

## § 1.1203

NOTE 2 TO PARAGRAPH (d): To be deemed a party, a person must make the relevant filing with the Secretary, the relevant Bureau or Office, or the Commission as a whole. Written submissions made only to the Chairman or individual Commissioners will not confer party status.

NOTE 3 TO PARAGRAPH (d): The fact that a person is deemed a party for purposes of this subpart does not constitute a determination that such person has satisfied any other legal or procedural requirements, such as the operative requirements for petitions to deny or requirements as to timeliness. Nor does it constitute a determination that such person has any other procedural rights, such as the right to intervene in hearing proceedings. The Commission or the staff may also determine in particular instances that persons who qualify as "parties" under §1.1202(d) should nevertheless not be deemed parties for purposes of this subpart.

NOTE 4 TO PARAGRAPH (d): Individual listeners or viewers submitting comments regarding a pending broadcast application pursuant to §1.1204(a)(8) will not become parties simply by service of the comments. The Media Bureau may, in its discretion, make such a commenter a party, if doing so would be conducive to the Commission's consideration of the application or would otherwise be appropriate.

NOTE 5 TO PARAGRAPH (d): A member of Congress or his or her staff, or other agencies or branches of the federal government or their staffs will not become a party by service of a written submission regarding a pending proceeding that has not been designated for hearing unless the submission affirmatively seeks and warrants grant of party status.

(e) *Matter designated for hearing.* Any matter that has been designated for hearing before an administrative law judge or which is otherwise designated for hearing in accordance with procedures in 5 U.S.C. 554.

[62 FR 15854, Apr. 3, 1997, as amended at 64 FR 68947, Dec. 9, 1999; 64 FR 72571, Dec. 28, 1999; 65 FR 56261, Sept. 18, 2000; 67 FR 13224, Mar. 21, 2002]

### SUNSHINE PERIOD PROHIBITION

#### § 1.1203 Sunshine period prohibition.

(a) With respect to any Commission proceeding, all presentations to decisionmakers concerning matters listed on a Sunshine Agenda, whether ex parte or not, are prohibited during the period prescribed in paragraph (b) of this section unless:

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(1) The presentation is exempt under §1.1204(a);

(2) The presentation relates to settlement negotiations and otherwise complies with any *ex parte* restrictions in this subpart;

(3) The presentation occurs in the course of a widely attended speech or panel discussion and concerns a Commission action in an exempt or a permit-but-disclose proceeding that has been adopted (not including private presentations made on the site of a widely attended speech or panel discussion); or

(4) The presentation is made by a member of Congress or his or her staff, or by other agencies or branches of the Federal government or their staffs in a proceeding exempt under §1.1204 or subject to permit-but-disclose requirements under §1.1206. If the presentation is of substantial significance and clearly intended to affect the ultimate decision, the presentation (or, if oral, a summary of the presentation) must be placed in the record of the proceeding by Commission staff or by the presenter in accordance with the procedures set forth in §1.1206(b).

(b) The prohibition set forth in paragraph (a) of this section applies from the release of a public notice that a matter has been placed on the Sunshine Agenda until the Commission:

(1) Releases the text of a decision or order relating to the matter;

(2) Issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or

(3) Issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first.

[62 FR 15855, Apr. 3, 1997, as amended at 64 FR 68947, Dec. 9, 1999]

### GENERAL EXEMPTIONS

#### § 1.1204 Exempt ex parte presentations and proceedings.

(a) *Exempt ex parte presentations.* The following types of presentations are exempt from the prohibitions in restricted proceedings (§1.1208), the disclosure requirements in permit-but-disclose proceedings (§1.1206), and the prohibitions during the Sunshine Agenda period prohibition (§1.1203):