

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Reorganization of the )  
Enforcement Bureau and )  
Establishment of the )  
Office of Homeland Security )

**ORDER**

Adopted: July 8, 2003

Released: July 10, 2003

By the Commission: Commissioner Copps issuing a separate statement.

1. To promote more efficient and effective organizational structure and to promote homeland security, the Commission has concluded that the proper dispatch of its business and public interest will best be served by establishing an Office of Homeland Security within the Enforcement Bureau. In this Order, we amend the Commission's rules to reflect the creation of the Office of Homeland Security, describe its functions and delegated authority, and make other conforming changes. The Order also amends the Commission's rules to clarify how an Emergency Relocation Board will operate during times of emergency under the Commission's Continuity of Operations Plan and to set out the line of succession to chair the Board when no Commissioner is available to serve on the Board.
2. Authority for the adoption of the foregoing revision 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).
3. 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.

4. ACCORDINGLY, IT IS ORDERED that effective this date, 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 Appendix attached to this Order.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**Attachment A**

**Parts 0 and 11 of Title 47 of the Code of Federal Regulations are amended as follows:**

**PART 0 – COMMISSION ORGANIZATION**

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

**Office of Managing Director****§ 0.11 Functions of the Office.**

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

2. Sections 0.111(a)(21) and 0.111(c) are amended to read as follows:

**Enforcement Bureau****§ 0.111 Functions of the Bureau.**

(a) Serve as the primary Commission entity responsible for enforcement of the Communications Act and other communications statutes, the Commission's rules, Commission orders and Commission authorizations, other than matters that are addressed in the context of a pending application for a license or other authorization or in the context of administration, including post-grant administration, of a licensing or other authorization or registration program.

\* \* \* \* \*

(21) 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.

3. Section 0.181 is amended by revising the title, 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.

4. Section 0.182 is amended by deleting paragraphs (c), (d) and (f); reordering the remaining paragraphs, and revising paragraphs (b) through (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.

5. Section 0.185 is amended by revising the introductory paragraph, revising paragraphs (a) and (d), and adding new 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.

6. Section 0.186 is amended 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, D.C., 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.

7. Section 0.381 is amended by revision of the referenced Executive Orders to read as follows:

**National Security and Emergency Preparedness Delegations**

**§ 0.381 Defense Commissioner.**

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

8. Section 0.387 is amended by revision of the reference to Section 0.182 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)**

9. Section 11.21 is amended 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.

10. Section 11.43 is amended 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.

11. Section 11.47(b) is amended to read as follows:

**§ 11.47 Optional use of other communications methods and systems.**

(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.

**Separate Statement of  
Commissioner Michael J. Copps**

*Re: Reorganization of the Enforcement Bureau and Establishment of Office of Homeland Security.*

I will support this item in the hope and expectation that homeland security will have the high priority it deserves at the Commission. I have said repeatedly since September 11, 2001 that the Commission has no higher priority than our obligation to ensure the viability and security of the nation's communications infrastructure. The statute under which we exist makes this perfectly clear.

I frankly worry that, as we as a nation move further away from 9/11, we have a tendency to let our guard down, to go back to business-as-usual, to lose our sense of urgency. This Commission must never lose its focus in discharging our homeland security obligations. When terror strikes our shores again, I want this Commission to be able to demonstrate that it has done everything it could to preserve and enhance our communications security and that we served no higher priority.

Organizational and bureaucratic changes can help in this effort – or, they can hurt. They can help if the priority remains heightened and the leadership is aggressive. It can hurt if this effort becomes just one among many important priorities of the agency, if the Office of Homeland Security becomes just one division among several in one bureau, or if the effort becomes one office's job rather than every office's job. Today's decision by itself guarantees no outcome. I will be watching closely, and working wherever I can, to see that this decision does indeed enhance our effort and that homeland security remains a second-to-none priority at this agency.