

§ 14.25

meeting the committee member attended.

[44 FR 22351, Apr. 13, 1979; 48 FR 40887, Sept. 12, 1983, as amended at 54 FR 9035, Mar. 3, 1989]

§ 14.25 Portions of advisory committee meetings.

An advisory committee meeting has the following portions:

(a) *The open public hearing.* Every committee meeting includes an open portion, which constitutes a public hearing during which interested persons may present relevant information or views orally or in writing. The hearing is conducted in accordance with § 14.29.

(b) *The open committee discussion.* A committee discusses any matter pending before it in an open portion of its meeting unless the meeting has been closed for that matter under § 14.27. To the maximum extent feasible, consistent with the policy expressed in § 14.27, a committee conducts its discussion of pending matters in an open portion. No public participation is permissible during this portion of the meeting except with the consent of the committee chairman.

(c) *The closed presentation of data.* Information prohibited from public disclosure under part 20 and the regulations referenced therein is presented to the committee in a closed portion of its meeting. However, if information is in the form of a summary that is not prohibited from public disclosure, the presentation is to be made in an open portion of a meeting.

(d) *The closed committee deliberations.* Deliberations about matters before an advisory committee may be held in a closed portion of a meeting only upon an appropriate determination by the Commissioner under § 14.27.

§ 14.27 Determination to close portions of advisory committee meetings.

(a) No committee meeting may be entirely closed. A portion of a meeting may be closed only in accordance with a written determination by the Commissioner under this section.

(b) The executive secretary or other designated agency employee shall prepare the initial request for a determination to close a portion of a meet-

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ing, specifying the matter(s) to be discussed during the closed portion and the reasons why the portion should be closed. The Commissioner, based upon this request and with the concurrence of the Chief Counsel, will determine whether to close a portion of a meeting. The reasons for closing a portion of a meeting will be announced in the FEDERAL REGISTER notice of the meeting under § 14.20 in accordance with the following rules:

(1) Any determination to close a portion of a meeting restricts the closing to the shortest possible time consistent with the policy in this section.

(2) A portion of a meeting may be closed only if the Commissioner determines that the closing is permitted under 5 U.S.C. 552b(c), and that the closing is necessary.

(3) Portions of meetings may ordinarily be closed if they concern the review, discussion, and evaluation of drafts or regulations, guidance documents or similar preexisting internal agency documents, but only if their premature disclosure would significantly impede proposed agency action; review of trade secrets and confidential commercial or financial information; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(4) Portions of meetings ordinarily may not be closed if they concern review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs and devices; review of information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other information not exempt from public disclosure under 5 U.S.C. 552b(c); the formulation of advice and recommendations to FDA on matters that do not independently justify closing.

(5) No portion of a meeting devoted to matters other than those designated in paragraph (b) (1) through (3) of this section may be closed.