

Federal Communications Commission

§0.459

this section and the protection thereby afforded is adequate, any person who submits materials which he or she wishes withheld from public inspection under 5 U.S.C. 552(b)(4) must submit a request for non-disclosure pursuant to §0.459. If it is shown in the request that the materials contain trade secrets or privileged or confidential commercial, financial or technical data, the materials will not be made routinely available for inspection; and a persuasive showing as to the reasons for inspection will be required in requests for inspection submitted under §0.461. In the absence of a request for non-disclosure, the Commission may, in the unusual instance, determine on its own motion that the materials should not be routinely available for public inspection.

(e) *Interagency and intra-agency memoranda or letters, 5 U.S.C. 552(b)(5).* Inter-agency and intra-agency memoranda or letters and the work papers of members of the Commission or its staff will not be made available for public inspection, except in accordance with the procedures set forth in §0.461. Normally such papers are privileged and not available to private parties through the discovery process, since their disclosure would tend to restrain the commitment of ideas to writing, would tend to inhibit communication among Government personnel, and would, in some cases, involve premature disclosure of their contents.

(f) *Personnel, medical and other files whose disclosure would constitute a clearly unwarranted invasion of personal privacy, 5 U.S.C. 552(b)(6).* Under E.O. 10561, the Commission maintains an Official Personnel Folder for each of its employees. Such folders are under the jurisdiction and control, and are a part of the records, of the U.S. Office of Personnel Management. Except as provided in the rules of the Office of Personnel Management (5 CFR 293.311), such folders will not be made available for public inspection by the Commission. In addition, other records of the Commission containing private, personal or financial information concerning particular employees and Commission contractors will be withheld from public inspection.

(g) *Under 5 U.S.C. 552(b)(7), records compiled for law enforcement purposes, to*

the extent that production of such records:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source;

(5) Would disclose investigative techniques or procedures or would disclose investigative guidelines if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

§0.458 Nonpublic information.

Any person regulated by or practicing before the Commission coming into possession of written nonpublic information (including written material transmitted in electronic form) as described in §19.735-203(a) of this chapter under circumstances where it appears that its release was inadvertent or otherwise unauthorized shall be obligated to and shall promptly return the information to the Commission's Office of Inspector General without further distribution or use. See 47 CFR 19.735-203.

§0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

(a)(1) Any person submitting information or materials to the Commission may submit therewith a request that such information not be made routinely available for public inspection. (If the materials are specifically listed in §0.457, such a request is unnecessary.) A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from any materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified. In