

Register as of December 18, 1995. (60 FR 61645, December 1, 1995) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Dr., Vandalia, OH 45377-0430; telephone (513) 890-5246, fax (513) 890-6001. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on April 12, 1996.

Issued in Burlington, Massachusetts, on April 1, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96-8951 Filed 4-11-96; 8:45 am]

BILLING CODE 4910-13-P

Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 353-6680.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Transportation conformity, Hydrocarbons, Intergovernmental relations, Oxides of Nitrogen, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 21, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96-9163 Filed 4-11-96; 8:45 am]

BILLING CODE 6560-50-P

from the Office of General Counsel, that the bureaus only be authorized to issue "non-hearing-related" subpoenas, and that the bureaus have a broad delegation of subpoena authority over matters within their jurisdiction. The Commission will amend its rules for the purpose of authorizing the Chief of the Common Carrier Bureau, with the approval of the Office of the General Counsel, to issue non-hearing related subpoenas for the attendance of witnesses and the production of documents deemed relevant by the Bureau, to add language making it consistent with the Commission's *Amendment of Part 0*.

EFFECTIVE DATE: April 12, 1996.

FOR FURTHER INFORMATION CONTACT:

Heather McDowell, Enforcement Division, Common Carrier Bureau, (202) 418-0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's order in FCC 95-471, adopted November 27, 1995, and released February 9, 1996. The full text of the rule is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The full text of this rule may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D. C. 20037, (202) 857-3800.

Summary of Order

1. In this Order on Reconsideration, the Commission addresses petitions filed by ICORE and the Personal Communications Industry Association ("PCIA") seeking reconsideration of the Commission's order ("*Subpoena Order*") (59 FR 66487, published December 27, 1994) delegating certain investigative authority to the Chief, Common Carrier Bureau ("Bureau"). For the reasons set forth below, the Commission denies both petitions. The Commission does, however, on its own motion, add several modifications to the Bureau's delegated authority to issue subpoenas.

2. In its petition, PCIA argues that the Commission should reconsider its delegation of subpoena authority to the Bureau and should instead issue a notice of proposed rulemaking to solicit comment on the proper scope of the delegation and to allow for an exploration of the concerns as well of the benefits of such a delegation. ICORE, in its petition, asserts that the delegation of subpoena authority to the Bureau is unconstitutional to the extent that it can be construed as applicable to the

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI40-02-7253; FRL-5456-2]

State of Michigan: Withdrawal of Direct Final Action

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Withdrawal of direct final action.

SUMMARY: On February 14, 1996, the USEPA published a proposed rule (61 FR 5724) and a direct final rule (61 FR 5694) approving State Implementation Plan (SIP) revision for the State of Michigan which was submitted pursuant to the USEPA transportation conformity rules set forth at 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The USEPA is withdrawing the final rule due to adverse comments and will summarize and address all public comments received in a subsequent final rule (based upon the proposed rule cited above).

EFFECTIVE DATE: This withdrawal of the direct final action will be effective April 12, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 95-471]

Authority To Issue Subpoenas

AGENCY: Federal Communications Commission.

ACTION: Final rule; Order on Reconsideration.

SUMMARY: The Commission ruled on two petitions for reconsideration of its earlier order (FCC 94-319; released November 21, 1994) adopting rules to permit the Chief, Common Carrier Bureau, to issue subpoenas in matters involving allegations of unlawful conduct by common carriers under Title II of the Communications Act of 1934, as amended. One petitioner argued that the Commission should reconsider its delegation of authority and should issue a notice of proposed rulemaking to solicit comments on the proper scope of delegation. The other petitioner argued that the delegation of subpoena power is unconstitutional and that the Commission should limit the scope of subpoena power granted to the Bureau accordingly. The Commission found that the petitioners arguments were without merit. The Commission decided on reconsideration, however, that some modification of the earlier order was appropriate. On its own motion, the Commission issued an order ("*Amendment of Part 0*") delegating similar authority to other bureaus within the Commission (FCC 95-213; released June 9, 1995). This modification of the rules required that the delegation of authority to other bureaus be conditioned on an approval

investigation of connecting carriers. ICORE contends that because the Commission itself does not have the authority to issue subpoenas to connecting carriers under Title II of the Communications Act of 1934, as amended, it should limit the scope of the subpoena power granted to the Bureau accordingly.

I. Discussion

3. Neither PCIA's nor ICORE's arguments are meritorious. PCIA makes no persuasive argument to support its claim that the Commission should have initiated a notice and comment rulemaking proceeding to consider the adoption of rules delegating subpoena authority to the Bureau. The Commission emphasizes again that its decision to amend Section 0.291 of its rules to grant the Bureau subpoena power pertains to agency organization, procedure, or practice. Consequently, the notice and comment requirement and the effective date provisions contained in Sections 553(b) and 553(d) of the Administrative Procedure Act do not apply.

4. Similarly, ICORE's argument that the Commission does not have the authority to issue subpoenas to connecting carriers and, therefore, should limit the Bureau's subpoena power accordingly is unavailing. The Commission determined that it need not resolve in this proceeding the question of whether it has the authority to issue subpoenas to connecting carriers. The *Subpoena Order* simply delegates to the Bureau subpoena authority properly exercised by the Commission. ICORE has provided no support for its contention that this delegation is beyond the scope of the Commission's authority or jurisdiction.

5. The Commission determined, however, that some modification to the Bureau's subpoena authority is appropriate. The Commission recently issued, on its own motion, an order ("*Amendment of Part 0*") (60 FR 35503, published July 10, 1995) delegating similar authority to other bureaus within the Commission. The delegation of authority in that order differed from the delegation contained in the *Subpoena Order* in three respects. First, the Commission delegated subpoena

authority to the bureaus on the condition that before the issuance of a subpoena, each bureau would obtain the approval of the Office of General Counsel ("OGC"). In conformance with this order, and in keeping with the Commission's intent to make language in the delegations of authority to issue subpoenas of all bureaus conform to a requirement for prior approval by OGC, the Commission will amend Section 0.291(h) to add additional language requiring OGC approval before a subpoena is issued.

6. Second, in *Amendment of Part 0*, the Commission qualified the type of subpoena that may be authorized by the bureaus. Specifically, the Commission stated that they are authorized to issue only "non-hearing related" subpoenas. The delegation of subpoena authority to the Bureau under Section 0.291(h) will be revised to include this qualification.

7. Third, instead of limiting the other bureaus' subpoena authority to investigations involving violations of particular sections or titles within the Act, the Commission generally granted each of them a broad delegation of subpoena authority over matters within their jurisdiction. The Commission will, therefore, modify the delegation of authority to the Common Carrier Bureau to be consistent in this regard.

II. Conclusion and Ordering Clauses

8. For the reasons set forth herein, the Commission denies the petitions for reconsideration submitted by PCIA and ICORE. The Commission also makes certain revisions to its delegation of subpoena authority to the Bureau. On its own motion, the Commission amends Section 0.291(h) to require the Chief, Common Carrier Bureau to obtain the approval of OGC prior to the issuance of a subpoena, to qualify the type of subpoena that may be authorized, and to extend the delegation of the Bureau's subpoena authority.

9. Accordingly, *it is ordered*, pursuant to Sections 4(i), 4(j), and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 405(a), that the Petitions for Reconsideration filed by PCIA and ICORE ARE DENIED.

10. *It is further ordered*, pursuant to Sections 4(i) and 4(j) of the

Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 154(j), that Section 0.291(j) of the Commission's rules, 47 CFR 0.291, IS AMENDED as set forth below. The requirement of notice and comment rule making contained in 5 U.S.C. 553(b) and the effective date provisions of 5 U.S.C. 553(d) do not apply because this amendment concerns matters of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(A), (d).

11. *It is further ordered* that this revision to Section 0.291(h), as set forth below, is effective April 12, 1996.

List of Subjects in 47 CFR Part 0

Organization and functions:
(Government agencies).

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Part 0, is amended 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 0.291(h) is revised to read as follows:

§ 0.291 Authority delegated.

* * * * *

(h) *Authority concerning the issuance of subpoenas.* The Chief of the Common Carrier Bureau or her/his designee is authorized to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Common Carrier Bureau. Before issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

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