Anna, Texas; Taos, New Mexico; and Wapanucka, Oklahoma**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document grants eleven proposals that allot new FM channels to Alton, Missouri; Comanche, Texas; Dickens, Texas; Hamlin, Texas; Hollis, Oklahoma; Junction, Texas; McCamey, Texas; Mooreland, Oklahoma; Santa Anna, Texas; Taos, New Mexico; and Wapanucka, Oklahoma. The Audio Division, at the request of Katherine Pyeatt, allots Channel 298A at Wapanucka, Oklahoma, as the community's first local FM service. See 66 FR 44586, August 24, 2001. Channel 298A can be allotted to Wapanucka, Oklahoma, in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.9 km (1.8 miles) west of Wapanucka. The coordinates for Channel 298A at Wapanucka, Oklahoma, are 34–21–54 North Latitude and 96–23–47 West Longitude. A filing window for Channel 298A at Wapanucka, Oklahoma, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order. See Supplementary Information *infra*.

**DATES:** Effective May 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket Nos. 01–181,