

July 16, 1999

MEMORANDUM TO: Karen D. Cyr
General Counsel

FROM: Annette L. Vietti-Cook, Secretary

SUBJECT: STAFF REQUIREMENTS - COMSECY-99-022 - SUNSHINE ACT COMMENT RESOLUTION

The Commission approves the draft Federal Register notice, subject to the attached changes and conforming changes, in responding to the comments received on the May 10, 1999, Federal Register notice declaring the Commission's intent to begin implementing changes made in 1985 to the Government in the Sunshine Act regulations. Conforming changes should be made to the letter to Representative Markey (CR 99-126).

The Office of General Counsel should advise the Commission on appropriate approaches for codification or further confirmation of the clarification of the Commission's intent not to hold non-Sunshine Act discussions with outside interested parties through rulemaking or development of a policy statement.

(OGC)

(SECY Suspend: 8 months after FRN date)

The Office of General Counsel and the Secretary should provide to the Commission an evaluation of the Commission's experience with the record-keeping procedures during the first six months of implementation.

(OGC/SECY)

(SECY Suspend: 8 months after FRN date)

[Attachment](#): Changes to FRN

cc: Chairman Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
EDO
CIO
CFO
OCA
OPA
OIG

ATTACHMENT

CHANGES TO THE FEDERAL REGISTER NOTICE

1. Page 1, under Summary, at the end of the sentence, add: "...rule 30 days from the date of this notice."
2. Page 3, line 7, change "comment-and-answer" to "comment-and-response."
3. Page 3, 2nd full paragraph, line 4, replace "He" with "The commenter".
4. Page 3, 1st paragraph under Response, line 5, put "ITT World Communications" in italics.
5. Page 9, in response to Comment I, delete the 2nd sentence.
6. Page 9 in response to Comment H, last sentence should be modified as follows: "The Commission is committed to implementing this intent; the non-Sunshine Act discussions will not include discussion with representatives of licensees or of organizations who could be considered interested parties to NRC ~~adjudications~~, adjudications, rulemaking ~~proceedings~~, or development of guidance."
7. Page 12 (last page) end of the last sentence add "...notice 30 days from the date of this notice."
8. Add to the end of the first paragraph of supplementary information: "During the period of its review of the comments, the Commission has not held any non-Sunshine Act discussions and has decided not to hold any such discussions, until at the earliest, 30 days after the publication of these responses."

9. In response to comment E, the record referred to should be identified consistent with the record referred to in the previous FRN on the final rule giving notice of intent to implement currently effective rule on Government in the Sunshine Act Regulations.
10. Add to the end of the response to Comments E and L that the Commission will carefully evaluate the usefulness of its recordkeeping practice after six months and will not discontinue its practice of keeping records without advance notice to the public.
11. In response to Comment M, delete the sentences beginning with "However, the Commission...", through the end of the response. Insert the following in its place: In part for that reason, the Commission affirms once again what it said in its May 10, 1999, Federal Register and earlier in this present notice, namely, that its objective is not to turn discussions now held as "meetings" into non-Sunshine Act discussions. Rather, the intent is to ensure that the Commission is not categorically required to apply the Sunshine Act's procedural requirements to every briefing, including such things as routine status updates, where the benefit to the public would be small compared to the administrative burden and loss of efficiency in doing day-to-day business."