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**Title 40 —Protection of Environment**  
**Chapter V —Council on Environmental Quality**  
**Subchapter B —Administrative Procedures and Operations**

**Part 1517** Public Meeting Procedures of the Council on Environmental Quality

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## **PART 1517—PUBLIC MEETING PROCEDURES OF THE COUNCIL ON ENVIRONMENTAL QUALITY**

**Authority:** 5 U.S.C. 552b(g); Pub. L. 94-409.

**Source:** 42 FR 20818, Apr. 22, 1977, unless otherwise noted.

### **§ 1517.1 Policy and scope.**

Consistent with the policy that the public is entitled to the fullest information regarding the decisionmaking processes of the Federal Government, it is the purpose of this part to open the meetings of the Council on Environmental Quality to public observation while protecting the rights of individuals and the ability of the Council to carry out its primary responsibility of providing advice to the President. Actions taken by the Chairman acting as Director of the Office of Environmental Quality and Council actions involving advice to the President when such advice is not formulated collegially during a meeting are outside the scope of this part. In addition to conducting the meetings required by this part, it is the Council's policy to conduct, open to public observation, periodic meetings involving Council discussions of Council business, including where appropriate, matters outside the scope of this part. This part does not affect the procedures set forth in part 1515 pursuant to which records of the Council are made available to the public for inspection and copying, except that the exemptions set forth in § 1517.4(a) shall govern in the case of any request made to copy or inspect the transcripts, recording or minutes described in § 1517.7.

[47 FR 6277, Feb. 11, 1982]

### **§ 1517.2 Definitions.**

For the purpose of this part:

- (a) The term *Council* shall mean the Council on Environmental Quality established under title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4347).
- (b) The term *meeting* means the deliberations of at least two Council members where such deliberations determine or result in the joint conduct or disposition of official collegial Council business, but does not include deliberations to take actions to open or close a meeting under §§ 1517.4 and 1517.5 or to release or withhold information under §§ 1517.4 and 1517.7. "Meeting" shall not be construed to prevent Council members from considering individually Council business that is circulated to them sequentially in writing.
- (c) **Director** means the Chairman of the Council on Environmental Quality acting as the head of the Office of Environmental Quality pursuant to the Environmental Quality Improvement Act of 1970, Pub. L. 91-224, 42 U.S.C. 4371 through 4374.

[44 FR 34946, June 18, 1979, as amended at 47 FR 6277, Feb. 11, 1982]

### § 1517.3 Open meeting requirement.

- (a) Every portion of every meeting of the Council is open to public observation subject to the exemptions provided in § 1517.4. Members of the Council may not jointly conduct or dispose of the business of the Council other than in accordance with this part.
- (b) The Council will conduct open to public observation periodic meetings involving Council discussions of Council business including where appropriate matters outside the scope of this part. Such meetings will be noticed pursuant to § 1517.6.
- (c) Members of the public may attend open meetings of the Council for the sole purpose of observation and may not participate in or photograph any meeting without prior permission of the Council. Members of the public who desire to participate in or photograph an open meeting of the Council may request permission to do so from the General Counsel of the Council before such meeting. Members of the public may record open meetings of the Council by means of any mechanical or electronic device unless the Council determines such recording would disrupt the orderly conduct of such meeting.

[44 FR 34946, June 18, 1979, as amended at 47 FR 6277, Feb. 11, 1982]

### § 1517.4 Exceptions.

- (a) A meeting or portion thereof may be closed to public observation, and information pertaining to such meeting or portion thereof may be withheld from the public, if the Council determines that such meeting or portion thereof or disclosure of such information is likely to:
  - (1) Disclose matters that are
    - (i) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and
    - (ii) in fact properly classified pursuant to that Executive order;
  - (2) Relate solely to the internal personnel rules and practices of the Council;
  - (3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the 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;
  - (5) Involve accusing any person of a crime, or formally censuring any person;
  - (6) Disclose information of a personal nature if 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 those 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 action of the Council. This exception shall not apply in any instance where the Council has already disclosed to the public the content or nature of the proposed action, or where the Council is required by law to make such disclosure on its own initiative prior to taking final action on the proposal; or
  - (10) Specifically concern the issuance of a subpoena by the Council, or the participation of the Council 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 Council of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.
- (b) Before a meeting is closed to public observation the Council shall determine whether or not the public interest requires that the meeting be open. The Council may open a meeting to public observation which could be closed under paragraph (a) of this section, if the Council finds it to be in the public interest to do so.

### § 1517.5 Procedure for closing meetings.

- (a) A majority of the entire membership of the Council may vote to close to public observation a meeting or a portion or portions thereof, or to withhold information pertaining to such meeting. A separate vote of the members of the Council shall be taken with respect to each meeting of the Council, a portion or portions of which are proposed to be closed to the observation of the public or with respect to any information concerning such meetings or portion thereof. 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 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 member of the Council participating in a vote shall be recorded and no proxies shall be allowed.
- (b) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Council close that portion to public observation for any of the reasons referred to in § 1517.4(a) the Council, upon request of any of the members of the Council, shall decide by recorded vote whether to close that portion of the meeting.
- (c) For every meeting or portion thereof closed under this part, the General Counsel of the Council before such meeting is closed shall publicly certify that, in his or her opinion, the meeting may properly be closed to the public stating each relevant exemptive provision. The Council shall retain a copy of the General Counsel's certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present.
- (d) Within one day of any vote taken on a proposal to close a meeting, the Council shall make publicly available a record reflecting the vote of each member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Council shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.
- (e) Following any announcement that the Council intends to close a meeting or portion thereof, any person may make a request that the meeting or portion thereof be opened. Such request shall be made of the Chairman of the Council who shall ensure that the request is circulated to all members of the Council on the same business day on which it is received. The request shall set forth the reasons why the requestor believes the meeting should be open. The Council upon the request of any member or its General Counsel, shall vote on the request.

### § 1517.6 Notice of meetings.

- (a) Except as otherwise provided in this section, the Council shall make a public announcement at least one week before a meeting, to include the following:
  - (1) Time, place, and subject matter of the meeting;
  - (2) Whether the meeting is to be open or closed; and
  - (3) Name and telephone number of the official who will respond to requests for information about the meeting.

- (b) A majority of the members of the Council may determine by recorded vote that the business of the Council requires a meeting to be called with less than one week's notice. At the earliest practicable time, the Council shall publicly announce the time, place and subject matter of the meeting, and whether or not it is to be open or closed to the public.
- (c) If announcement of the subject matter of a closed meeting would reveal the information that the meeting itself was closed to protect, the subject matter shall not be announced.
- (d) Following the public announcement required by paragraph (a) or (b) of this section:
  - (1) A majority of the members of the Council may change the time or place of a meeting. At the earliest practicable time, the Council shall publicly announce the change.
  - (2) A majority of the entire membership of the Council may change the subject matter of a meeting, or the determination to open or close a meeting to the public, if it determines by a recorded vote that the change is required by the business of the Council and that no earlier announcement of the change was possible. At the earliest practicable time, the Council shall publicly announce the change, and the vote of each member upon the change.
- (e) Individuals or organizations having a special interest in activities of the Council may request the Council to place them on a mailing list for receipt of information available under this section.
- (f) Following public announcement of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time. The subject matter of a meeting or the determination to open or close a meeting may be changed following public announcement of a meeting only if both of the following conditions are met:
  - (1) There must be a recorded vote of a majority of the Council that the business of the Council requires the change and that no earlier announcement of such change was possible; and
  - (2) There must be a public announcement of the change and of the individual Council members' votes at the earliest practicable time.
- (g) Immediately following each public announcement required by this section, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER.
  - (1) Notice of the time, place, and subject matter of a meeting;
  - (2) Whether the meeting is open or closed;
  - (3) Any change in one of the preceding; and
  - (4) The name and telephone number of the official who will respond to requests for information about the meeting.

#### **§ 1517.7 Records of closed meetings.**

- (a) A record of each meeting or portion thereof which is closed to the public shall be made and retained for two years or for one year after the conclusion of any Council proceeding involved in the meeting whichever occurs later. The record of any portion of a meeting closed to the public shall be a verbatim transcript or electronic recording. In lieu of a transcript or recording, a comprehensive set of minutes may be produced if the closure decision was made pursuant to § 1517.4(a) (8) or (10).

- (b) If minutes are produced, such minutes shall fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes shall also reflect the vote of each member of the Council on any roll call vote taken during the proceedings and identify all documents produced at the meeting.
- (c) The following documents shall be retained by the Council as part of the transcript, recording, or minutes of the meeting:
  - (1) Certification by the General Counsel that the meeting may properly be closed; and
  - (2) Statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting and listing the persons present.
- (d) The Council shall make promptly available to the public at its offices at 722 Jackson Place, NW., Washington, DC the transcript, electronic recording, or minutes maintained as a record of a closed meeting, except for such information as may be withheld under one of the provisions of § 1517.5. Copies of such transcript, minutes, or transcription of an electronic recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.
- (e) [Reserved]
- (f) Requests to review or obtain copies of records other than transcripts, electronic recordings or minutes of a meeting will be processed under the Freedom of Information Act (5 U.S.C. 552) or, where applicable, the Privacy Act of 1974. (5 U.S.C. 552a). Nothing in these regulations authorizes the Council to withhold from any individual any record, including the transcripts or electronic recordings described in § 1517.8, to which the individual may have access under the Privacy Act of 1974 (5 U.S.C. 552a).