



U.S. Chemical Safety and Hazard Investigation Board

SUBJECT: BOARD VOTING, PUBLIC MEETINGS, AND QUORUM

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1. **PURPOSE.** This Order provides the policies and procedures for preparing, considering, and adopting documents by the Chemical Safety and Hazard Investigation Board (“CSB” or “Board”) through the notation process. This Order also describes internal policies and procedures for handling the administrative matters necessary to plan for and hold public meetings of the Board. During such time as the position of Chairperson is vacant, the term “Chairperson” as used in this Order also refers to the Board Member delegated executive and administrative authority by the Board pursuant to Board Order 003 (called the “Interim Executive” per Board Order 003).
2. **EFFECTIVE DATE.** This Order is effective upon passage by the Board.
3. **SCOPE.** This Order applies to the Board and all CSB staff.
4. **REFERENCES.** 42 U.S.C. § 7412(r)(6). 5 U.S.C. § 552b. 40 C.F.R. Parts 1600 and 1603.
5. **POLICY.** It is the policy of the Board to conduct its voting and meeting activities in an efficient and orderly manner, in compliance with applicable statutes and regulations.
6. **QUORUM AND VOTING REQUIREMENTS.** The quorum and voting rules of the Board are set forth in general at 40 C.F.R. § 1600.5. A single Board Member (whether the Chairperson or another Member) shall not constitute a quorum of the Board for purposes of voting or otherwise transacting Board business, except as provided in 40 C.F.R. § 1600.5 and Board Order 028. Where approval of the Board is required by this Order or any other Board Order or CSB rule or regulation for any authority or action, in the event that the Board consists of only a single Member (whether the Chairperson or another Member), that single Member may not give such approval (by voting or otherwise), exercise such authority, or take such action, even if not specifically so stated in the Order, rule or regulation, except as provided in 40 C.F.R. § 1600.5 and Board Order 028.
7. **NOTATION VOTING.** The Board may use the notation process to vote on any item that requires Board approval, unless the item has been properly calendared by a Member and scheduled for a vote by the Board in a public meeting. For purposes of this Order, “calendar” or “calendared” means that a Member has indicated on the voting sheet for a notation item that the Member wishes the item to be considered in a public meeting of the Board rather than by notation and the Member has set forth the Member’s concerns about the item on the voting sheet or in an attached memorandum, in accordance with the requirements of this Order. Examples of items that may be adopted through the notation process include, but are not limited to, the following:
 - Board Order.
 - Investigation Report.

- Safety Study.
 - Recommendation status change.
 - Critical Drivers List.
 - Decision regarding whether to hold a special public meeting of the Board on less-than-normal notice.
 - Decision regarding whether to convene a Public Hearing.
 - Regulation, rule, or procedure of the Board.
 - Initial Budget Proposal.
 - Annual Operating Budget.
 - Contract.
 - Annual Performance Plan.
 - Annual Performance and Accountability Report.
 - Any other item that requires action by a vote of the full Board.
- a. **Document Origin.** A document that the Members will vote on under the notation process may be submitted for consideration by any Member or may originate from one of the offices of the CSB. A "notation item" consists of a notation memorandum signed by the Chairperson (or a designee), the draft document proposed for approval, and pertinent attachments necessary for a full understanding of the document. A Member who submits an item also may provide a memorandum from the Member explaining the item, which shall be provided to the Board with the notation item.
- b. **Office and Member Responsibilities When Submitting a Notation Item.**
- 1) Submitting Notation Items. An item submitted for notation shall be distributed to the Members accompanied by a notation memorandum signed by the Chairperson (or a designee).

An originating office or Member who submits a notation item is responsible for obtaining any necessary concurrence from other offices. For example, if an originating office or Member submits a notation item seeking the allocation or reallocation of funding, the originating office must obtain the concurrence of the Office of Financial Operations that the funding is available for allocation or reallocation. Such concurrence may be demonstrated by email or by any other writing, which shall be provided to the General Counsel (and the Chairperson) with the notation item. If the originating office or Member is unable to obtain all necessary concurrences from other offices but still submits

the notation item to the General Counsel (and the Chairperson) as outlined below, the originating office or Member shall also attach a memorandum explaining why any such concurrence was not obtained.

- 2) Draft documents. The originating office or Member is responsible for preparing notation documents. All documents must be edited and proofread by the originating office or Member before submission to the Office of General Counsel and distribution to the Board as a notation item.
- 3) Pertinent attachments. The originating office or Member is responsible for providing all attachments to the notation memo.
- 4) Routing to Office of General Counsel. After all concurrences are obtained, the originating office or Member shall deliver the document(s) to be considered by the Board, to the Office of General Counsel. If the originating office or Member is unable to obtain all necessary concurrences from other offices, the originating office or Member also shall provide a memorandum explaining why any such concurrence was not obtained. The Office of General Counsel shall provide the document(s) to the Chairperson for review and, in the case of an item from originating office, approval. The Chairperson has the sole authority to approve or disapprove a notation item that is submitted by an originating office for Board consideration, subject to the appeal process outlined in this Order. Except as provided in Board Order 003, this authority cannot be delegated, and no CSB office, staff member, or other employee has the authority to approve or disapprove a notation item from an originating office that is proposed to be considered by the Board. The Office of General Counsel and the Chairperson may make revisions to a notation item from an originating office, however, to improve its clarity or ensure that it is consistent with applicable legal requirements and Board Orders.
- 5) Deadlines. If the Board must approve the draft document by a certain date to meet an external deadline, the originating office or Member is responsible for ensuring that all Board Members are aware of the deadline and have sufficient time to consider the notation item before the deadline.
- 6) Board Briefing. Prior to the distribution of a notation item to the Members for a vote, an originating office may, with the Chairperson's consent, conduct a briefing for the Board on the matter that is the subject of the notation item.

c. Board Consideration of Notation Items.

Except as specifically set forth herein, no CSB office, staff member, or other employee has the authority to object to a proposed notation item or otherwise prevent consideration of or a vote by the Board on a notation item or any other matter. No CSB office, staff member, or other employee shall prevent, delay, impede or otherwise obstruct a vote by the Board on a notation item or any

other matter and shall not do so under any circumstances, except to the extent provided herein and in accordance with the specific procedures set forth herein. No CSB office, staff member or other employee, including the Chairperson and Board Members, has the authority to suspend, invalidate, delay, impede or otherwise obstruct implementation of a vote that has been taken by the Board and shall not do so under any circumstances.

1) Docketing and Appeals.

(a) Item from an Originating Office. After receiving an item from the originating office for circulation to the Members, the General Counsel shall docket the item if it addresses any of the matters listed in Section 7 above, upon the approval of or at the direction of the Chairperson. If the item addresses a matter not listed in Section 7 above, the General Counsel shall, within one (1) business day, determine whether the item is within the scope of matters requiring a Board vote, and if so, docket the item and distribute it as described below, upon the approval of or at the direction of the Chairperson. If the General Counsel determines that the item from the originating office is outside the scope of this Order, or if the Chairperson does not approve or otherwise direct that the item be docketed and distributed to the Board, the item will be returned to the originating office with a written explanation as to the reason for the General Counsel's decision.

- (1) If the General Counsel determines that the item is outside the scope of this Order, the General Counsel's negative determination may be appealed by the originating office in writing to the Chairperson.
- (2) If the Chairperson declines to reverse the General Counsel's negative determination or otherwise declines to approve or direct that the item be docketed and distributed to the Board, the originating office may appeal the Chairperson's decision to the full Board for further disposition by sending a written notice of the appeal to the General Counsel (with a copy to the Chairperson).
- (3) Upon receiving a notice of appeal of the Chairperson's decision from the originating office, the General Counsel shall advise the Chairperson of the appeal and shall distribute to the Board a routine (nonurgent) notation item outlining the appeal, which may not be calendared by the Chairperson or any other Member. The notation item shall be voted on by the Board following the same voting procedure and in the same time frame as for any other routine (nonurgent) notation item, except that a Member's voting record is due to the Office of General Counsel within five (5) business days from the date the notation item is distributed and the due date cannot be extended by the Chairperson.
- (4) If the originating office appeals to the Board to overturn the Chairperson's decision not to reverse a determination by the General

Counsel that the proposed notation item is not within the scope of matters requiring a Board vote or otherwise legally should not be voted on or approved by the Board, the General Counsel and the Chairperson may each provide a memorandum to the Board in connection with the appeal stating the basis for the General Counsel's determination (and the Chairperson's decision).

- (5) If the originating office appeals a decision by the Chairperson to not approve or not otherwise direct that the item be docketed and distributed to the Board, the Chairperson may provide a memorandum to the Board stating the basis for the Chairperson's decision.
 - (6) If a majority of the Board votes to overturn a determination by the General Counsel or a decision by the Chairperson and consider the item, the General Counsel shall distribute the originating office's notation item (and any accompanying materials) to the Board.
- (b) Item from a Board Member. An item received from a Member shall be automatically docketed and distributed to the Board as described below. Except as otherwise provided herein, an item received from a Member shall not be subject to review by the Office of General Counsel, the General Counsel, or any other CSB office or staff member for a determination whether the item is within scope of matters requiring a Board vote or for any other reason, except to ensure that the item is in the proper format and is not inconsistent with applicable legal requirements and Board Orders, unless the Member submitting the item has requested or otherwise approved of such a review. In consultation with and subject to the approval of the Member who submitted the item, the Office of General Counsel and the Chairperson may make revisions to the notation item to improve its clarity or ensure that it is consistent with applicable legal requirements and Board Orders.

No CSB office, staff member, or other employee, including the Chairperson and Board Members, shall prevent, delay, impede or otherwise obstruct a vote by the Board on a notation item received from a Member and shall not do so under any circumstances. No CSB office, staff member, or other employee, including the Chairperson and Board Members, shall suspend, invalidate, delay, impede or otherwise obstruct implementation of a vote that has been taken by the Board and shall not do so under any circumstances. If the General Counsel believes that a notation item submitted by a Member is not within the scope of matters requiring a Board vote or otherwise legally should not be voted on or approved by the Board and the Member does not agree to revisions to make the item appropriate for a vote, the General Counsel may provide a memorandum stating such to the Board, which shall specifically state the basis for this position. If a notation item has been received from a Member other than the Chairperson, the Office of General Counsel shall notify the Chairperson prior to distributing the item and, as appropriate,

advise the Chairperson if the notation item is not within the scope of matters requiring a Board vote or otherwise legally should not be voted on or approved by the Board, but the Chairperson shall not prevent the notation item from being distributed to and voted on by the Board.

- 2) Notation number. The Office of General Counsel shall assign a file (notation) number to the document, enter the notation number and other pertinent information into the Board's docket, and prepare the notation folder. The notation number is determined as follows:
 - (1) A new notation item that is not closely related to a previous notation item is assigned a number from a single consecutive series; notation items are numbered in the order received.
 - (2) A new notation item that is closely related to a previous notation item that was voted on by the Board or withdrawn during the same fiscal year is assigned the same number as the previous item with the addition of a letter suffix.
- 3) Copy distribution. The Office of General Counsel shall distribute copies of notation items electronically by email to the Members, unless a Member requests that the notation item be provided to him/her by a different method. A Member voting record shall also be included with each notation item.
- 4) Notation files. The Office of General Counsel shall maintain the official, complete file on all notation items that the Board has considered. The files shall contain a copy of the documents circulated to the Members, the Members' voting records, all notation-related memoranda, and final copies of the document as issued. Members shall have access to all such files and all records contained therein but shall not modify any such files and records in any way, and the Office of General Counsel shall provide copies of any such files and records to a Member as requested by the Member. Likewise, the Office of General Counsel shall provide copies of notation files to any Office Director upon request, provided that the notation files are applicable to the Office or the Office's staff or the Office Director has shown a bona fide need to have copies of the files.

8. **BOARD REVIEW OF ACTIONS BY GENERAL COUNSEL OR OFFICE OF GENERAL COUNSEL.**

At the request of a Member, the Board shall review and vote on any opinion, determination, ruling or other action of any sort by the General Counsel or the Office of General Counsel relating to any matter of any kind that affects the operations of the Board or the CSB. The Member shall submit a written request for such a review and vote to the General Counsel with a copy to the Chairperson. If the Chairperson is seeking a review and vote, the Chairperson shall advise the General Counsel in writing. Upon receiving notice from a Member or the Chairperson of his/her intent to have such Board review and vote, the General Counsel or Office of General Counsel shall distribute a notation item to the Board for a vote on the matters presented by the

Member or Chairperson. The notation item may not be calendared for consideration in a public meeting of the Board. If the request has been made by a Member other than the Chairperson, the Office of General Counsel shall notify the Chairperson prior to distributing the notation item, but the Chairperson may not prevent the notation item from being distributed to and voted on by the Board. Notwithstanding the result of any Board vote under this provision, nothing will prevent the General Counsel from providing written advice to the Board on the matter at issue.

9. **CONSIDERATION OF NOTATION ITEM BY WRITTEN VOTE.**

a. **Scope.** All items submitted to the Board for a vote may be acted on in writing. There is no requirement that a notation item be discussed at a public meeting of the Board. However, a Member who proposes a notation item may request that it be placed on the agenda for discussion at a Board Meeting rather than being acted on in writing, except as otherwise specified in this Order. Notation items that are to be discussed at a public meeting of the Board should be circulated to the Members at least two weeks before the meeting. Members may act on a notation item in one of three (3) fashions: by signature on a voting record, by voice vote at a public meeting of the Board, or by a recorded vote at a public meeting of the Board.

b. **The Voting Record.**

1) Actions. When a notation item is circulated by the Office of General Counsel to the Members for a written vote, each Member shall record his/her vote on a Member Voting Record supplied with the item. A Member shall choose one of the following actions:

(a) APPROVE the subject notation item AS PRESENTED.

The Member should not add any additional suggested revisions or changes. If the Member would like to see any change, the Member should calendar the item or vote to disapprove the item.

(b) CALENDAR the notation item for discussion at a public meeting of the Board. When a Member elects to calendar an item, the Member must specify on the voting record or by separate memorandum attached to the record the particular matter(s) that the Member wants to discuss at a public meeting of the Board and the basis for the Member's position that the matter(s) should be discussed at the public meeting rather than considered by a written notation item. If a Member does not specify with particularity the matter(s) that he/she wants to discuss at a meeting, the item shall not be calendared and, unless another voting action is assigned, the Member will be listed as not participating in that vote. If an item has been properly calendared in accordance with the requirements of this Order, the other Members' written voting records for that item are held in abeyance and voided once the vote taken at the public meeting of the Board has been taken, except as otherwise specified in this Order.

If an item has been properly calendared, the Board must consider the calendared notation item at a public meeting of the Board within 60 days

of the date on which the item is calendared. If a public meeting of the Board is not already scheduled to occur within that 60-day period, the Chairperson shall schedule one.

If an item has been properly calendared, the originating office or Member who proposed the notation item may withdraw the item from consideration by the Board before the public meeting, which shall eliminate the need for consideration of, and a vote on, the item at a public meeting. Similarly, a Member who properly calendared a notation item may request that the item no longer be calendared and not be considered at a public meeting of the Board. Further, if a Member who properly calendared a notation item leaves the Board before the public meeting of the Board occurs, the item shall no longer be calendared and shall not be considered at a public meeting. In either case, the notation item shall not be considered at a public meeting of the Board, and the written voting records submitted by the Members for that item shall no longer be held in abeyance, shall become effective, and will prevail, except as otherwise specified in this Order.

- (c) DISAPPROVE the subject notation item and, if desired, submit a written dissent.

If a Member wants to persuade other Members to his/her way of thinking, the Member should address a memorandum to other Members (which may be written either as a formal memorandum or an email) indicating disagreement with the document and the rationale for it, and the Member's desired disposition of the document. The memorandum must be sent to the Office of General Counsel for distribution to the Members and appropriate CSB staff prior to the close of the voting period, and the Office of General Counsel shall immediately distribute the memorandum to the Board and appropriate Board staff. Upon receiving such a memorandum, any Member who already has voted on the item may rescind his/her vote and revote prior to the close of the voting period, unless the item is an urgent notation item and the General Counsel already has received the affirmative or negative votes of a majority of the participating Members approving or disapproving the urgent item.

- (d) NOT PARTICIPATING in the disposition of the document.

2) Due date.

- (a) Routine Item. A Member's voting record on a routine notation item is due five (5) business days from the date the notation item is distributed and must be returned by that date to the Office of the General Counsel. Weekend Days and Legal Holidays are not considered business days for purposes of the calculation of the due date, although a Member may cast his/her vote on a Weekend Day or Legal Holiday, and the Member's vote shall be recorded as received on that day and counted. Except as otherwise provided herein, the due date may be extended by the Chairperson at his/her

discretion, including upon the request of a Member, for up to an additional five (5) business days. In no event shall the due date for a vote on a specific item exceed ten (10) business days from the date of distribution. A Member who does not submit a vote by the due date will be listed as not participating in that vote.

- (b) Urgent Item. Any Member may request that the General Counsel designate an item as “Urgent,” and after obtaining the Chairperson’s approval of the request, the General Counsel shall designate the item as such. If the Chairperson declines to approve the Member’s request to designate the item as ‘Urgent’, the General Counsel shall notify the Member of the Chairperson’s decision. If the Member still desires the item to be designated as “Urgent”, the General Counsel shall designate the item as “Urgent” if the Member obtains the support of another Member for the “Urgent“ designation, regardless of whether the Chairperson approves the designation. An originating office may request that a notation item submitted by the office be designated as “Urgent,” but the item shall not be so designated without the approval of or direction by the Chairperson, and the Chairperson’s decision on the originating office’s request is not subject to review. The foregoing notwithstanding, the Chairperson may direct that a notation item submitted by a Member or an originating office be designated as “Urgent” even if the Member or originating office has not requested the designation.

Votes on a notation item marked “Urgent” are requested "as soon as possible” but may be returned and counted up to five (5) business days from the date of distribution and still be included in the final vote tally, although, as provided herein, an urgent notation item is either adopted or disapproved immediately as soon as the Office of General Counsel has received the affirmative or negative votes of a majority of the participating Members, unless the Office of General Counsel has received a vote by a Member to calendar the item before that time. Once the Office of General Counsel has received the affirmative or negative votes of a majority of the participating Members, an urgent notation item cannot be calendared thereafter, and a vote by a Member to calendar the item received by the Office of General Counsel after that time has no effect. An urgent item is indicated as such on the voting record.

- 3) Disposition date. The date of approval or disapproval of a notation item, which is referred to as the “Disposition Date” in the Board Action Report, is determined by the following:
- (a) Routine item. A routine notation item is either adopted or disapproved when the Office of General Counsel has received all Member voting records for the item, and a majority of the participating Members have voted in favor of or against the item. In the event of a tie vote, the notation item shall be disapproved. The date of approval or disapproval is the date that the last Member signed his/her voting record. In the event that any Member fails

to submit a voting record for that item by the due date, the date of approval or disapproval is the day after the due date for votes on that item.

- (b) Urgent item. An urgent notation item is either adopted or disapproved immediately as soon as the Office of General Counsel has received the affirmative or negative votes of a majority of the participating Members, unless the Office of General Counsel has received a vote by a Member to calendar the urgent item before that time. Once the Office of General Counsel has received the affirmative or negative votes of a majority of the participating Members and has not received a vote from a Member before that time to calendar the item, the urgent notation item is either adopted or disapproved and may not be calendared thereafter, and a vote thereafter by a Member to calendar the item shall have no effect. If the Office of General Counsel receives a vote by a Member to calendar an urgent notation item that complies with the requirements of this Order before the Office of General Counsel has received the affirmative or negative votes of a majority of the participating Members, the item is calendared.

As required by this Order, when a Member elects to calendar an item, the Member must specify on the voting record or by separate memorandum attached to the record the particular matter(s) that the Member wants to discuss at a public meeting of the Board and the basis for the Member's position that the matter(s) should be discussed at a public meeting rather than considered by written notation item. If a Member does not specify with particularity the matter(s) that he/she wants to discuss at a public meeting, the item shall not be calendared and the Member will be listed as not participating in that vote.

In the event of a tie vote, the notation item shall be disapproved.

- 4) Former Member participation. Occasionally, a Member will leave his/her term at the Board while a notation item is pending. If the Member has submitted his/her voting record to the Office of General Counsel prior to the Member's departure from the Board, the vote will be considered in the final disposition of the notation item, even if the approval/disapproval date falls after the Member has left the Board. However, if the notation item has been properly calendared by another Member, the former Member's vote shall be voided, even if the originating office or Member who proposed the notation item withdraws the item from consideration by the Board before the public meeting or the Member who calendared the notation item requests that the item no longer be calendared and not be considered at a public meeting of the Board.

A new Member who is appointed to replace a former Member will not receive a voting record to participate in a pending notation item if the former Member has voted, unless the Board has less than five Members upon the new Member taking office. If the former Member's voting record is eventually

voided because the notation item is calendared, the new Member may participate in the vote on the item at the public meeting of the Board, regardless of whether the Board has five Members upon the new Member taking office.

The General Counsel is responsible for resolving any disputes regarding the validity of a former Member's vote.

- 5) Notation Item from a Member. No CSB office or staff member has the authority to prevent, delay, impede or otherwise obstruct a vote by the Board on a notation item from a Member and shall not do so under any circumstances. No CSB office, staff member or other employee, including the Chairperson and Board Members, has the authority to suspend, invalidate, impede or otherwise obstruct implementation of a vote that has been taken by the Board and shall not do so under any circumstances. If the Chairperson or the General Counsel believes that a notation item submitted by a Member is not within the scope of matters requiring a Board vote or otherwise legally should not be voted on or approved by the Board and the Member does not agree to revisions to make the item appropriate for a vote, the Chairperson or the General Counsel may provide a memorandum stating such to the Board, which shall specifically state the basis for the Chairperson's and/or General Counsel's position.
- c. **Concurring/Dissenting Statements.** When the Board votes on a notation item, either orally in a public meeting of the Board or by written record, a Member may file a statement that offers additional views concerning all or part of the item. The Member may file a concurring statement, a dissenting statement, or a concurring and dissenting statement. The original, signed statement is retained in the official notation file in the Office of General Counsel. At a Board Member's request, his/her dissenting statement to an Investigation Report shall be published on the CSB's website with the Board Action Report.
- 1) Written record. When notation items are approved in writing, the Member shall attach the concurring and/or dissenting statement to his/her voting record.
 - 2) At meeting. When notation items are adopted at a public meeting of the Board, a Member who wishes to file a concurring and/or dissenting statement shall state his/her intention to do so immediately following the vote. The statement should be sent to the Office of General Counsel within five (5) business days after the public meeting. On receipt of the statement, the Office of General Counsel shall circulate the statement to the other Members for them to note. The Office of General Counsel may also distribute information copies to appropriate agency staff. Any other Member may join the Member's statement.
- d. **Notification of Board Action.** Within two (2) business days of the disposition of a notation item, the Office of General Counsel shall provide the Board and, if relevant, the originating office, and other appropriate agency staff with a Board

Action Report. The Board Action Report shall be made public thereafter by posting it on the CSB website. Members should verify their records regarding the item and notify the Office of General Counsel of any discrepancies. The Board Action Report shall indicate the action taken by the Board, the votes of the Members, and, the disposition of the item. The originating office shall be responsible for ensuring that the proper action is taken on all adopted notation items.

e. **Withdrawal of Notation Item.** A Member or the director of the originating office may request that a notation item be withdrawn from the Board's consideration if the item has not yet been approved or disapproved by the Board. The request for withdrawal shall be made in writing (by memorandum or email) and sent to the General Counsel.

- 1) If the request to withdraw is made by the originating office or by the Member who submitted the notation item, the notation item shall automatically be withdrawn if the voting period has not yet ended. A notation item submitted by a Member also shall automatically be withdrawn if the Member who submitted the item leaves the Board before the end of the voting period.
- 2) If the request is made by a Member who did not submit the notation item, the General Counsel shall handle the request to withdraw as an urgent notation item and circulate it to the Members with a voting record. An urgent notation item to withdraw a pending notation item may not be calendared. A majority of the Members must concur in the withdrawal either by written voting record, or by voice vote in a public meeting of the Board if the meeting occurs before the voting period has ended on the urgent notation item to withdraw.

f. **Publication of Board Approved Documents.**

- 1) Report/Study. The Office of Investigations and Recommendations is responsible for the final preparation of approved investigation reports and safety studies. The Office is also responsible for the technical and editorial accuracy of the final document and for ensuring that the document is published on the CSB's website.
- 2) Board Order. Following Board approval, the Office of General Counsel is responsible for ensuring that any new or amended Board Order is published on the CSB's website. The Office of General Counsel is also responsible for distributing copies of new or amended Board Orders to the Members and appropriate staff.
- 3) Regulation. Following Board approval, the Office of General Counsel is responsible for publication of a proposed or final regulation in the *Federal Register*.
- 4) Recommendation Status Change. The Office of Recommendations is responsible for the final preparation of approved Recommendation Status Change documentation and ensuring that such documentation is published

rescheduling of the meeting or the agenda change. If the meeting announcement notice has not been sent to the *Federal Register*, no further action is necessary. If the meeting announcement notice has been sent to the *Federal Register*, whether or not already published therein, a majority of the Board must vote by an urgent notation item to cancel or reschedule the meeting or change the agenda. See 40 C.F.R. Part 1603. This vote must be made public by publication of a subsequent notice in the *Federal Register*. The Office of General Counsel shall circulate an urgent notation item and voting record to the Members for this action, which may not be calendared.

Unless an item requiring a vote is deleted from the meeting agenda in the manner set forth herein, the Members should assume that a vote to approve, disapprove, or table the item, with or without revisions, will occur at the public meeting of the Board.

- 3) Closed Meeting. Members must act affirmatively to close all or part of a meeting to the public and in accordance with the provisions of 40 C.F.R. §§ 1603.7 and 1603.8.
- 4) Notice of Meeting.
 - (a) Normal Notice. Normal Notice. Public notice of a Board meeting, whether open or closed, must be published in the Federal Register at least seven calendar days in advance of the meeting date. The notice includes the time, place, and agenda for the meeting, the status of the meeting (open, closed, or partially open), and the name and telephone number of the CSB official designated to respond to requests for information about the meeting. Information about the analysis, findings, conclusions, and recommendations in an agenda item and copies of agenda items shall not be made available to anyone other than the Board and CSB staff at any time before the items are adopted, without the prior specific approval of the Chairperson
 - (b) Advance Public Notice. To the extent possible, in addition to the public announcement required under 40 C.F.R. § 1603.9, the Chairperson should provide advance notice of a scheduled meeting at least two weeks prior to a confirmed meeting date, along with the name and telephone number of the CSB official designated to respond to requests for information about the meeting. Any advance notice must include a prominent disclaimer at the end as follows:

The above advance notice is subject to change and is not the official “public announcement” required by the Sunshine Act. The Board will make a public announcement of a final meeting notice and agenda by publishing it in the Federal Register in accordance with 40 C.F.R. § 1603.9.

The Chairperson (or his/her designee) should publicize any advance notice by publishing it on the CSB website and by sending it to the CSB’s email

subscription list (email list).

- (c) Less-than-normal Notice. If a Board meeting is to be held too late for normal notice in the *Federal Register*, the Office of General Counsel shall circulate to the Members an urgent notation item and voting record for approval to hold the meeting on less-than-normal notice, which may not be calendared. A majority of all Board Members must vote to approve holding a meeting with less than the required public notice period. Notice of a meeting held on less-than-normal notice is published in the *Federal Register*.

c. **Record of Meeting**. The official record of a public meeting of the Board is maintained by the Office of General Counsel.

- 1) Open Meeting. The record of an open meeting consists of the following: (1) a copy of the agenda circulated to Members for approval; (2) a copy of the agenda as approved by the Members; (3) a copy of the notice of meeting as it appeared in the *Federal Register*; (4) a copy of any revised agenda, including a copy of the voting record amending the agenda; (5) a copy of any change notice published in the *Federal Register*; (6) a copy of the voting record to announce a meeting on less-than-normal notice; and (7) a videotape, transcript, or electronic recording of the meeting.
- 2) Closed Meeting. The record of a closed meeting consists of the following: (1) a copy of the agenda circulated to Members for approval; (2) a copy of the agenda as approved by the Members; (3) a copy of the notice of meeting as it appeared in the *Federal Register*; (4) a copy of any revised agenda, including a copy of the voting record amending the agenda; (5) a copy of any change notice published in the *Federal Register*; (6) a copy of the voting record to announce a meeting on less-than-normal notice; (7) a voting record by which the Members approved closing the meeting and the General Counsel certified closing the meeting; and (8) a videotape, electronic recording, transcript, or minutes of the meeting.

The General Counsel is responsible for recording a closed meeting on videotape, electronic recording, transcript, or minutes, as appropriate. The Sunshine Act requires the agency to retain any such videotape, electronic recording, transcript, or minutes "for a period of at least two (2) years after such meeting, or until one (1) year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later." 5 U.S.C. § 552b(f)(2). Except for Members and the General Counsel, no other CSB employee or other person shall have access to any such videotape, electronic recording, transcript, or minutes of a closed meeting without the express permission of the Chairperson, in consultation with the General Counsel. Notwithstanding the foregoing, the Members may direct by an urgent notation item vote, which may not be calendared, that access to any videotape, electronic recording, transcript, or minutes of a closed meeting be limited to Members only and kept in the custody of the Chairperson.

d. **Member Comments on Agenda Items.** The originating office of a notation item is responsible for ensuring that all revisions made by the Members before, during, and after a public meeting of the Board are incorporated into the final document before printing or release. For a notation item proposed by a Member, the General Counsel shall be responsible for ensuring that all revisions made by the Members before, during, and after a Board meeting are incorporated into the final document before printing or release.

- 1) Pre-meeting comments/revisions. A Member may make pre-meeting comments on agenda items in writing (including by email). The Member shall distribute copies of the comments to the full Board, the General Counsel, and the heads of appropriate offices at least seven (7) days prior to the scheduled meeting, unless the meeting has been scheduled with less-than-normal notice, in which case the comments shall be distributed no later than three (3) days prior to the meeting. To expedite discussion of a notation item at a public meeting of the Board, the office that originated the notation item should prepare the staff response to a Member's pre-meeting comments in writing (including by email), with revised pages, if necessary, before the meeting. At least two (2) days prior to the scheduled meeting, the originating office shall deliver the staff response to the Members, the General Counsel, and appropriate staff.

The staff response shall be addressed to the Board, copied to the General Counsel and other appropriate staff, and signed by the head of the originating office. If the response includes revisions to pages of the notation item, the revised pages are attached to the staff response memorandum.

If a Member wishes to make pre-meeting comments on an agenda item requested by another Member, the Member shall submit the comments in writing (including by email) to all other Members, the General Counsel, and the heads of any appropriate office(s) at least seven (7) days prior to the scheduled meeting. If another Member, the General Counsel, or the head of an office wishes to respond to the comments, the responding Member, General Counsel, or office head shall provide the response in writing (including by email) to the full Board, the General Counsel, and appropriate staff at least two (2) days prior to the scheduled meeting.

- 2) Meeting comments/revisions. The writer of the notation item and appropriate staff shall be present at the public meeting of the Board at which a notation item is discussed to answer Member questions. The Board may ask the staff to add or delete information in the document or to revise current text. The approved revisions to the text of an adopted document do not have to be subsequently circulated to the Board for approval unless a Member specifically requests this action.
- 3) Post-meeting comments/revisions. When a Member requests that revisions be circulated for review after the public meeting of the Board or if the notation item was adopted pending revisions, the office originating the

notation item shall prepare the necessary revisions in writing, and deliver the revisions to the General Counsel, who shall process the revisions as a revised notation item in accordance with the procedures discussed in Section 7. For a notation item proposed by a Member, the General Counsel shall be responsible for preparing the necessary revisions and sending them to the Board. The revisions should be distributed to the Board within five (5) business days after the public meeting of the Board.

e. Member Voting on Agenda Items.

- 1) Voice vote. An agenda item is adopted or disapproved by voice vote as determined by the Chairperson, unless (a) an absent Member has asked that the record be held open for his/her vote (see paragraph 2 below) or (b) a Member present at the Meeting requests a recorded vote. A quorum of the Board must be present at the meeting for a vote to be taken. In the case of a recorded vote, an item is approved if a simple majority of the Members present at the meeting vote in favor of the item. The General Counsel or his/her designee shall record the votes of each of the Members, and this information shall become part of the record of that meeting. A notation item is not considered to be adopted at a meeting if the record is being held open at the request of an absent Member. In the event of a procedural disagreement, guidance in *Roberts Rules of Order* is followed.
- 2) Absent Member. A Member who is absent from a public meeting of the Board is listed as not participating in the disposition of all agenda items unless the Member has asked to participate in either of the following two ways no later than five (5) business days prior to the meeting, although the Chairperson may approve a Member's request on shorter notice in exigent circumstances:
 - (a) Open record. An absent Member may request that the Chairperson leave the record open for up to ten (10) business days following the meeting for his/her later participation and vote. Within two (2) business days following the meeting, the General Counsel will distribute a voting record for each agenda item electronically by email to the absent Member, unless the Member requests that the voting record be provided to him/her by a different method. In such cases, the date of distribution is the date the item and voting record is sent to the Member. To be included in the vote tally, the signed voting record must be returned to the General Counsel before the record is closed for that meeting. The approval date for the notation item is the date an absent Member submits his/her signed voting record or the day after the record closes for that meeting, whichever date comes first. A Member who fails to submit a vote before the record closes will be listed as not participating in that vote.
 - (b) Proxy. An absent Member may vote by proxy. The proxy must include the absent Member's voting intent with respect to the agenda item. A blank proxy may not be voted. A Member may designate any other Member as his/her proxy by email or some other writing to that Member. Notice of

the designation of a proxy must be given immediately to the Chairperson, the other Members, and the General Counsel and, as outlined above, no later than five (5) business days prior to the meeting, although the Chairperson may allow a proxy to be provided and voted on shorter notice in exigent circumstances. The proxy holder determines whether any changes made at the meeting have so affected the agenda item that the proxy should not be voted. Otherwise, the proxy holder votes the proxy, subject to the direction received from the absent Member.

- 3) Restrictions of Proxy. A proxy vote may not be used to provide a quorum for a Board Meeting. A proxy may not be used as a vote in deciding to hold a meeting on less than the required public notice or to close a meeting.

11. **APPROVAL BY A SINGLE BOARD MEMBER PROHIBITED**. Where approval of the Board is required by this Order or any other Board Order or CSB rule or regulation for any authority or action, in the event that the Board consists of only a single Member (whether the Chairperson or another Member), that single Member may not give such approval (by voting or otherwise), exercise such authority, or take such action, even if not specifically so stated in the Order, rule or regulation, except as provided in 40 C.F.R. § 1600.5 and Board Order 028.

12. **INTERPRETATION**. To the extent that the provisions of this Order conflict with the provisions of 40 C.F.R. Part 1600 or 40 C.F.R. Part 1603, the provisions of those rules shall govern. In the event of ambiguity or disagreement, questions regarding the implementation and interpretation of this Order and the procedures set forth herein are decided by the Board by a majority vote after receiving the advice of the General Counsel. Notwithstanding the foregoing, in the event that the Board consists of only a single Member (whether the Chairperson or another Member), that single Member may not decide or resolve any ambiguity, disagreement, or questions regarding the implementation and interpretation of this Order and the procedures set forth herein. In the event that the Board consists of only a single Member (whether the Chairperson or another Member), the General Counsel shall decide or resolve any such ambiguity, disagreement, or questions regarding the implementation and interpretation of this Order and the procedures set forth herein.

13. **REVIEW AND UPDATE**. The General Counsel shall be responsible for reviewing and, as needed, proposing revisions to this Order at least once every two (2) years. This Order may be amended or revoked only by a majority vote of the Board. In the event that the Board consists of only a single Member (whether the Chairperson or another Member), that single Member may not amend or revoke this Order.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Adopted October 12, 1999; Amended October 25, 2007; Amended November 9, 2007; Amended November 13, 2009; Amended September 11, 2019; Amended January 3, 2025.