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# PART 1101—SUNSHINE ACT REGULATIONS

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AUTHORITY: 5 U.S.C. 552b.

SOURCE: 59 FR 16979, Apr. 11, 1994, unless otherwise noted.

## §1101.1 Purpose and scope.

(a) The provisions of this part are intended to implement the requirements of section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b for the United States Enrichment Corporation (''Corporation'').

(b) Nothing in this part expands or limits the present rights of any person under the Freedom of Information Act (5 U.S.C. 552), except that the exemptions set forth in §1101.6 shall govern in the case of any request made pursuant to the Freedom of Information Act to copy or inspect the transcripts, recordings, or minutes described in §1101.7.

(c) Nothing in this part authorizes the Corporation to withhold from any individual any record, including transcripts, recordings, or minutes required by this part, which is otherwise accessible to such individual under the Privacy Act (5 U.S.C. 552a).

(d) The requirements of chapter 33 of title 44 of the United States Code shall not apply to transcripts, recordings, and minutes described in §1101.7.

## §1101.2 Definitions.

For the purposes of this part:

*Agency* means any agency, as defined in 5 U.S.C. 552(e), headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency.

*Board* means the Board of Directors of the Corporation.

*Corporation* means the United States Enrichment Corporation.

*Meeting* means the deliberations of at least a quorum of the Corporation Board where such deliberations determine or result in the joint conduct or disposition of official Corporation business. A *meeting* may be conducted under this part through telephone or similar communications equipment by means of which all participants can hear each other. The term *meeting* does not include deliberations required or permitted by §1101.4 or §1101.5 and does not include the process of notation voting by circulated memorandum for the purpose of expediting consideration of routine matters.

*Member* means an individual who is a member of the Corporation Board.

*Quorum* means the number of members authorized to conduct Corporation business pursuant to the Corporation's bylaws.

## §1101.3 Open meetings.

Members shall not jointly conduct or dispose of Corporation business other than in accordance with this part. Except as provided in §1101.6, every portion of every meeting of the Corporation shall be open to public observation, and the Corporation shall provide suitable facilities therefor. The public is invited to observe and listen to all meetings of the Corporation, or portions thereof, open to public observation, but may not participate in the deliberations at such meetings or record any portion of such meetings by means of electronic or other devices or cameras.

## §1101.4 Notice of meetings.

(a) The Corporation shall make a public announcement of the time, place, nd subject matter of each meeting, whether it is to be open or closed to the public, and the name and telephone number of a Corporation official who can respond to requests for information about the meeting.

(b) Such public announcement shall be made at least one week before the meeting unless a majority of the members determine by a recorded vote that the Corporation business requires that such meeting be called at an earlier date. If an earlier date is so established, the Corporation shall make

such public announcement at the earliest practicable time.

(c) Following a public announcement required by paragraph (a) of this section, the time or place of the meeting may be changed only if the Corporation publicly announces the change at the earliest practicable time. The subject matter of a meeting or the determination to open or close a meeting or portion of a meeting to the public may be changed following the public announcement required by paragraph (a) of this section only if a majority of the members determine by a recorded vote that the Corporation business so requires and that no earlier announcement of the change was possible and if the Corporation publicly announces such change and the vote of each member upon such change at the earliest, practicable time.

(d) In addition to any other means which the Corporation may choose, public announcements required by this section shall be made by posting a notice in the reception area of the Corporation's headquarters at 6903 Rockledge Drive, Bethesda, Maryland 20817.

(e) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the Corporation official designated to respond to requests for information about the meeting shall be submitted for publication in the FEDERAL REGISTER.

(f) Votes taken pursuant to this section may be conducted through any means which the Corporation Board determines are appropriate, including a notation voting process.

### §1101.5 Procedure for closing meetings.

(a) Action under §1101.6 to close a meeting shall be taken only when a majority of the members vote to take such action. A separate vote shall be taken with respect to each meeting, a portion or portions of which are proposed to be closed to the public pursuant to §1101.6, or with respect to any information which is proposed to be withheld pursuant to §1101.6. 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 any 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 (30) days after the initial meeting in such series. The vote of each member participating in such vote shall be recorded and no proxies shall be allowed.

(b) Notwithstanding that the members may have already voted not to close a meeting, whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraphs (e), (f), or (g) of §1101.6, the Board, upon request of any one of its members made prior to the commencement of such portion, shall vote by recorded vote whether to close such portion of the meeting.

(c) Within one day of any vote taken pursuant to this section, the Corporation shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Corporation shall, within one day of the vote taken pursuant to this section, make publicly available a full written explanation of this action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. Information to be made publicly available pursuant to this paragraph (c) shall be posted in the reception area of the Corporation's headquarters.

(d) For every meeting closed pursuant to §1101.6, there shall be a certification by the General Counsel of the Corporation stating whether, in his or her opinion, the meeting may be closed to the public and each relevant exemptive provision. A copy of such certification shall be retained by the Corporation and shall be made publicly available.

(e) Votes taken pursuant to this section may be conducted through any means which the Corporation Board determines are appropriate, including a notation voting process.

### § 1101.6 Criteria for closing meetings.

Except in a case where the Board finds that the public interest requires otherwise, the second sentence of § 1101.3(a) shall not apply to any portion of a meeting and such portion may be closed to the public, an the requirements of §§ 1101.4 and 1101.5 (a), (b), and (c) shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board properly determines that such portion or portions of its meeting 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;

(b) Relate solely to the internal personnel rules and practices of the Corporation:

(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, including section 1314 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2297b–13, with reference to trade secrets and commercial and financial information, and section 148 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2168, with reference to particular information regarding the facilities leased by the Corporation from the U.S. Department of Energy;

(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 action of an agency, except that this provision shall not apply in any instance where such an agency has already disclosed to the public the content or nature of its proposed action, or where such an agency is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

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

### § 1101.7 Transcripts of closed meetings.

(a) For every meeting closed pursuant to § 1101.6, the presiding officer of the meeting shall prepare a statement setting forth the time and place of the

meeting, and the persons present, and such statement shall be retained by the Corporation.

(b) The Corporation shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (h) or (j) of §1101.6, the Corporation shall maintain either such a transcript or recording, or a set of minutes. 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 rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Corporation shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two (2) years after such meeting, or until one year after the conclusion of any Corporation proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Within a reasonable time after the adjournment of a meeting closed to the public, the Corporation shall make available to the public, at the Corporation's headquarters, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Corporation determines to contain information which may be withheld under §1101.6. Copies of such transcript, electronic recording or minutes shall be furnished to any persons at the actual cost of duplication or transcription.

### §1101.8 Report to Congress.

The Corporation shall report to the Congress annually regarding its compliance with the requirements of the Government in the Sunshine Act, 5 U.S.C. 552b.

## PART 1102—PROCEDURES FOR DISCLOSURE OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

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AUTHORITY: 5 U.S.C. 552.

SOURCE: 59 FR 27437, May 27, 1994, unless otherwise noted.

### §1102.1 Purpose.

This part prescribes the procedures by which records of the United States Enrichment Corporation may be made available pursuant to section 1314 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2297b–13, and the Freedom of Information Act, 5 U.S.C. 552.

### §1102.2 Definitions.

As used in this part—

*Commercial use request* means request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request for records properly belongs in this category, the Corporation will look to the use to which a requester will put the documents requested. When the Corporation has reasonable cause to doubt the use to which a requester will put the records sought, or where the use is not clear from the request itself, it will seek additional clarification before assigning the request to a specific category. If still in doubt, the Corporation will make the determination based on the factual circumstances surrounding