

Chem. Safety and Hazard Invest. Board

§ 1603.5

by majority vote, may decide to allow for a public comment period immediately following the close of that meeting.

§ 1603.3 Definitions.

As used in this part:

(a) *Days* means calendar days, except where noted otherwise.

(b) *General Counsel* means the Board's principal legal officer, or a CSB attorney serving as Acting General Counsel.

(c) *Meeting* means the deliberations of at least a quorum of Members where such deliberations determine or result in the joint conduct or disposition of official CSB business, and includes conference telephone calls or other exchanges otherwise coming within the definition. A meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(2) Action by at least a quorum of Members to:

(i) Open or to close a meeting or to release or to withhold information pursuant to §1603.7;

(ii) Set an agenda for a proposed meeting(s);

(iii) Call a meeting on less than seven days' notice as permitted by §1603.9(b); or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under §1603.10(b).

(3) A session attended by at least a quorum of Members for the purpose of having the Board's staff or expert consultants to the Board brief or otherwise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official CSB business on such matters.

(4) A session attended by at least a quorum of Members for the purpose of having the Environmental Protection Agency or Occupational Safety and Health Administration (including contractors of those agencies) or other persons or organizations brief or other-

wise provide information to the Board concerning any matters within the purview of the Board under its authorizing statute, provided that the Board does not engage in deliberations that determine or result in the joint conduct or disposition of official CSB business on such matters.

(5) A gathering of Members for the purpose of holding informal preliminary discussions or exchange of views which do not effectively predetermine official action.

(d) *Member* means an individual duly appointed and confirmed to the collegial body known as the Board.

(e) *Reporter* means a CSB employee designated by the General Counsel, under §1603.5(c), to attend and prepare a written summary of all briefings described in paragraphs (c)(3) and (c)(4) of this section and all informal preliminary discussions described in paragraph (c)(5) of this section.

(f) *Sunshine Act* means the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 1603.4 Open meetings requirement.

Any meetings of the Board, as defined in §1603.3, shall be conducted in accordance with this part. Except as provided in §1603.7, the Board's meetings, or portions thereof, shall be open to public observation.

§ 1603.5 Assurance of compliance.

(a) The General Counsel or another attorney designated by the General Counsel will attend and monitor all briefings described in §1603.3(c)(3) and (c)(4) and all informal preliminary discussions described in §1603.3(c)(5), to assure that those gatherings do not proceed to the point of becoming deliberations and meetings for Sunshine Act purposes.

(b) The General Counsel or the designated attorney will inform the Board Members if developing discussions at a briefing or gathering should be deferred until a notice of an open or closed meeting can be published in the FEDERAL REGISTER, and a meeting conducted pursuant to the Sunshine Act and this part.

(c) For each briefing described in §1603.3(c)(3) or (c)(4) and each informal preliminary discussion described in

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§ 1603.3(c)(5), the General Counsel is hereby authorized to designate a CSB employee, other than the attorney referred to in paragraph (a) of this section, to serve as a reporter. An employee may be designated as reporter for a single briefing or informal discussion or for a series of briefings or discussions. The reporter shall attend and prepare a written summary of each briefing(s) or informal discussion(s) for which he/she has been designated. The reporter must prepare the summary of a particular briefing or informal discussion within five business days after the date of that briefing or discussion. The reporter must then submit the summary to the General Counsel or the designated attorney who attended the briefing or informal discussion that is the subject of the summary for review and approval as a fair and accurate summary of that briefing or discussion. The written summaries of briefings and informal discussions shall be maintained in the Office of General Counsel.

§ 1603.6 Business requiring a meeting.

The Board may, by majority vote of its Members, determine that particular items or classes of Board business cannot be accomplished by notation voting, but must instead be decided by a recorded vote at a meeting, as defined in § 1603.3(c).

§ 1603.7 Grounds on which meetings may be closed or information may be withheld.

Except in a case where the Board finds that the public interest requires otherwise, a meeting may be closed and information pertinent to such meeting otherwise required by §§ 1603.8, 1603.9, and 1603.10 to be disclosed to the public may be withheld if the Board properly determines that such meeting or portion thereof or the disclosure of such information is likely to:

- (a) Disclose matters that are:
 - (1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy; and
 - (2) In fact, properly classified pursuant to such Executive Order. In making the determination that this exemption applies, the Board shall rely upon the classification assigned to a document

by the Environmental Protection Agency, Occupational Safety and Health Administration, or other originating agency;

(b) Relate solely to the internal personnel rules and practices of the CSB;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

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

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

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

(g) 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:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) 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;

(5) Disclose investigative techniques and procedures; or

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

(h) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the CSB, except that this paragraph shall not apply in any instance where the