

RULES AND REGULATIONS

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rule making process (§ 1.12, Title 38, Code of Federal Regulations). However, the public rulemaking process is deemed unnecessary in this instance as the amendments concern agency practice and procedures.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In § 8-1.404-2, paragraph (a) is revised to read as follows:

§ 8-1.404-2 Designation.

(a) When an employee's qualifications are established by his/her supervisor and the individual is to be designated as a contracting officer in accordance with § 8-75.101(b), VA Form 07-2267, Certificate of Designation (Contracting Officer), will be issued for display in the employee's working area. The certificate will be signed by the next higher superior who fills one of the positions listed under § 8-75.101(a). (Existing designations will be confirmed by issuance of VA Form 07-2267.)

(72 Stat. 1114, sec. 205(c), 63 Stat. 390; (38 U.S.C. 210, 40 U.S.C. 486(c)).)

This regulation is effective March 14, 1977.

Approved: March 8, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 77-7448 Filed 3-11-77; 8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER E—SUPPLY AND PROCUREMENT
[FPMR Amdt. E-204]

PART 101-29—FEDERAL SPECIFICATIONS AND STANDARDS

Federal Standardization Documents

This regulation provides updated policy and procedures concerning the development, use, and issuance of Federal specifications, interim Federal specifications, and associated Qualified Products Lists and Federal standards.

1. The table of contents for Part 101-29 is amended to revise the following entries:

Sec.	
101-29.201-1	Federal specifications.
101-29.201-2	Interim Federal specifications.
101-29.204	Exceptions to mandatory use of Federal specifications.
101-29.205	Deviations from Federal specifications.
101-29.205-1	Agency responsibility relative to deviations from Federal specifications.
101-29.207	Use of Federal specifications and interim Federal specifications in Federal construction contracts.

Sec.	
101-29.301-2	Interim Federal standards.
101-29.302	Mandatory use of Federal standards.

2. Section 101-29.000 is revised to read as follows:

§ 101-29.000 Scope of part.

This part sets forth the policy and procedures for the development and use of Federal specifications and associated Qualified Products Lists and Federal standards.

3. Sections 101-29.101 and 101-29.102 are revised to read as follows:

§ 101-29.101 Federal standardization documents.

Federal specifications, Federal Qualified Products Lists, and Federal standards are referred to collectively as Federal standardization documents. They are developed by GSA or other Federal agencies under the Assigned Agency Plan described in the "Federal Standardization Handbook" issued by the Commissioner, Federal Supply Service, GSA. Federal standardization documents are coordinated with other Federal agencies having technical, statutory, or regulatory interest in the commodity or other subject matter covered. Before these are issued, Federal specifications are reviewed by technical societies and organizations representing industrial producers and consumers.

§ 101-29.102 Procedures for development of Federal standardization documents.

The Commissioner, Federal Supply Service, will issue and maintain on a current basis a "Federal Standardization Handbook." The Federal Standardization Handbook sets forth operating procedures and applicable definitions used in the development of Federal standardization documents under the Assigned Agency Plan described therein. Federal agencies shall adhere to the provisions of the handbook in the development and coordination of Federal standardization documents.

4. Sections 101-29.201-1, 101-29.201-2, and 101-29.201-3 are revised to read as follows:

§ 101-29.201-1 Federal specifications.

"Federal specification" means a Government specification which covers those materials, products, or services used by two or more Federal agencies (at least one of which is a civil agency). Federal specifications are promulgated by GSA and are mandatory for use by all Federal agencies.

§ 101-29.201-2 Interim Federal specifications.

An "interim Federal specification" is a potential Federal specification issued in interim form for optional use by all Federal agencies. Interim amendments to Federal specifications and amendments to interim Federal specifications are included in this definition.

§ 101-29.201-3 Military specifications.

"Military specification" means a specification issued by the Department of Defense that is used solely or predominantly by and is mandatory for military activities. (This definition includes fully coordinated and limited coordination.)

5. Section 101-29.202 is revised to read as follows:

§ 101-29.202 Federal Qualified Products Lists.

"Federal Qualified Products Lists" (QPL's) means lists of products tested and approved under qualification tests set forth in certain Federal specifications. The qualification test requirement is included in the specification only when the Government requires this assurance of requisite quality of the product before the award of the contract. For procurement purposes, a qualified product is one which has been tested and approved for inclusion in the Federal QPL, whether or not the product has actually been so listed, before the bid opening date or award of a negotiated contract.

6. Section 101-29.204 is amended to read as follows:

§ 101-29.204 Exceptions to mandatory use of Federal specifications.

(a) Federal specifications need not be used under any of the following circumstances:

(2) The total amount of the purchase does not exceed \$10,000. Multiple small purchases of the same item shall not be made for the purpose of avoiding the intent of this exception. Further, this exception in no way affects the requirements for the procurement of items available from GSA supply distribution facilities, Federal Supply Schedule contracts, GSA procurement programs, and certain procurement sources other than GSA, that have been assigned supply responsibility for Federal agencies as provided in Subparts 101-26.3, 101-36.4, 101-26.5, and 101-26.6.

(4) An interim Federal specification is used by an agency in lieu of the Federal specification.

(b) If the purchase involves the following, Federal specifications need not be used except to the extent that they are applicable, in whole or in part:

7. Section 101-29.205 is revised to read as follows:

§ 101-29.205 Deviations from Federal specifications.

When the essential needs of an agency are not adequately covered by an existing Federal specification and the proposed purchase does not come within the exceptions described in § 101-29.204, the agency may authorize deviations from the Federal specification. However, requirements of existing Federal specifications shall be used to the maximum extent practicable.

8. Section 101-29.205-1 is amended to read as follows:

§ 101-29.205-1 Agency responsibility relative to deviations from Federal specifications.

Each agency taking deviations shall establish procedures whereby a designated official having substantial procurement responsibility shall be responsible for ensuring that:

(a) Federal specifications are used, and provisions for exceptions and deviations are complied with.

(d) Notification of deviation or recommendation for change in the specification is sent promptly in duplicate to the General Services Administration (FM), Washington, D.C. 20406. A statement of the deviations with a justification and, where applicable, recommendation for revision or amendment of the specification shall be included. A notification is required for major deviations such as those that will result in the introduction of a new item of supply as evidenced by the development of a new item identification, or when a deviation is taken repeatedly.

9. Sections 101-29.207 and 101-29.208 are revised to read as follows:

§ 101-29.207 Use of Federal specifications and interim Federal specifications in Federal construction contracts.

When material, equipment, or services covered by an available Federal specification or interim Federal specification are specified in connection with Federal construction, the Federal specification or interim Federal specification shall be made a part of the specification for the construction contract, subject to the provisions in §§ 101-29.204, 101-29.205, and 101-29.206.

§ 101-29.208 Military and departmental specifications.

When a Federal specification is not available, existing interim Federal, military, and departmental specifications should be used by all agencies consistent with each agency's procedures for establishing priority for use of such specifications.

10. Section 101-29.301-2 is revised to read as follows:

§ 101-29.301-2 Interim Federal standards.

"Interim Federal standard" means a standard issued in interim form for optional use by all Federal agencies and intended for final processing as a new or revised Federal standard. GSA has discontinued the issuance of interim Federal standards in all but the most unusual circumstances. In most instances a military or departmental standard will serve as the coordination draft for a Federal standard, and the interim issuance will not be needed.

11. Section 101-29.302 is revised to read as follows:

§ 101-29.302 Mandatory use of Federal standards.

Federal standards shall be used by all Federal agencies, including the Department of Defense. The exceptions in § 101-29.204 relating to the mandatory use of Federal specifications are applicable to the use of Federal standards. A Federal agency may be granted an exception by GSA only upon submission of adequate justification to the General Services Administration (FM), Washington, DC 20406.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Effective date: This regulation is effective March 14, 1977.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 1, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of
General Services.

[FR Doc. 77-7412 Filed 3-11-77; 8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

Nomenclature Amendments; Correction

In FR Doc. 77-5047 appearing at page 10002 in the FEDERAL REGISTER of February 18, 1977, the chapter title number was erroneously shown as Chapter 14. The title is corrected to read "Chapter 114—Department of the Interior."

RICHARD R. HITE,
Acting Assistant Secretary
of the Interior.

MARCH 7, 1977.

[FR Doc. 77-7416 Filed 3-11-77; 8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Lacreek National Wildlife Refuge,
South Dakota

The following special regulation is issued and is effective on March 14, 1977.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public sport fishing by rod and reel or pole on Lacreek National Wildlife Refuge is permitted on Cedar Creek Ponds Nos. 1, 2, and 3 where designated by signs as open to fishing in accordance with applicable State regulations subject to the following special conditions:

(1) The season for fishing on Cedar Creek Ponds, 1, 2, and 3 extends from April 1 through October 15, 1977, daylight hours only.

(2) The use of boats and the use of live minnows as bait, on the Refuge portion of Cedar Creek are prohibited.

(3) Public fishing on Lacreek National Wildlife Refuge may be closed by the manager whenever access roads are impassable, refuge wildlife need further protection from disturbance, or good refuge management dictates that the area be closed to the public.

The open fishing areas are shown on maps available at Lacreek National Wildlife Refuge Headquarters, Martin, SD 57551 or Area Office, U.S. Fish and Wildlife Service, Federal Building, Pierre, SD 57501.

The provisions of this special regulation supplement the regulations which govern fishing on national wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations Part 33, and are effective through October 15, 1977.

HAROLD H. BURGESS,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

MARCH 7, 1977.

[FR Doc. 77-7415 Filed 3-11-77; 8:45 am]

PART 33—SPORT FISHING

Tamarac National Wildlife Refuge,
Minnesota

The following special regulations are issued and are effective on March 14, 1977.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MINNESOTA

TAMARAC NATIONAL WILDLIFE REFUGE

Sport-fishing on the Tamarac National Wildlife Refuge, Rochert, Minnesota, is permitted from January 1, 1977, through December 31, 1977, and shall be in accordance with all applicable State fishing laws and refuge regulations. Areas open for fishing comprise 13,675 acres and are designated on a map available at the Refuge headquarters and from the office of the Regional Director, United States Fish & Wildlife Service, Federal Building, Ft. Snelling, Twin Cities, Minnesota 55111.

Refuge waters open to fishing during all State seasons include North Tamarac Lake and 50 yards either side of Ottertail River bridges on County Roads No. 26 and No. 126. Refuge waters open to fishing from State opening day in May through Labor Day include Upper Egg, Wauboose, Two Island, Lost, and Blackbird Lakes.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Part 33, and are effective through December 31, 1977.

OMER N. SWENSON,
Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn.

MARCH 3, 1977.

[FR Doc. 77-7451 Filed 3-11-77; 8:45 am]

RULES AND REGULATIONS

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1612—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Rule.

SUMMARY: The purpose of these rules is to implement within the Equal Employment Opportunity Commission the requirements of the Government in the Sunshine Act of 1976, 5 U.S.C. 552b (Pub. L. 94-409). The rules set forth the basic responsibilities of the Commission with regard to compliance with the Act, and offer guidance to members of the public who wish to exercise any of the rights established by the Act.

EFFECTIVE DATE: March 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: At 42 FR 7162 (February 7, 1977) the Commission published for public comment a Notice of Proposed Rulemaking. The thirty-day period for the submission of written comments on the proposed regulations to the Associate General Counsel of the Legal Counsel Division expired at the close of business on March 9, 1977. The Commission received no comments during the thirty-day period. However, the Commission made several changes in its proposed regulations most of which are editorial revisions and minor clarifications. Substantive changes are treated in the following discussion.

SIGNIFICANT DIFFERENCES BETWEEN FINAL AND PROPOSED RULES

1. A new section which did not appear in the proposed rules has been added to the final rules—§ 1612.6 closed meeting procedures: request initiated by an interested person. Subsequent sections have been renumbered accordingly.

2. Section 1612.3 of the proposed rules (open meeting policy) has been amended by the addition of two paragraphs. Paragraph (c) merely clarifies the "observation" rights of persons in attendance at Commission meetings by imposing upon the Commission an obligation to ensure that adequate space, visibility and acoustical equipment be provided.

Paragraph (d) provides that observers may use recording equipment and take photographs at Commission meetings. This provision enhances the right of those in attendance at meetings. However, paragraph (d) makes it clear that such equipment may be used only in a manner which does not interfere with or disrupt the meeting.

3. Section 1612.5 of the proposed rules has been revised. This section of the final

rules deals only with the procedure for closing meetings where the request to close generates within the agency. The revised § 1612.5 at paragraphs (f) and (g) incorporates the provisions of § 1612.6 (c) and (d) of the proposed rules dealing with the information which must be made publicly available after a vote has been taken by the agency to open or close a meeting or to withhold information pertaining to a meeting.

4. Section 1612.6 of the proposed regulations has been renumbered and is now § 1612.7 of the final rules. The new § 1612.6 sets forth the procedures to be followed by a person requesting the closing of a meeting whose interest may be directly affected by a meeting or portion of a meeting in that the discussion is likely to:

- (1) Involve accusing any person of a crime or formally censuring any person;
- (2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; or

(3) 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.

Section 1612.6 also specifies the procedures to be followed by the Commission in handling such requests.

5. Section 1612.12 of the proposed rules—meetings closed by regulation—has been renumbered and is now § 1612.13 of the final rules.

Paragraph (a) of this section constitutes the Commission's regulation promulgated pursuant to subsection (d) (4) of the Government in the Sunshine Act. This paragraph may be invoked by the Commission in closing meetings or portions of meetings where the subject matter to be discussed falls within the tenth exemption of the Sunshine Act, 5 U.S.C. 552b(c) (10).

Since proposed litigation against Title VII respondents has routinely been an agenda item for Commission meetings, the Commission has determined that a portion of the majority of its meetings is likely to be exempt from the open meeting requirements of the Sunshine Act, and that therefore, the Commission's regulation is appropriately promulgated.

6. References to "transcripts" in the proposed rules have been deleted, and the term "electronic recordings," substi-

tuted therefor. These changes merely reflect the Commission's decision to utilize the electronic recordings and not make transcripts of meetings due to the prohibitive expense of the latter procedure.

In consideration of the foregoing, the regulations which constitute Part 1612 of Chapter XIV, Title 29 of the Code of Federal Regulations are set forth in their final, revised form as follows:

Sec.	
1612.1	Purpose and scope.
1612.2	Definitions.
1612.3	Open meeting policy.
1612.4	Exemptions to open meeting policy.
1612.5	Closed meeting procedures: agency initiated requests.
1612.6	Closed meeting procedures: request initiated by an interested person.
1612.7	Public announcement of agency meetings.
1612.8	Public announcement of changes in meetings.
1612.9	General Counsel's certification in closing a meeting.
1612.10	Recordkeeping requirements.
1612.11	Public access to records.
1612.12	Fees.
1612.13	Meetings closed by regulation.
1612.14	Judicial Review.

AUTHORITY: 5 U.S.C. 552b, sec. 713, 78 Stat. 255; 42 U.S.C. 2000e-12.

§ 1612.1 Purpose and scope.

This part contains the regulations of the Equal Employment Opportunity Commission (hereinafter, the Commission) implementing the Government In The Sunshine Act of 1976, 5 U.S.C. 552b, which entitles the public to the fullest practicable information regarding the decision-making processes of the Commission. The provisions of this Part set forth the basic responsibilities of the Commission with regard to the Commission's compliance with the requirements of the Sunshine Act and offers guidance to members of the public who wish to exercise any of the rights established by the Act.

§ 1612.2 Definitions.

The following definitions apply for purposes of this Part:

(a) The term "agency" means the Equal Employment Opportunity Commission and any subdivision thereof authorized to act on its behalf.

(b) The term "meeting" means the deliberations of at least three of the members of the agency, which is a quorum of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business (including conference calls), but does not include:

(1) Individual members consideration of official agency business circulated to the members in writing for disposition by notation or other separate, sequential consideration of Commission business by Commissioners.

(2) Deliberations to decide whether a meeting or portion(s) of a meeting or series of meetings should be open or closed.

(3) Deliberations to decide whether to withhold from disclosure information pertaining to a meeting or portions of a

meeting or a series of meetings, or

(4) Deliberations pertaining to any change in any meeting or to changes in the public announcement of such meeting.

(c) The term "member" means each Commissioner of the agency.

(d) The term "entire membership" means the number of members holding office at the time of the meeting in question.

(e) The term "person" means any individual, partnership, corporation, association, or public or private organization.

(f) The term "public observation" means attendance at any meeting open to the public but does not include participation, or attempted participation, in such meeting in any manner.

§ 1612.3 Open meeting policy.

(a) All meetings of the Commission shall be conducted in accordance with the provisions of this Part.

(b) Except as otherwise provided in § 1612.4, every portion of every meeting shall be open to public observation. Public observation does not include participation or disruptive conduct by observers. Any attempted participation or disruptive conduct by observers shall be cause for removal of persons so engaged at the discretion of the presiding member of the agency.

(c) When holding open meetings, the Commission shall provide ample space, sufficient visibility, and adequate acoustics for persons in attendance at the meeting.

(d) Observers may take still photographs and use portable sound recorders which do not require electrical outlets. Persons may take pictures only at the beginning of a meeting and may not use flash equipment. Permission to use non-battery operated sound recorders and visual recorders must be sought reasonably in advance of a meeting. Such request must be made in writing to the Commission through the Office of the Executive Secretariat. The Commission may permit such activities to be conducted under specified limitations which insure proper decorum and minimum interference with the meeting. In all cases, audio or visual recording shall not disrupt or otherwise impede the meeting.

§ 1612.4 Exemptions to open meeting policy.

Except in a case where the agency finds that the public interest requires otherwise, the provisions of § 1612.3 shall not apply to any meeting or portion of a meeting where the agency determines that an open meeting or the disclosure of information from such meeting or portions of a meeting 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;

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

(c) Disclose matters specifically ex-

empted from disclosure by statute (other than the Freedom of Information Act, 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 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;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except where the agency has already disclosed to the public the content or nature of the disclosed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpoena, or the agency'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 agency of a particular case of formal agency adjudication pursuant to the procedures specified in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 1612.5 Closed meeting procedures: agency initiated requests.

(a) Any member of the agency, the Executive Director, the General Counsel, or any other Commission official submitting an agenda item for the subject meeting may request that any meeting

or portion thereof be closed to public observation for any of the reasons provided in § 1612.4 of this Part by submitting a request in writing to the Commission through the Office of the Executive Secretariat no later than fourteen (14) calendar days prior to the meeting.

(b) Upon receipt of any request made under paragraph (a) of this section, the Executive Secretary shall submit the request to the General Counsel for certification in accordance with § 1612.9 of this Part.

(c) No later than seven (7) calendar days prior to the scheduled meeting the members of the agency shall, upon consideration of the request submitted and consideration of the certified opinion of the General Counsel, determine by recorded vote whether to close the meeting or portion of the meeting to public observation. The members may vote less than seven days prior to the scheduled meeting where:

(1) A majority of the members of the Commission determines by recorded vote that agency business requires that any such meeting or series of meetings be held at an earlier date.

(2) A meeting is closed under the Commission's regulation as set forth in § 1612.13(a) of this Part.

(3) A meeting is closed pursuant to a request made under § 1612.6 of this Part and submitted less than seven days prior to the meeting.

(4) There is a need to change the subject matter or the determination to open or close a meeting previously announced.

(d) The Commission shall, at the same time, vote on whether to withhold any information pertaining to the meeting and otherwise required to be announced (§ 1612.7(a)(3)) or made publicly available (paragraphs (f) (2) and (3) of this section).

(e) A meeting, portion of a meeting, or series of meetings may be closed to public observation only when a majority of the entire agency membership votes to take such action. Information pertaining to a meeting, portion of a meeting or series of meetings otherwise required to be announced (§ 1612.7(a)(3)) or made publicly available (paragraphs (f) (2) and (3) of this section) shall be withheld only when a majority of the entire agency membership votes to take such action.

(f) With respect to each vote taken on whether a meeting should be open or closed, the agency shall, within one day of such vote, make publicly available the following information:

(1) A written copy of the vote of each participating Commission member on the question.

(2) A written explanation of Commission action closing a meeting or portions thereof, and

(3) The name and affiliation of any persons who are expected to attend a closed meeting.

(g) The agency shall, within one day, make publicly available the vote of each Commission member on whether or not to withhold any of the information de-

scribed in paragraphs (f) (2) or (3) of this section.

(h) A separate vote shall be taken for each meeting proposed to be closed to the public and with respect to any information proposed to be withheld from the public. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings, if each meeting involves the same particular matters and is scheduled to be held no later than thirty (30) calendar days after the first meeting in the series.

§ 1612.6 Closed meeting procedures: request initiated by an interested person.

(a) Any person as defined in § 1612.2 of this Part whose interest may be directly affected by a portion of a meeting may request that the agency close that portion of the meeting to the public for any of the reasons listed in § 1612.4(e), (f) or (g).

(b) Any person described in paragraph (a) of this section who submits a request that a portion of a meeting be closed, shall submit such request to the Chairman of the agency at the following address: the Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C., 20506. Such person shall state with particularity that portion of a meeting sought to be closed and the reasons for such request.

(c) The Chairman, upon receipt of any request made under paragraph (a) of this section, shall furnish a copy of the request to:

(1) Each member of the agency.

(2) The General Counsel for certification in accordance with § 1612.9 of this Part.

(d) Any member of the agency may request agency action upon such request.

(e) The Commission shall, upon the request of any one of its members and consideration of the certified opinion of the General Counsel, determine by recorded vote whether to close such meeting or portion thereof.

(f) The Chairman of the Commission shall promptly communicate to any person making a request to close a meeting or portion of a meeting under this section the agency's final disposition of such request.

§ 1612.7 Public announcement of agency meetings.

(a) Public announcement of each meeting by the agency shall be accomplished by recorded telephone message at telephone number 202-634-6748 (between the hours of 9 a.m. and 5 p.m. e.t.), and by posting such announcement on the agency's bulletin board located near the entrance of the 2nd Floor of the Columbia Plaza Building at 2401 E Street NW., Washington, D.C., 20506, not later than one week prior to commencement of a meeting or the commencement of the first meeting in a series of meetings, except as otherwise provided in this section, and shall disclose:

- (1) The time of the meeting.
- (2) The place of the meeting.
- (3) The subject matter of each portion of each meeting or series of meetings.
- (4) Whether any portion(s) of a meeting will be open or closed to public observation.

(5) The name and telephone number of an official designated to respond to requests for information about the meeting.

(b) Where a meeting is closed to the public, the agency may withhold and not announce the information specified in paragraph (a) (3) of this section, if and to the extent that it finds that such action is justified under § 1612.4. Information shall be withheld only by a recorded vote of a majority of the entire membership of the agency.

(c) The announcement described in paragraph (a) of this section may be accomplished less than one week prior to the commencement of any meeting or series of meetings where:

(1) A majority of the members of the Commission determines by recorded vote that agency business requires that any such meeting or series of meetings be held at an earlier date.

(2) A meeting is closed under the Commission's regulation as set forth in § 1612.13(a) of this Part.

(3) A meeting is closed pursuant to a request made under § 1612.6 of this Part and submitted less than seven days prior to the meeting.

(4) There has been a change in the subject matter or determination to open or close a meeting previously announced.

In these instances, the agency shall make public announcement at the earliest practicable time.

(d) Immediately following any public announcement accomplished under the provisions of this section, the agency shall submit a notice for publication in the *FEDERAL REGISTER* disclosing:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting will be open or closed to public observation.

(5) The name and telephone number of an official designated to respond to requests for information about the meeting.

§ 1612.8 Public announcement of changes in meetings.

(a) The agency is required to make a public announcement of any changes in its meeting or portion(s) thereof. If, after the announcement provided for in § 1612.7, the time or place of a meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time. The subject matter or the determination to open or close the meeting may be changed only if (1) a majority of the entire membership of the agency determines by recorded vote that agency business so

requires and that no earlier announcement of the change was possible and (2) the agency publicly announces the change and the vote of each member upon such change at the earliest practicable time.

(b) Immediately following any public announcement of any change accomplished under the provisions of this section, the agency shall submit a notice for publication in the *FEDERAL REGISTER* disclosing:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting is open or closed to public observation.

(5) Any change in (1), (2), (3), or (4) of this paragraph.

(6) The name and telephone number of the official designated to respond to requests for information about any meeting.

§ 1612.9 General Counsel's certification in closing a meeting.

(a) Upon any proper request made pursuant to this Part, that the agency close a meeting or portion(s) thereof, the General Counsel shall certify in writing to the agency, whether in his or her opinion the closing of a meeting or portion(s) thereof is proper under the provisions of this Part and the terms of the Government in the Sunshine Act (5 U.S.C. 552b). If, in the opinion of the General Counsel, a meeting or portion(s) thereof is proper for closing under this Part and the terms of the Government in the Sunshine Act, his or her certification of that opinion shall cite each applicable particular exemption of that Act and provision of this Part.

(b) A copy of the certification of the General Counsel as described in paragraph (a) of this section together with a statement of the presiding officer of the meeting setting forth the time and place of the relevant meeting or meetings, and the persons present, shall be maintained by the agency in a public file.

§ 1612.10 Recordkeeping requirements.

(a) In the case of any meeting or portion(s) thereof to be closed to public observation under the provisions of this Part, the following records shall be maintained by the Executive Secretary of the agency:

(1) The certification of the General Counsel pursuant to § 1612.9 of this Part;

(2) A statement from the presiding officer of the meeting or portion(s) thereof setting forth the time and place of the meeting, and the persons present;

(3) A complete electronic recording adequate to record fully the proceedings of each meeting closed to the public observation, except that in a meeting closed pursuant to paragraph (h) or (j) of § 1612.4, the agency may maintain minutes in lieu of a recording. 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 roll call vote. All documents considered in connection with any item shall be identified in the minutes.

(b) If the agency has determined that the meeting or portion(s) thereof may properly be closed to the public, the electronic recording or minutes shall not be made available to the public until such future time, if any, as it is determined by the Commission upon request, that the reasons for closing the meeting no longer pertain: Provided, however, that any separable portion of a recording or minutes will be made promptly available to the public if that portion does not contain information properly withheld under § 1612.4.

(c) The agency shall maintain a copy of the electronic recording or minutes for a period of two years after the meeting, or until one year after the conclusion of the proceeding to which the meeting relates, whichever occurs later.

§ 1612.11 Public access to records.

All requests for information shall be submitted in writing to the Chairman of the agency. Requests to inspect or copy the electronic recordings or minutes of agency meetings or portions thereof will be considered under the provisions of § 1612.4 of this Part.

§ 1612.12 Fees.

(a) Records provided to the public under this Part shall be furnished at the

expense of the party requesting copies of the recording or minutes, upon payment of the actual cost of duplication.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to the "Treasurer of the United States."

§ 1612.13 Meetings closed by regulation.

(a) This paragraph constitutes the Commission's regulation promulgated pursuant to paragraph (d)(4) of the Government in the Sunshine Act and may be invoked by the agency to close meetings or portions thereof where the subject matter of such meeting or portion of a meeting is likely to involve:

(1) Matters pertaining to the issuance of subpoenas;

(2) Subpoena modification and revocation requests; and

(3) The Agency's participation in civil actions or proceedings pertaining thereto.

(b) When closing a meeting or portion thereof under the Commission's regulation set forth in paragraph (a) of this section, a majority of the Commission membership shall vote at or before the beginning of such meeting or portion thereof to do so. The vote to close a meeting by regulation shall be recorded and made publicly available.

(c) The Commission's determination to promulgate the regulation in paragraph (a) of this section is based upon a review of the agenda of Commission meetings for the two years prior to the promulgation of these regulations.

(1) Since the Commission's practice of conducting weekly meetings began in 1975, proposed litigation against Title VII respondents has been a regular agenda item. The tenth exemption of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(10), exempts the discussion of these matters from the open meeting requirements of the Act.

(2) Thus, the Commission has determined that a majority of its meetings or portions thereof may properly be closed to the public under the tenth exemption of the Sunshine Act, and that paragraph (d)(4) of the Sunshine Act is properly relied upon in promulgating the Commission's regulation in paragraph (a).

§ 1612.14 Judicial review.

Any person may bring an action in a United States District Court to challenge or enforce the provisions of this Part. Such action may be brought prior to or within sixty (60) calendar days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within sixty (60) days after such announcement is made. An action may be brought where the agency meeting was held or in the District of Columbia.

By order of the Commission.

Signed this the 10th day of March, 1977.

ETHEL BENT WALSH,
Vice Chairman.

[FR Doc. 77-7551 Filed 3-11-77; 8:45 am]