

taken pursuant to this section, make publicly available in accordance with §1301.48 a full written explanation of this action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(d) Prior to every meeting closed pursuant to §1301.46, there shall be a certification by the General Counsel of TVA stating whether, in his or her opinion, the meeting may be closed to the public and each relevant exemptive provision. A copy of such certification shall be retained by TVA and shall be made publicly available in accordance with §1301.48.

[42 FR 14087, Mar. 15, 1977, as amended at 75 FR 11737, Mar. 12, 2010]

§ 1301.46 Criteria for closing meetings.

Except in a case where the Board finds that the public interest requires otherwise, the second sentence of §1301.43 shall not apply to any portion of a meeting and such portion may be closed to the public, and the requirements of §§1301.44 and 1301.45(a), (b), and (c) shall not apply to any information pertaining to such meeting otherwise required by this subpart to be disclosed to the public, where the Board properly determines that such portion or portions of its meeting or the disclosure of such information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

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

(c) Disclose matters specifically exempted from disclosure by statute (other than 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;

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

(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;

(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 any agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would:

(1) In the case of any agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(2) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this provision shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

§ 1301.47

18 CFR Ch. XIII (4-1-23 Edition)

(j) Specifically concern an agency's issuance of a subpoena, or its 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 an agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 1301.47 Transcripts of closed meetings.

(a) For every meeting closed pursuant to § 1301.46, the presiding officer of the meeting shall prepare a statement setting forth the time and place of the meeting, and the persons present, and such statement shall be retained by TVA.

(b) TVA shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (h), (i)(1), or (j) of § 1301.46, TVA shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) TVA shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any TVA proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 1301.48 Public availability of transcripts and other documents.

(a) Public announcements of meetings pursuant to § 1301.44, written cop-

ies of votes to change the subject matter of meetings made pursuant to § 1301.44(c), written copies of votes to close meetings and explanations of such closings made pursuant to § 1301.45(c), and certifications of the General Counsel made pursuant to § 1301.45(d) shall be available for public inspection during regular business hours in the TVA Research Library, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902-1401.

(b) TVA shall make promptly available to the public at the location described in paragraph (a) of this section the transcript, electronic recording, or minutes (as required by § 1301.47(b)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as TVA determines to contain information which may be withheld under § 1301.46. Each request for such material shall be made to the Manager, Media Relations, Tennessee Valley Authority, Knoxville, Tennessee 37902-1499; state that it is a request for records pursuant to the Government in the Sunshine Act and this subpart; and reasonably describe the discussion or item of testimony, and the date of the meeting, with sufficient specificity to permit TVA to identify the item requested.

(c) In the event the person making a request under paragraph (b) of this section has reason to believe that all transcripts, electronic recordings, or minutes or portions thereof requested by that person and required to be made available under paragraph (b) of this section were not made available, the person shall make a written request to the Senior Manager, Media Relations, for such additional transcripts, electronic recordings, or minutes or portions thereof as that person believes should have been made available under paragraph (b) of this section and shall set forth in the request the reasons why such additional material is required to be made available with sufficient particularity for the Senior Manager, Media Relations, to determine the validity of such request. Promptly after a request pursuant to this paragraph is received, the Senior Manager, Media Relations, or his/her designee