

(2) For materials other than paper records, including computer and cassette tapes, the direct cost of the materials and, if required, time spent by clerical personnel copying the materials shall be charged. Persons making the request shall be notified of the amount of the charge and shall give specific approval before the request is processed.

(3) For certifying that requested records are true copies, the fee will be \$3.00 per certification in addition to other fees, if any.

(4) Upon request, records will be mailed by means of an overnight/express service at the fee of \$10.00 per unit mailed.

(5) The Commission may, upon application by the individual, furnish any records without charge or at a reduced rate, if it determines that such waiver or reduction of fee is in the public interest.

b. Requests for copies of documents shall be addressed to FOI, Privacy and Sunshine Acts compliance staff, Office of Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

c. Payment should be made by check or money order payable to the Commodity Futures Trading Commission.

d. Advance payment of all or part of the fee may be required at the discretion of the Commission. Generally, advance payment will not be required where the anticipated fee is less than \$25.

(7 U.S.C. 4a(j) and 16a as amended by Pub. L. 97-444, 96 Stat. 2294 (1983) and 5 U.S.C. 552. 662a and 552b)

[41 FR 3212, Jan. 21, 1976, as amended at 45 FR 26955, Apr. 22, 1980; 48 FR 46011, Oct. 11, 1983; 48 FR 55280, Dec. 12, 1983; 49 FR 12684, Mar. 30, 1984; 60 FR 49336, Sept. 25, 1995]

PART 147—OPEN COMMISSION MEETINGS

Sec.

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AUTHORITY: Sec. 3(a), Pub. L. 94-409, 90 Stat. 1241 (5 U.S.C. 552b); sec. 101(a)(11), Pub. L. 93-463, 88 Stat. 1391 (7 U.S.C. 4a(j) (Supp. V, 1975)), unless otherwise noted.

SOURCE: 42 FR 13704, Mar. 11, 1977, unless otherwise noted.

§ 147.1 General policy considerations, purpose and scope of rules relating to open Commission meetings.

(a) This part contains the rules of the Commodity Futures Trading Commission implementing the open meeting requirements of the Government in the Sunshine Act (Pub. L. 94-409, 90 Stat. 1241, 5 U.S.C. 552b). These rules apply to all deliberations of a quorum of the Commission which determine or result in the conduct or disposition of official Commission business, with the exception of deliberations required or permitted by § 147.4, § 147.5 or § 147.6.

(b) Among the primary purposes of these rules is the Commission's desire to inform the public to the fullest extent possible of its activities as an aid to its properly carrying out its responsibility for administering and enforcing the Commodity Exchange Act, as amended, 7 U.S.C. 1 *et seq.*, and the Commission's belief that, in order to guarantee public confidence in the integrity of its decision-making, it must, to the fullest possible extent, conduct its business in an open manner.

§ 147.2 Definitions.

For purposes of this part:

(a) *Agency* includes the Commodity Futures Trading Commission;

(b) *Commission* means the Commodity Futures Trading Commission;

(c) *Commissioner* means a member of the Commodity Futures Trading Commission duly appointed as a Commissioner in accordance with section 2(a)(2) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(a);

(d) *Meeting* means the deliberations of a quorum of Commissioners that determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 147.4, § 147.5 or § 147.6;

(e) *Person* includes an individual, partnership, corporation, association, exchange or other entity or organization;

(f) *Quorum* means at least the minimum number of Commissioners required to take action on behalf of the Commission;

(g) The term *FOI, Privacy and Sunshine Acts compliance staff* refers to the staff in the Office of the Secretariat in the Commission's principal office in Washington, DC who are assigned to respond to requests and handle various other matters under the Freedom of Information Act, the Privacy Act of 1974 and the Government in the Sunshine Act.

[42 FR 13704, Mar. 11, 1977, as amended at 45 FR 26955, Apr. 22, 1980]

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

(a) Commissioners shall not jointly conduct or dispose of agency business other than in accordance with the rules of this part, and meetings shall not be held in places which restrict membership or attendance or otherwise discriminate on the basis of race, color, creed, national origin, ancestry, religion or sex. Except as provided in paragraph (b) of this section, every portion of every meeting of the Commission shall be open to public observation.

(b) Except where the Commission finds that the public interest requires otherwise, meetings or portions of meetings shall not be open to public observation, and the requirements of §§ 147.4, 147.5 and 147.6 shall not apply to any information pertaining to such meetings or portions of meetings otherwise required by the rules of this part to be publicly disclosed, where the Commission determines that such meetings or portions of meetings or the disclosure of such information is likely to:

(1) Disclose matters that (i) are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (ii) are in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and personnel practices of the Commission or any other agency of the Government of the United States, including, but not limited to, operational rules, guidelines, and manuals

of procedure for investigators, auditors, and other employees (other than those rules and practices which establish legal requirements to which members of the public are expected to conform);

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, as amended, 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld. This includes, but is not limited to, data and information which would separately disclose the business transactions or market positions of any person and trade secrets or names of customers and data and information concerning or obtained in connection with any pending investigation of any person;

(4)(i) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential including, but not limited to:

(A) Reports of stocks of grain, such as Forms 38, 38C, 38M and 38T, required to be filed pursuant to 17 CFR 1.44;

(B) Statements of reporting traders on Form 40 required to be filed pursuant to 17 CFR 18.04;

(C) Statements concerning special calls on positions required to be filed pursuant to 17 CFR part 21;

(D) Statements concerning identification of special accounts on Form 102 required to be filed pursuant to 17 CFR 17.01;

(E) Reports required to be filed pursuant to parts 15 through 21 of this chapter;

(F) Reports concerning option positions of large traders required to be filed pursuant to part 16 of this chapter;

(G) Form 188; and

(H) The following reports and statements that are also set forth in paragraph (b)(8) of this section, except as specified in 17 CFR 1.10(g)(2) or 17 CFR 31.13(m): Forms 1-FR required to be filed pursuant to 17 CFR 1.10; FOCUS reports that are filed in lieu of Forms 1-FR pursuant to 17 CFR 1.10(h); Forms