

**§ 375.205**

**18 CFR Ch. I (4-1-00 Edition)**

(e) *Issuance of list of Commission actions.* Following each Commission meeting, the Secretary shall issue a list of Commission actions taken which shall become effective as of the date of issuance of the related order (or date designated therein) or other document, which the Secretary shall issue in due course, in the manner prescribed by the Commission.

**§ 375.205 Closed meetings.**

(a) Meetings will be closed to public observation where the Commission properly determines, according to the procedures set forth in § 375.206, that such meeting or portion of the meeting or disclosure of information to be considered at the meeting is likely to:

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

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

(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 the trade secrets and commercial or financial information obtained from a person and privileged or confidential, which may include geological or geophysical information and data, including maps, concerning wells;

(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, including personnel and medical files and similar files;

(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:

(i) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, likely to:

(A) Lead to significant financial speculation in currencies, securities, or commodities, or

(B) Significantly endanger the stability of any financial institution; or

(ii) Likely to frustrate significantly implementation of a proposed Commission action, except that paragraph (a)(9)(i) of this section shall not apply where the Commission has already disclosed to the public the content or nature of such proposed action, or where the Commission 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 Commission's issuance of a subpoena, or the Commission'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 Commission of a particular case:

(i) Of formal Commission adjudication pursuant to the procedures in 5 U.S.C. 554; or

(ii) Otherwise involving a determination on the record after opportunity for a hearing.

(b) Commission meetings shall not be closed pursuant to paragraph (a) of this section when the Commission finds that the public interest requires that they be open.

**§ 375.206 Procedures to close meetings.**

(a) *General rule.* A meeting or a portion of a meeting may be closed only when the Commission votes by a majority of the membership to close the meeting. A separate vote shall be taken with respect to each Commission meeting or portion of a meeting which is proposed to be closed to the public or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(b) *Request for closed meeting.* Whenever any person whose interests may be directly affected by a meeting or a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph (a) (5), (6), or (7) of § 375.205, the Commission, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(c) *Release of vote.* Within one day of any vote taken pursuant to paragraph (a) or (b) of this section, the Secretary of the Commission shall make publicly available a written copy of such vote reflecting the vote of each member. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (a) or (b) of this section, make publicly available a full written explanation of the Commission's action

closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent that it is exempt from disclosure under the provisions of § 375.205(a).

(d) *Certification.* Prior to a determination that a meeting should be closed pursuant to paragraph (a) or (b) of this section, the General Counsel of the Commission shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. 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 Secretary of the Commission as part of the transcript, recording, or minutes required by paragraph (e) of this section.

(e) *Transcripts, recordings, minutes.* (1) The Secretary 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 § 375.205(a)(8), (9)(i), or (10), the Secretary shall maintain either a transcript or recording, or a set of minutes. Any 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 member on the question). All agenda documents considered in connection with any Commission action shall be identified in such minutes.

(2) 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.