

further action by the Commission will be taken thereon.

(d) Deliberations, discussions, comments or observations made during the course of open meetings do not themselves constitute action of the Commission. Comments made by Commissioners may be advanced for purposes of discussion and may not reflect the ultimate position of a Commissioner.

[42 FR 12867, Mar. 7, 1977, as amended at 45 FR 63491, Sept. 25, 1980]

§0.603 Bases for closing a meeting to the public.

Except where the agency finds that the public interest requires otherwise, an agency or advisory committee meeting may be closed to the public, and information pertaining to such meetings which would otherwise be disclosed to the public under §0.605 may be withheld, if the agency determines that an open meeting or the disclosure of such information is likely to:

(a) Disclose matters that: (1) Are specifically authorized under criteria established by executive order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to such executive order (see §0.457(a));

(b) Relate solely to the internal personnel rules and practices of an agency (see §0.457(b));

(c) Disclose matters specifically exempted 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 (see §0.457(c));

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential (see §0.457(d));

(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 (see §0.457(f));

(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 hearing.

§0.605 Procedures for announcing meetings.

(a) Notice of all open and closed meetings will be given.

(b) The meeting notice will be submitted for publication in the FEDERAL REGISTER on or before the date on

which the announcement is made. Copies will be available in the Press and News Media Division on the day the announcement is made. Copies will also be attached to "FCC Actions Alert", which is mailed to certain individuals and groups who have demonstrated an interest in representing the public in Commission proceedings.

(c)(1) If the agency staff determines that a meeting should be open to the public, it will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Chief, Press and News Media Division, who has been designated to respond to requests for information about the meeting.

(2) If the staff determines that a meeting should be closed to the public, it will refer the matter to the General Counsel, who will certify that there is (or is not) a legal basis for closing the meeting to the public. Following action by the General Counsel, the matter may be referred to the agency for a vote on the question of closing the meeting (See § 0.606).

(d)(1) If the question of closing a meeting is considered by the agency but no vote is taken, the agency will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Chief, Press and News Media Division.

(2) If a vote is taken, the agency will, in the same announcement and within one day after the vote, make public the vote of each participating Commissioner.

(3) If the vote is to close the meeting, the agency will also, in that announcement, set out a full written explanation of its action, including the applicable provision(s) of § 0.603, and a list of persons expected to attend the meeting, including Commission personnel, together with their affiliations. The Commissioners, their assistants, the General Counsel, the Executive Director, the Chief, Press and News Media Division, and the Secretary are expected to attend all Commission meetings. The appropriate Bureau or Office Chief and Division Chief are expected

to attend meetings which relate to their responsibilities (see subpart A of this part).

(4) If a meeting is closed, the agency may omit from the announcement information usually included, if and to the extent that it finds that disclosure would be likely to have any of the consequences listed in § 0.603.

(e) If the prompt and orderly conduct of agency business requires that a meeting be held less than one week after the announcement of the meeting, or before that announcement, the agency will issue the announcement at the earliest practicable time. In addition to other information, the announcement will contain the vote of each member of the agency who participated in the decision to give less than seven days notice and will specify the nature of the emergency situation if it is not clear from the subject matter.

(f) If, after announcement of a meeting, the time or place of the meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time.

(g) If the subject matter or the determination to open or close a meeting is changed, the agency will publicly announce the change and the vote of each member at the earliest practicable time. The announcement will contain a finding that agency business requires the change and that no earlier announcement of the change was possible.

(47 U.S.C. 154, 155, 303)

[42 FR 12867, Mar. 7, 1977, as amended at 44 FR 12425, Mar. 7, 1979; 44 FR 70472, Dec. 7, 1979]

§ 0.606 Procedures for closing a meeting to the public.

(a) For every meeting closed under § 0.603, the General Counsel will certify that there is a legal basis for closing the meeting to the public and will state each relevant provision of § 0.603. The staff of the agency will refer the matter to the General Counsel for certification before it is referred to the agency for a vote on closing the meeting. Certifications will be retained in a public file in the Minute and Rules Branch, Office of the Secretary.