

## Nuclear Regulatory Commission

## § 9.108

(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.

(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 meeting, or portion of a meeting, closed to the public pursuant to paragraph (c)(10) of § 9.104, the Commission shall maintain such a transcript, or recording or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full 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 Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(b) The Commission shall make promptly available to the public at the NRC Web site, <http://www.nrc.gov>, the transcript, electronic recording, or minutes (as required by paragraph (a) of this section) of the discussion of any item on the agenda, 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

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as the Commission determines pursuant to paragraph (c) of this section to contain information which may be withheld under §9.104 or §9.105(c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person upon payment of the actual cost of duplication or transcription as provided in §9.14. The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(c) In the case of any meeting closed pursuant to §9.104, the Secretary of the Commission, upon the advice of the General Counsel and after consultation with the Commission, shall determine which, if any, portions of the electronic recording, transcript or minutes and which, if any, items of information withheld pursuant to §9.105(c) contain information which should be withheld pursuant to §9.104, in the event that a request for the recording, transcript, or minutes is received within the period during which the recording, transcript, or minutes must be retained, under paragraph (b) of this section.

(d) If at some later time the Commission determines that there is no further justification for withholding any transcript, recording or other item of information from the public which has previously been withheld, then such information shall be made available.

[42 FR 12877, Mar. 7, 1977, as amended at 50 FR 20891, May 21, 1985; 64 FR 48951, Sept. 9, 1999]

## §9.109 Report to Congress.

The Secretary shall annually report to the Congress regarding the Commission's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Commission pursuant to the Government in the

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Sunshine Act, including any cost assessed against the Commission in such litigation (whether or not paid by the Commission).

## Subpart D—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

SOURCE: 50 FR 37645, Sept. 17, 1985, unless otherwise noted.

### §9.200 Scope of subpart.

(a) This subpart sets forth the procedures to be followed when a subpoena, order, or other demand (hereinafter referred to as a "demand") for the production of NRC records or disclosure of NRC information, including testimony regarding such records, is issued by a court or other judicial or quasi-judicial authority in a proceeding, excluding Federal grand jury proceedings, to which the NRC is not a party. Information and documents subject to this subpart include:

(1) Any material contained in the files of the NRC;

(2) Any information relating to material contained in the files of the NRC.

(b) For purposes of this subpart, the term "employee of the NRC" includes all NRC personnel as that term is defined in §9.3 of this part, including NRC contractors.

(c) This subpart is intended to provide instructions regarding the internal operations of the NRC and is not intended, and does not, and may not, be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the NRC.

[50 FR 37645, Sept. 17, 1985, as amended at 52 FR 49362, Dec. 31, 1987]

### §9.201 Production or disclosure prohibited unless approved by appropriate NRC official.

No employee of the NRC shall, in response to a demand of a court or other judicial or quasi-judicial authority, produce any material contained in the files of the NRC or disclose, through testimony or other means, any information relating to material contained in the files of the NRC, or disclose any