

(d) *Other Commission meetings.* All other meetings of the Commission will be open to public observation unless the Commission determines that all or part of a meeting is likely to disclose information of the kind set forth in any subparagraph of paragraph (b) of this section. The procedures established in §2203.5 apply to the public announcement of Commission meetings that are not regularly scheduled and to the total or partial closing of these meetings.

[50 FR 51679, Dec. 19, 1985, as amended at 62 FR 35963, July 3, 1997]

§ 2203.4 Procedures applicable to regularly-scheduled meetings.

(a) *Statutory authority to adopt expedited closing procedure.* The Government in the Sunshine Act provides, at 5 U.S.C. 552b(d)(4), that qualified agencies may establish by regulation expedited procedures for announcing and closing certain meetings. Specifically, “[a]ny agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c) [of the statute], or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof [through the expedited closing procedure].” See §2203.3(b)(4), (8), (9)(i) and (10), which are equivalent to the referenced paragraphs of the statute. The Commission had determined, for the reasons stated in paragraph (b) of this section, that it is qualified to adopt implementing regulations under 5 U.S.C. 552b(d)(4). It hereby announces that it will follow the expedited closing procedure authorized under that statutory provision in conducting its regularly-scheduled meetings.

(b) *Commission qualification to adopt expedited closing procedure.* The Commission has determined that a majority of its meetings may be closed to the public under 5 U.S.C. 552b(c)(10). See §2203.3(b)(10). The Commission is an adjudicatory agency that has no regulatory functions. It was established to resolve disputes arising out of enforcement actions brought by the Secretary of Labor under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678. See 29 U.S.C. 659(c). The Commission’s experience under the Govern-

ment in the Sunshine Act has been that almost all of its meetings have been closed, in whole or in part, under 5 U.S.C. 552b(c)(10) because they involved only formal agency adjudication of specific cases.

(c) *Announcements.* Regularly-scheduled meetings of the Commission will be held at 10 a.m. every Thursday, except for legal holidays, in the Hearing Room (Suite 965) of the Commission’s national office at One Lafayette Centre, 1120-20th Street NW., Washington, DC 20036-3419. If a regularly-scheduled meeting is scheduled, public announcement of the time, date and place of the meeting will be made at the earliest practicable time by posting a notice in a prominent place at the Commission’s national office. If a regularly-scheduled meeting is cancelled, a notice of cancellation will be posted in the same manner. Information about the subject of each regularly-scheduled meeting will be made available in the Office of the General Counsel, telephone number (202) 606-5410, at the earliest practicable time. However, no information that may be withheld under §2203.3(b) will be made available, and individual items may be added to or deleted from the agenda at any time. Inquiries from the public regarding any regularly-scheduled meeting will be directed to the Office of the General Counsel.

(d) *Voting.* At the beginning of each regularly-scheduled meeting, the Commission will vote on whether to close the meeting. No proxy vote will be permitted and the vote of each Commissioner will be recorded. This record of each Commissioner’s vote will be made available to the public at the Commission’s national office immediately after the meeting.

[50 FR 51679, Dec. 19, 1985, as amended at 58 FR 26066, Apr. 30, 1993]

§ 2203.5 Procedures applicable to other meetings.

(a) *Announcements—(1) Meetings announced.* Public announcement will be made of every meeting that is not a regularly-scheduled meeting. This announcement will state the time, place, and subject of the meeting, whether it is to be open or closed, and the name and phone number of the person designated to respond to requests

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for information about the meeting. The announcement will be made at least one week before the meeting unless at least two Commissioners determine by a recorded vote that Commission business requires that such meeting be called at an earlier date. In that case, the Commission will make its public announcement at the earliest practicable time.

(2) *Changes announced.* The time or place of a meeting may be changed following the public announcement required by paragraph (a)(1) of this section, but only if public announcement of the change is made at the earliest practicable time. The subject of a meeting, or the determination by the Commission to open or close all or part of a meeting, may also be changed following the public announcement required by paragraph (a)(1) of this section; however, these changes may be made only if:

(i) At least two Commissioners determine by recorded vote that Commission business so requires and that no earlier announcement of the change was possible and

(ii) Public announcement of the change and the vote of each Commissioner on the change is made at the earliest practicable time.

(3) *Form of announcements.* The announcements required under paragraph (a) of this section will be made by posting a notice in a prominent place at the Commission's national office. In addition, immediately following each announcement required by paragraph (a) of this section, notice of the same matters described in the posted notice will also be submitted for publication in the FEDERAL REGISTER.

(b) *Voting—(1) Requirement that vote be taken.* Action to close all or part of a meeting that is not regularly scheduled or to withhold information about a meeting that is not regularly scheduled, under any paragraph of §2203.3(b), will be taken only when at least two Commissioners vote to take the proposed action.

(2) *Separate votes required.* A separate vote of the Commissioners will be taken with respect to each Commission meeting or each part of a meeting that is proposed to be closed under paragraph (b) of this section or with respect

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to any information that is proposed to be withheld under paragraph (b) of this section.

(3) *Single vote on a series of meetings.* A single vote may be taken with respect to closing all or part of a series of meetings under paragraph (b) of this section, or with respect to any information concerning a series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in the series.

(4) *Public requests to close meetings.* Any person whose interest may be directly affected by a portion of an open meeting may request that the Commission close that portion to the public for any of the reasons referred to in paragraph (b)(5), (6) or (7) of §2203.3. Upon the motion of any Commissioner, the Commission will vote by recorded vote whether to grant the request.

(5) *Proxy votes; recording of votes.* No proxy vote will be permitted for any vote required under paragraph (b) of this section. The vote of each participating Commissioner will be recorded.

(6) *Public announcement of votes.* Within one day after any vote taken under paragraph (b) of this section, the vote of each Commissioner on the question will be made publicly available at the Commission's national office. If any part of a meeting is to be closed under paragraph (b) of this section, a full written explanation of the Commission's action, together with a list of all persons expected to attend the meeting and their affiliation, will be made publicly available at the Commission's national office within one day after the vote to close.

§ 2203.6 Certification by the General Counsel.

For every meeting closed under any provision of these rules, the General Counsel will be asked to certify before the meeting that in his opinion the meeting may properly be closed to the public, and to state which exemptions he has relied upon. A copy of this certification, together with a statement (from the Commissioner presiding over the meeting) setting forth the time and place of the meeting and the persons