Counsel and his staff, and the Secretary and his staff may attend the adjudicative portions of any closed meeting except to the extent the notice of a particular closed meeting otherwise specifically provides. Stenographers or court reporters may attend any closed meeting at which their services are required by the Commission.

(2) If a Commission meeting, or portions thereof, may be closed pursuant to 5 U.S.C. 552b(c)(10), the Commission may, by vote recorded at the beginning of the meeting, or portion thereof, close the portion or portions of the meeting so exempt.

(3) Closed meeting transcripts or minutes required by 5 U.S.C. 552b(f)(1) will be released to the public insofar as they contain information that either is not exempt from disclosure under 5 U.S.C. 552b(c), or, although exempt, should be disclosed in the public interest. The Commission will determine whether to release, in whole or in part, the minutes of its executive sessions to consider oral arguments. With regard to all other closed meetings, the General Counsel or the General Counsel's designee shall determine, in accordance with § 4.9(c), which portions of the transcripts or minutes may be released.

(d) The presiding officer shall be responsible for preserving order and decorum at meetings and shall have all powers necessary to that end.

[42 FR 13541, Mar. 11, 1977; 42 FR 15409, Mar. 22, 1977, as amended at 42 FR 62912, Dec. 14, 1977: 43 FR 1937, Jan. 13, 1978; 43 FR 35684, Aug. 11, 1978; 63 FR 32978, June 17, 1998]

§ 4.16 Privilege against self-incrimination.

Section 2.11 of Pub. L. 91–462 specifically repeals paragraph 7 of section 9 of the Federal Trade Commission Act. Title 18, section 6002, of the United States Code provides that whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to:

(a) A court or grand jury of the United States,

(b) An agency of the United States, or

(c) Either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House, and the person presiding over the proceeding communicates to the witness an order issued under section 6004, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order. Title 18, section 6004, of the United States Code provides that: (1) In the case of any individual who has been or who may be called to testify or provide other information at any proceeding before an agency of the United States, the agency may, with the approval of the Attorney General, issue, in accordance with subsection (b) of section 6004, an order requiring the individual to give testimony or provide other information which he refused to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in title 18, section 6002, of the United States Code; (2) an agency of the United States may issue an order under subsection (a) of section 6004 only if in its judgment (i) the testimony or other information from such individual may be necessary to the public interest; and (ii) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(18 U.S.C. 6002, 6004)

[37 FR 5017, Mar. 9, 1972. Redesignated at 45 FR 36345, May 29, 1980]

§ 4.17 Disqualification of Commissioners.

(a) *Applicability*. This section applies to all motions seeking the disqualification of a Commissioner from any adjudicative or rulemaking proceeding.

(b) *Procedures*. (1) Whenever any participant in a proceeding shall deem a Commissioner for any reason to be disqualified from participation in that proceeding, such participant may file with the Secretary a motion to the Commission to disqualify the Commissioner, such motion to be supported by

affidavits and other information setting forth with particularity the alleged grounds for disqualification.

(2) Such motion shall be filed at the earliest practicable time after the participant learns, or could reasonably have learned, of the alleged grounds for disqualification.

(3)(i) Such motion shall be addressed in the first instance by the Commissioner whose disqualification is sought.

(ii) In the event such Commissioner declines to recuse himself or herself from further participation in the proceeding, the Commission shall determine the motion without the participation of such Commissioner.

(c) *Standards.* Such motion shall be determined in accordance with legal standards applicable to the proceeding in which such motion is filed.

(15 U.S.C. 46(g))

[46 FR 45750, Sept. 15, 1981]

PART 5—STANDARDS OF CONDUCT

Subpart A—Employee Conduct Standards and Financial Conflicts of Interest

Sec.
5.1 Cross-reference to executive branch-wide regulations.
5.2 Exemption of insubstantial financial conflicts.

Subpart B—Financial Disclosure Requirements

5.10 Cross-reference to executive branch-wide regulations.

Subparts C–D [Reserved]

Subpart E—Disciplinary Actions Concerning Postemployment Conflict of Interest

5.51 Scope and applicability.
5.52 Nonpublic proceedings.
5.53 Initiation of investigation.
5.54 Referral to the Office of Government Ethics and to the Department of Justice.
5.55 Conduct of investigation.
5.56 Disposition.
5.57 Order to show cause.
5.58 Answer and request for a hearing.
5.59 Presiding official.
5.60 Scheduling of hearing.
5.61 Prehearing procedures; motions; interlocutory appeals; summary decision; discovery; compulsory process.
5.62 Hearing rights of respondent.
5.63 Evidence; transcript; *in camera* orders; proposed findings of fact and conclusions of law.
5.64 Initial decision.
5.65 Review of initial decision.
5.66 Commission decision and reconsideration.
5.67 Sanctions.
5.68 Judicial review.

AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 15 U.S.C. 46(g); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635, unless otherwise noted.

SOURCE: 32 FR 13272, Sept. 20, 1967, unless otherwise noted. Redesignated at 41 FR 54483, Dec. 14, 1976.

Subpart A—Employee Conduct Standards and Financial Conflicts of Interest

§5.1 Cross-reference to executive branch-wide regulations.

Commissioners and employees, including special government employees, of the Federal Trade Commission (FTC) are subject to and should refer to the ''Standards of Ethical Conduct for Employees of the Executive Branch'' at 5 CFR part 2635 (''executive branch-wide Standards of Conduct'') and to the FTC regulations at 5 CFR 5701 that supplement the executive branch-wide Standards of Conduct.

[58 FR 15764, Mar. 24, 1993, as amended at 64 FR 42594, Aug. 5, 1999]

§5.2 Exemption of insubstantial financial conflicts.

(a) An employee or special Government employee will not be subject to remedial or disciplinary action or to criminal prosecution under 18 U.S.C. 208(a), if he makes a full disclosure in writing to the official responsible for his appointment of the nature and circumstances of the particular matter involved and of his conflicting financial interest relating thereto, and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee or special Government employee.

(b) For the purposes of paragraph (a) of this section, the ''official responsible