§ 1013.3 Announcement of Commission meetings and changes after announcement.

(a) The Secretary of the Commission is responsible for preparing and making public the announcements and notices relating to Commission meetings that are required in this part.

(b) The Agency shall announce each Commission meeting in the Public Calendar or Master Calendar at least one week (seven calendar days) before the meeting. The Agency shall concurrently submit the announcement for publication in the FEDERAL REGISTER. The announcement and the FEDERAL REGISTER notice shall contain the following information:

(1) The date, time, and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting will be open or closed to the public;

(4) The name and phone number of the official who responds to requests for information about the meeting.

(c) If a majority of the Commission determines by recorded vote that Agency business requires calling a meeting without seven calendar days advance public notice, the Office of the Secretary shall announce this determination in the Public Calendar or Master Calendar at the earliest practicable time and shall concurrently transmit the announcement for publication in the FEDERAL REGISTER.

(d) When necessary and at the direction of the Chairman, the Secretary shall change the time of a Commission meeting after the announcement in the Public Calendar or Master Calendar. Any such change shall be entered on the Master Calendar and such other notice shall be given as is practicable.

(e) After announcement of a Commission meeting in the Public Calendar or Master Calendar, the Commission may change the subject matter of a Commission meeting or the decision to open or close a Commission meeting or portion thereof to the public, only if a majority of the Commission determines by recorded vote that Agency business so requires, and only if a majority of the Commission determines by recorded vote that no earlier announcement of the change was possible. The Commission shall announce the change in the Public Calendar or Master Calendar at the earliest practicable time before the meeting and shall concurrently transmit the announcement for publication in the FEDERAL REGISTER. Announcement of the change shall include the vote of each Commissioner upon the change. (See also § 1013.4(d) for requirements for Commission reconsideration of a decision to open or close a meeting to the public.)

§ 1013.4 Public attendance at Commission meetings.

(a) *Attendance by the public.* Every portion of every Commission meeting shall be open to public observation except as provided in paragraph (b) of this section. Notwithstanding the applicability of the exemptions contained in paragraph (b) of this section, a Commission meeting or portions thereof shall be open to public observation when the Commission determines that the public interest so requires. The Commission shall take into account in all cases the relative advantages and disadvantages to the public of conducting the Commission meeting in open session. The number of public observers shall be limited only by availability of space. Attendance by the public shall usually be limited to observation and shall not include participation except where, by majority vote, the Commission determines that data or views from certain members of the public will be permitted. To the extent their use does not interfere with the conduct of open meetings, cameras and sound-recording equipment may be used at open Commission meetings. The Chairman or presiding Commissioner shall insure that use of such equipment does not disrupt the meeting.

(b) *Exemptions to the requirement of openness.* The requirement in paragraph (a) of this section that all Commission meetings be open to public observation shall not apply to any Commission meeting or portion thereof for which the Commission has determined in accordance with the procedures for closing meetings set forth in paragraph (c) of this section, that such meeting or portion thereof is likely to:

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

(2) Relate solely to the internal personnel rules and practices of the Agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 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;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would,

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures or,

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Agency action. This provision does not apply in any instance where the Agency has already disclosed to the public the content or nature of its proposed action, or where the Agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Agency's issuance of a subpoena, or the Agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(c) *Procedure for closing Commission Meetings*. The following procedure shall be followed in closing a Commission meeting or portion thereof to public observation:

(1) A majority of the Commission must vote to close a meeting or portion thereof to public observation pursuant to paragraph (b) of this section. A separate vote of the Commission shall be taken for each matter with respect to which a Commission meeting is proposed to be closed to public observation. Each such vote may, at the discretion of the Commission, apply to that portion of any meeting held within the following thirty days in which such matter is to be discussed. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Any person whose interest may be directly affected if a portion of a Commission meeting is open may request in writing to the Office of the Secretary that the Commission close that portion of the meeting on the basis of paragraph (b) (5), (6), or (7) of this section. The Commission shall vote on such requests if at least one Commissioner desires to do so.

(3) Before the Commission may hold a closed meeting the General Counsel must certify that in his or her opinion, the meeting may properly be closed to the public. Such certification shall be in writing and shall state each relevant exemptive provision.

(4) Within one day of a vote in accordance with paragraph (c) (1) or (2) of this section to close a Commission meeting or portion thereof, the Secretary shall make available to the public a notice setting forth:

(i) The results of the vote reflecting the vote of each Commissioner;

(ii) A full explanation of the action of the Commission closing the meeting or portion thereof, including reference to the specific basis for such closing (see paragraph (b) of this section) and an explanation, (without disclosing exempt information), of why the Commission concludes on balance, taking into account the relative advantages and disadvantages to the public of conducting the meeting in open or closed session, that the public interest would best be served by closing the meeting;

(iii) A list of all non-Agency personnel expected to attend the meeting and their affiliations; and

(iv) A certification by the General Counsel that in his or her opinion, the meeting may properly be closed to the public. If a vote to close a Commission meeting takes place on the same day as the meeting, the certification must be made available to the public before the meeting is convened.

(5) The public release of the portion of the written statement required by paragraph (c)(4)(ii) of this section may be delayed upon a determination by the Commission, by recorded vote, that such a notice, or portion thereof, would disclose information which may be withheld in accordance with paragraphs (b) (1) through (10) of this section.

(d) *Reconsideration of a decision to open or close a Commission meeting.* The Commission may, in accordance with the procedures in §1013.3(3) or paragraph (c)(2) of this section, reconsider its decision to open or close a Commission meeting when it finds that the public interest so requires.

[46 FR 38326, July 24, 1981, as amended at 48 FR 36566, Aug. 12, 1983]

§ 1013.5 Recordkeeping requirements.

(a) Commission meetings, transcripts, recordings, or minutes.

(1) The Agency shall maintain a complete transcript or electronic recording of each Commission meeting, whether open or closed, except that in the case of a Commission meeting or portion thereof closed to the public pursuant to paragraph (b)(10) of §1013.4, the Agency may elect to maintain a set of meeting minutes instead of a transcript or a recording. Minutes of such closed Commission meetings shall:

(i) Fully and clearly describe all matters discussed, and

(ii) 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 roll call vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in the meeting minutes.

(2) The transcript, recording or minutes of closed Commission meetings shall include the certification by the General Counsel or by his or her designee, required by §1013.4(c)(3) and a statement by the presiding Commissioner setting forth the date, time and place of the meeting and the persons present.

(3) The transcript, recording, or minutes of any Commission meeting may include attachments such as Commission opinions, briefing papers, or other documents presented at the meeting.

(4) The transcript and accompanying material shall be maintained by the Secretary for a period of at least two years after the meeting, or until one year after the conclusion of any Agency proceeding with respect to which the meeting, or portion thereof, was held, whichever occurs later.

(b) Minutes of Commission Decisions. Minutes of Commission Decisions summarizing the issues presented to the Commission for decision and indicating the vote of each Commissioner document the decisions of the Commission, whether made at open or closed meetings or by ballot vote. The Commission's final Minutes of Commission Decisions, issued by the Office of the Secretary, constitute the official means of