

### § 1012.3

the Sunshine Act, 5 U.S.C. 552b, and part 1013, in which one or more employees, including Commissioners, discusses with an outside party any subject relating to the Agency or any subject under its jurisdiction. The term Agency meeting does not include telephone conversations, but see §1012.8 which relates to telephone conversations.

(c) *Outside party.* Any person not an employee, not under contract to do work for the Agency, or not acting in an official capacity as a consultant to the Consumer Product Safety Commission, such as advisory committee members or offeror personnel. Examples of persons falling within this definition are representatives from industry and consumer groups. Members of the news media when acting in a newsgathering capacity are not outside parties. (See also §1012.7.) Officers and employees of the Federal Government when acting in their official capacities (except when advocating a particular course of action on behalf of an outside party) are not outside parties.

(d) *Substantial interest matter.* Any matter, other than that of a trivial nature, that pertains in whole or in part to any issue that is likely to be the subject of a regulatory or policy decision by the Commission. Pending matters, i.e., matters before the Agency in which the Agency is legally obligated to make a decision, automatically constitute substantial interest matters. Examples of pending matters are: Scheduled administrative hearings; matters published for public comments; petitions under consideration; and mandatory standard development activities. The following are some examples of matters that do not constitute substantial interest matters: Inquiries concerning the status of a pending matter; discussions relative to general interpretations of existing laws, rules, and regulations; inspection of nonconfidential CPSC documents by the public; negotiations for contractual services; and routine CPSC activities such as recruitment, training, meetings involving consumer deputies, or meetings with hospital staff and other personnel involved in the National Electronic Injury Surveillance System.

### 16 CFR Ch. II (1-1-05 Edition)

#### § 1012.3 Advance public notice of agency meetings.

(a) Commissioners and Agency employees are responsible for reporting meeting arrangements for Agency meetings to the Office of the Secretary so that they may be published in the Public Calendar or entered on the Master Calendar at least seven days before a meeting, except as provided in paragraph (d) of this section. These reports shall include the following information:

- (1) Probable participants and their affiliations;
  - (2) Date, time and place of the meeting;
  - (3) Subject of the meeting (as fully and precisely described as possible);
  - (4) Who requested the meeting;
  - (5) Whether the meeting involves matters of substantial interest;
  - (6) Notice that the meeting is open or reason why the meeting or any portion of the meeting is closed (e.g., discussion of trade secrets); and
  - (7) Names and telephone number of the CPSC host or CPSC contact person.
- (b) Once a report has been made to the Office of the Secretary, Agency employees subsequently desiring to attend the meeting need not notify the Office of the Secretary.

(c) When there is no opportunity to give seven days advance notice of a meeting, Agency employees (other than the Commissioners or their personal staff) who desire to hold or attend such a meeting must obtain the approval of the General Counsel or his or her designee. Requests for waiver of the seven-day advance notice requirement by members of the staff who report to the Executive Director may only be submitted to the General Counsel or his or her designee in writing by the Executive Director or his or her designee. Personal staff of Commissioners must obtain the approval of their respective Commissioners. If the short notice is approved, the Agency employee must notify the Office of the Secretary in advance of the meeting to record the meeting on the Master Calendar. The Office of the Secretary shall publish notice of the meeting as an addendum to the next Public Calendar.

(d) Exceptions. The notice requirement shall not apply to:

## Consumer Product Safety Commission

## § 1012.4

(1) Meetings with outside parties not involving substantial interest matters (although such meetings should be limited where the public interest would be served);

(2) Meetings with outside parties held during the normal course of surveillance, inspection, or investigation under any of the Acts administered by the Commission, including informal citation hearings under the Federal Hazardous Substance Act or the Poison Prevention Packaging Act;

(3) Meetings with outside parties concerning the settlement or negotiation of an individual case, including proposed remedial action, or meetings concerning any administrative or judicial action in which the outside party is a participant, party, or *amicus curiae*;

(4) Routine speeches given by CPSC personnel before outside parties. However, for information purposes, personnel are encouraged to submit advance notice of these speeches to the Office of the Secretary for inclusion in the Public Calendar;

(5) Meetings with other Federal personnel that are also attended by outside parties except where a specific matter to be discussed is also pending before the Commission or its staff;

(6) Meetings with state, local or foreign government personnel concerning intergovernmental cooperative efforts and not the advocacy of a particular course of action on behalf of a constituency of the governmental entity;

(7) Meetings or discussions with or at the request of either members of Congress and their staffs relating to legislation, appropriation or oversight matters, or Management and Budget personnel relating to legislation or appropriation matters;

(8) Pre-proposal conferences involving confidential contracts made pursuant to 41 U.S.C. 252(c)(12) in connection with potential litigation matters.

### § 1012.4 Public attendance at agency meetings.

(a) Any person may attend any meeting involving a substantial interest matter unless that meeting has been listed as a closed meeting. For meetings not involving substantial interest matters, the chairperson of the meeting may exercise his or her discretion

to allow attendance by a member of the public.

(b) When meetings between Agency employees and outside parties are open to the public, attendance may be limited by space. When feasible, a person or organization desiring to attend such a meeting should give at least one day advance notice to one of the employees holding or attending the meeting so that sufficient space can be arranged for all those wishing to attend.

(c) Members of the public attending Agency meetings generally may observe only. The chairperson of the meeting may exercise his or her discretion to permit members of the public to participate as well.

(d) The following Agency meetings are not open to the public:

(1) Meetings, or, if possible, portions of meetings where the General Counsel or his or her designee has determined that proprietary data are to be discussed in such a manner as to imperil their confidentiality;

(2) Meetings held by outside parties at which limits on attendance are imposed by lack of space, provided that such meetings are open to the news media;

(3) Meetings with outside parties held during the normal course of surveillance, inspection, or investigation under any of the Acts administered by the Commission, including informal citation hearings under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act;

(4) Meetings with outside parties concerning the settlement or negotiation of an individual case, including proposed remedial action, or meetings concerning any administrative or judicial action in which the outside party is a participant, party, or *amicus curiae*;

(5) Meetings with other Federal personnel that are attended by outside parties except where a specific matter to be discussed is also pending before the Commission or its staff;

(6) Meetings with state, local or foreign government personnel concerning intergovernmental cooperative efforts and not the advocacy of a particular course of action on behalf of a constituency of the governmental entity;

(7)(i) Meetings between Agency staff (other than Commissioners and their