

§ 201.39

(b) When the Commission votes on a request to close a portion of a meeting under paragraph (a) of this section in the manner specified in §201.36(d), a public notice as required by paragraphs (a) and (b) of §201.35 shall be issued.

§ 201.39 General Counsel's certification of Commission action in closing a meeting or a series of meetings.

Before a Commission meeting may be closed for the specific reasons enumerated in paragraphs (b) (1) through (9) of §201.36, the General Counsel (i) Shall, in the related public notice, certify that in his or her opinion the meeting may be closed to the public and (ii) Shall state each applicable exemptive provision of paragraphs (b) (1) through (9) of §201.36.

§ 201.40 Records-retention requirements.

(a) The Secretary shall maintain a copy of the certification by the General Counsel required by §201.39 for each Commission meeting of which a portion or portions are closed to the public pursuant to a vote under §201.36(d).

(b) The Secretary shall also maintain a copy of a statement from the presiding officer of each Commission meeting or portion thereof which was closed to the public for the specific reasons enumerated in paragraphs (b) (1) through (9) of §201.36(b) setting forth (i) The time and place of the closed meeting, or portion thereof, and (ii) A list of the persons present thereat.

(c) The Secretary shall also maintain a complete transcript or electronic recording of the proceedings of each Commission meeting or portion of a meeting, whether open to public observation or closed to the public. The Secretary shall also maintain a complete transcript or electronic recording of all deliberations conducted under paragraphs (a) (4), (5), and (6) of §201.34 of this subpart.

(d) Where portions of a Commission meeting are closed for the reasons contained in paragraphs (b) (8)(A) or (9) of §201.36, the Commission preserves the option to maintain detailed minutes of such portions. Such detailed minutes shall fully and clearly describe all matters discussed and shall provide a full

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and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(e) The retention period for the records required by paragraphs (a), (b), (c), and (d) of this section shall be for a period of at least two (2) years after the particular Commission meeting, or until one (1) year after the conclusion of any Commission proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

(f) The requirements of paragraphs (c) and (d) of this section shall not affect or supplant the existing duty of the Secretary to maintain permanent minutes of each Commission meeting. The Secretary shall also maintain permanent minutes of all deliberations conducted under paragraphs (a) (4), (5), and (6) of §201.34 of this subpart.

§ 201.41 Public inspection and copying of records; applicable fees.

(a) The Secretary shall promptly make available to interested members of the public the transcript or electronic recording of the discussion of any item on the agenda of a Commission meeting or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Secretary determines to contain information which may be withheld for reasons specified in paragraphs (b) (1) through (9) of §201.36. The determination of the Secretary shall be in conformity with a prior vote of the Commission under §201.36(d) to close a portion or portions of a meeting.

(b) Public inspection of electronic recordings, transcripts, or minutes of Commission meetings shall take place at the United States International Trade Commission, 500 E Street SW., Washington, DC 20436. A room is designated by the Office of the Secretary and tape recorders with earphones are provided by the Commission for public-inspection purposes when proceedings are recorded on tape.

(c)(1) The Secretary shall provide any person with copies of transcripts, minutes of Commission meetings, or transcriptions of electronic recordings of Commission meetings, which disclose the identity of each speaker, at the actual cost of transcription or duplication.

(2) The Secretary shall not include items of discussion or testimony determined by the Secretary to contain information which may be withheld from the public for the reasons specified in paragraphs (b) (1) through (9) of §201.36 in the copies furnished to the public in accordance with paragraph (c)(1) of this section. The determination of the Secretary shall be in conformity with a prior vote of the Commission under §201.36(d) to close a portion or portions of a meeting.

Subpart F—National Security Information

AUTHORITY: Sec. 335, 72 Stat. 680, sec. 401, 76 Stat. 902; 19 U.S.C. 1335, 1802; E.O. 12356.

SOURCE: 48 FR 5898, Feb. 9, 1983, unless otherwise noted.

§ 201.42 Purpose and scope.

The following regulation supplements Executive Order 12356, National Security Information, April 2, 1982, as it applies to the Commission.

§ 201.43 Program.

The Director of Administration is designated as the official of the Commission who is responsible for implementation and oversight of information security programs and procedures, including ensuring conformity with the provisions of Executive Order No. 12356. He shall chair a committee, composed of himself and representatives of the offices of the Secretary, General Counsel, Executive Liaison and Special Adviser for Trade Agreements, and Operations, that will act on all suggestions and complaints with respect to the Commission's administration of the program. All questions, suggestions, and complaints regarding all elements of the information security program shall be directed to the Director of Administration.

§ 201.44 Procedures.

(a) *Mandatory declassification review.*

(1) Requests for declassification and release of national security information in the custody of the Commission shall be directed to the Secretary. Requests must reasonably describe the information that is desired to be declassified. All requests for declassification submitted pursuant to the Freedom of Information Act shall be processed in accordance with the provisions of that act and the applicable regulations of the Commission (19 CFR 201.17 through 201.21).

(2) Because the Commission does not have original classification authority and national security information in its custody has been classified by another Federal agency, the Secretary shall refer all requests for mandatory declassification review of classified information to the originating Federal agency along with his recommendations. Following consultation with the originating agency, the Secretary will notify the requestor of the referral.

(b) *Safeguarding.* All classified materials shall be delivered to the addressee or his designee immediately upon receipt at the Commission. In the event that the addressee or his designee is not available to receive the materials, they shall be delivered to the Secretary and secured, unopened, in a combination safe located in his office until the addressee or his designee is available. Under no circumstances shall classified materials that cannot be delivered to the addressee or his designee be stored other than in a GSA approved safe. Access to classified materials at the Commission shall be limited to officers and employees of the Commission on the basis of a favorable determination of trustworthiness on the basis of appropriate personnel security investigations and a need for access in the performance of official duties.

(c) *Reproduction.* "Top Secret" documents may not be reproduced without the consent of the originating agency unless otherwise marked by that agency. Documents that have been classified "Secret" or "Confidential" with special dissemination orders may not be reproduced without the permission of the Executive Liaison and Special Adviser for Trade Agreements, and are