

Nuclear Regulatory Commission

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negotiations would be likely to disclose information provided or requests made to the Commission in confidence by persons outside the Commission and which would not have been provided or made otherwise; (2) if opening a meeting or disclosing any information would reveal legal or other policy advice, public knowledge of which could substantially affect the outcome or conduct of pending or reasonably anticipated litigation or negotiations; or (3) if opening any meeting or disclosing any information would reveal information requested by or testimony or proposals to be given to other agencies of government, including the Congress and the Executive Branch before the requesting agency would receive the information, testimony or proposals. The examples in the above sentence are for illustrative purposes only and are not intended to be exhaustive.

§9.105 Commission procedures.

(a) Action under §9.104 shall be taken only when a majority of the entire membership of the Commission votes to take such action. A separate vote of the Commissioners shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to §9.104, or which respect to any information which is proposed to be withheld under §9.105(c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(b) Within one day of any vote taken pursuant to paragraph (a) of this section, §9.106(a), or §9.108(c), the Secretary shall make publicly available at the NRC Web site, <http://www.nrc.gov>, a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to

paragraph (a) of this section or §9.106(a), make publicly available at the NRC Web site, <http://www.nrc.gov>, a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(c) The notices and lists required by paragraph (b) of this section to be made public may be withheld from the public to the extent that the Commission determines that such information itself would be protected against disclosure by §9.104(a). Any such determination shall be made independently of the Commission's determination pursuant to paragraph (a) of this section to close a meeting, but in accordance with the procedure of that subsection. Any such determination, including a written explanation for the action and the specific provision or provisions of §9.104(a) relied upon, must be made publicly available to the extent permitted by the circumstances.

[42 FR 12877, Mar. 7, 1977, as amended at 64 FR 48951, Sept. 9, 1999]

§9.106 Persons affected and motions for reconsideration.

(a) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraphs (a) (5), (6), or (7) of §9.104, the Commission, upon request of any one Commissioner, shall vote by recorded vote whether to close such meeting.

(b) Any person may petition the Commission to reconsider its action under §9.105(a) or paragraph (a) of this section by filing a petition for reconsideration with the Commission within seven days after the date of such action and before the meeting in question is held.

(c) A petition for reconsideration filed pursuant to paragraph (b) of this section shall state specifically the grounds on which the Commission action is claimed to be erroneous, and shall set forth, if appropriate, the public interest in the closing or opening of the meeting. The filing of such a petition shall not act to stay the effectiveness of the Commission action or to

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postpone or delay the meeting in question unless the Commission orders otherwise.

§9.107 Public announcement of Commission meetings.

(a) In the case of each meeting, the Secretary shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the Commission determines by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place and subject matter of such meeting, and whether open or closed to the public, at the earliest practical time.

(b) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Secretary publicly announces such changes at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if: (1) A majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(c) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

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(d) The public announcement required by paragraph (a) of this section shall consist of the Secretary:

(1) Publicly posting a copy of the document at the NRC Web site, <http://www.nrc.gov> and, to the extent appropriate under the circumstances;

(2) Mailing a copy to all persons whose names are on a mailing list maintained for this purpose;

(3) Submitting a copy for possible publication to at least two newspapers of general circulation in the Washington, DC metropolitan area;

(4) Any other means which the Secretary believes will serve to further inform any persons who might be interested.

(e) Action under the second sentence of paragraph (a) or (b) of this section shall be taken only when the Commission finds that the public interest in prompt Commission action or the need to protect the common defense or security or to protect the public health or safety overrides the public interest in having full prior notice of Commission meetings.

[42 FR 12877, Mar. 7, 1977, as amended at 53 FR 43420, Oct. 27, 1988; 64 FR 48951, Sept. 9, 1999]

§9.108 Certification, transcripts, recordings and minutes.

(a) For every meeting closed pursuant to paragraphs (a) (1) through (10) of §9.104 and for every determination pursuant to §9.105(c), the General Counsel shall publicly certify at the time of the public announcement of the meeting, or if there is no public announcement at the earliest practical time, that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision unless the Commission votes pursuant to §9.105(c) that such certification is protected against disclosure by §9.104(a). A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting closed to the public, except that in the case of a