

**§ 1612.5**

**29 CFR Ch. XIV (7-1-08 Edition)**

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 persons 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 of 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 a hearing.

**§ 1612.5 Closed meeting procedures: agency initiated requests.**

(a) Any member of the agency, the Legal Counsel, or any other Commission official submitting an agenda item for the subject meeting may request that any meeting or portion thereof be closed to public observation for any of the reasons provided in § 1612.4 of this

part by submitting a request in writing to the Commission through the Office of the Executive Secretariat no later than fourteen (14) calendar days prior to the meeting.

(b) Upon receipt of any request made under paragraph (a) of this section, the Executive Secretary shall submit the request to the Legal Counsel for certification in accordance with § 1612.9 of this part.

(c) No later than seven (7) calendar days prior to the scheduled meeting the members of the agency shall, upon consideration of the request submitted and consideration of the certified opinion of the Legal Counsel, determine by recorded vote whether to close the meeting or portion of the meeting to public observation. The members may vote less than seven days prior to the scheduled meeting where:

(1) A majority of the members of the Commission determines by recorded vote that agency business requires that any such meeting or series of meetings be held at an earlier date.

(2) A meeting is closed under the Commission's regulation as set forth in § 1612.13(a) of this part.

(3) A meeting is closed pursuant to a request made under § 1612.6 of this part and submitted less than seven days prior to the meeting.

(4) There is a need to change the subject matter or the determination to open or close a meeting previously announced.

(d) The Commissioner shall, at the same time, vote on whether to withhold any information pertaining to the meeting and otherwise required to be announced (§ 1612.7(a)(3)) or made publicly available (paragraphs (f) (2) and (3) of this section).

(e) A meeting, portion of a meeting, or series of meetings may be closed to public observation only when a majority of the entire agency membership votes to take such action. Information pertaining to a meeting, portion of a meeting or series of meetings otherwise required to be announced (§ 1612.7(a)(3)) or made publicly available (paragraphs (f) (2) and (3) of this section) shall be withheld only when a majority of the entire agency membership votes to take such action.

## Equal Employment Opportunity Comm.

## § 1612.7

(f) With respect to each vote taken on whether a meeting should be open or closed, the agency shall, within one day of such vote, make publicly available the following information:

(1) A written copy of the vote of each participating Commission member on the question.

(2) A written explanation of Commission action closing a meeting or portions thereof, and

(3) The name and affiliation of any persons who are expected to attend a closed meeting.

(g) The agency shall, within one day, make publicly available the vote of each Commission member on whether or not to withhold any of the information described in paragraphs (f) (2) or (3) of this section.

(h) A separate vote shall be taken for each meeting proposed to be closed to the public and with respect to any information proposed to be withheld from the public. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings, if each meeting involves the same particular matters and is scheduled to be held no later than thirty (30) calendar days after the first meeting in the series.

[42 FR 13830, Mar. 14, 1977, as amended at 47 FR 46276, Oct. 18, 1982]

### **§ 1612.6 Closed meeting procedures: request initiated by an interested person.**

(a) Any person as defined in § 1612.2 of this part whose interest may be directly affected by a portion of a meeting may request that the agency close that portion of the meeting to the public for any of the reasons listed in § 1612.4(e), (f) or (g).

(b) Any person described in paragraph (a) of this section who submits a request that a portion of a meeting be closed, shall submit such request to the Chairman of the agency at the following address: the Equal Employment Opportunity Commission, 2401 E Street NW., Washington, DC, 20506. Such person shall state with particularity that portion of a meeting sought to be closed and the reasons for such request.

(c) The Chairman, upon receipt of any request made under paragraph (a) of this section, shall furnish a copy of the request to:

(1) Each member of the agency.

(2) The Legal Counsel for certification in accordance with § 1612.9 of this part.

(d) Any member of the agency may request agency action upon such request.

(e) The Commission shall, upon the request of any one of its members and consideration of the certified opinion of the Legal Counsel, determine by recorded vote whether to close such meeting or portion thereof.

(f) The Chairman of the Commission shall promptly communicate to any person making a request to close a meeting or portion of a meeting under this section the agency's final disposition of such request.

[42 FR 13830, Mar. 14, 1977, as amended at 47 FR 46276, Oct. 18, 1982]

### **§ 1612.7 Public announcement of agency meetings.**

(a) Public announcement of each meeting by the agency shall be accomplished by recorded telephone message at telephone number 202-663-7100 (between the hours of 9 a.m. and 5 p.m. e.t.), and by posting such announcement in the lobby of the Commission's headquarters at 1801 L Street NW., Washington, DC 20507, not later than one week prior to commencement of a meeting or the commencement of the first meeting in a series of meetings, except as otherwise provided in this section, and shall disclose:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting will be open or closed to public observation.

(5) The name and telephone number of an official designated to respond to requests for information about the meeting.

(b) Where a meeting is closed to the public, the agency may withhold and not announce the information specified in paragraph (a)(3) of this section, if and to the extent that it finds that