

§ 201.430

pursuant to § 201.420(a) within 40 days after notice thereof was filed with the Commission pursuant to Section 19(d)(1) of the Exchange Act, 15 U.S.C. 78s(d)(1).

(b) *Supplemental briefing.* The Commission may at any time prior to issuance of its decision raise or consider any matter that it deems material, whether or not raised by the parties. Notice to the parties and an opportunity for supplemental briefing with respect to issues not briefed by the parties shall be given where the Commission believes that such briefing would significantly aid the decisional process.

§ 201.430 Appeal of actions made pursuant to delegated authority.

(a) *Scope of rule.* Any person aggrieved by an action made by authority delegated in §§ 200.30-1 through 200.30-18 of this chapter may seek review of the action pursuant to paragraph (b) of this section.

(b) *Procedure—(1) Notice of intention to petition for review.* A party or any person aggrieved by an action made pursuant to delegated authority may seek Commission review of the action by filing a written notice of intention to petition for review within five days after actual notice to the party of the action or service of notice of the action pursuant to § 201.141(b), whichever is earlier. The notice shall identify the petitioner and the action complained of, and shall be accompanied by a notice of appearance pursuant to § 201.102(d).

(2) *Petition for review.* Within five days after the filing of a notice of intention to petition for review pursuant to paragraph (b)(1) of this section, the person seeking review shall file a petition for review containing a clear and concise statement of the issues to be reviewed and the reasons why review is appropriate. The petition shall include exceptions to any findings of fact or conclusions of law made, together with supporting reasons for such exceptions based on appropriate citations to such record as may exist. These reasons may be stated in summary form.

(c) *Prerequisite to judicial review.* Pursuant to Section 704 of the Administrative Procedure Act, 5 U.S.C. 704, a petition to the Commission for review of

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an action made by authority delegated in §§ 200.30-1 through 200.30-18 of this chapter is a prerequisite to the seeking of judicial review of a final order entered pursuant to such an action.

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§ 201.431 Commission consideration of actions made pursuant to delegated authority.

(a) *Scope of review.* The Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, any action made pursuant to authority delegated in §§ 200.30-1 through 200.30-18 of this chapter.

(b) *Standards for granting review pursuant to a petition for review—(1) Mandatory review.* After a petition for review has been filed, the Commission shall review any action that it would be required to review pursuant to § 201.411(b)(1) if the action was made as the initial decision of a hearing officer.

(2) *Discretionary review.* The Commission may decline to review any other action. In determining whether to grant review, the Commission shall consider the factors set forth in § 201.411(b)(2).

(c) *Commission review other than pursuant to a petition for review.* The Commission may, on its own initiative, order review of any action made pursuant to delegated authority at any time, provided, however, that where there are one or more parties to the matter, such review shall not be ordered more than ten days after the action. The vote of one member of the Commission, conveyed to the Secretary, shall be sufficient to bring a matter before the Commission for review.

(d) *Required items in an order for review.* In an order granting a petition for review or directing review on the Commission's own initiative, the Commission shall set forth the time within which any party or other person may file a statement in support of or in opposition to the action made by delegated authority and shall state whether a stay shall be granted, if none is in effect, or shall be continued, if in effect pursuant to paragraph (e) of this section.