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are not available for information filed electronically, but the Reference Information Center or the Commission's Copy Contractor may assist in producing paper copies of information found in the COALS database;

(6) Annual employment reports filed by multichannel video programming distributors pursuant to §76.1802 of this chapter; and

(7) Responses from multichannel video programming distributors to random audits of their Equal Employment Opportunity programs conducted pursuant to §76.77 of this chapter.

§0.455 Other locations at which records may be inspected.

Except as provided in §§0.453, 0.457, and 0.459, records are routinely available for inspection in the Reference Information Center or the offices of the Bureau or Office which exercises responsibility over the matters to which those records pertain (see §0.5), or will be made available for inspection at those offices upon request. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. Examples of the records available from Bureaus and Offices are set forth in paragraphs (a) through (c).

(a) *Media Bureau.* (1) Rulings under secs. 312(a)(7), 315, and 317 of the Communications Act of 1934, as amended;

(2) All materials associated with a rate proceeding for basic cable service and associated equipment over which the Commission has assumed jurisdiction pursuant to §76.913 of this chapter;

(3) All materials associated with Commission review of franchise authority decisions concerning the rate charged for the basic cable service tier and associated equipment pursuant to §76.944 of this chapter;

(4) All materials associated with local government requests for authorization to regulate basic cable rates pursuant to §76.910 of this chapter (Form 328);

(5) All materials associated with the certification of Open Video System (OVS) operators pursuant to §76.1502 of this chapter;

(6) A list of all registered cable communities is maintained electronically at <http://www.fcc.gov/mb>; and

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(7) Public notices issued related to CARS licenses, Cable Special Relief Petitions, and other filings are available electronically at http://www.fcc.gov/Document_Indexes/Media/.

(b) *Office of Managing Director.* (1) All minutes of Commission actions, containing a record of all final votes, minutes of actions and internal management matters as provided in §0.457(b)(1) and (c)(1)(i). These records and files are available for inspection in the Office of the Secretary.

(2) Files containing information concerning the history of the Commission's rules. These files are available for inspection in the Office of the Secretary.

(3) Reports filed by employees pursuant to 5 CFR parts 2634 and 3902 and applications for inspection of such reports. See §0.460(k).

(c) *International Bureau.* (1) The treaties and other international and bilateral agreements listed in §73.1650 of this chapter are available for inspection in the office of the Chief, Strategic Analysis and Negotiations Division, International Bureau.

(2) Contracts and other arrangement filed under §43.51 of this chapter and reports of negotiations regarding foreign communication matters filed under §43.52 of this chapter, except those kept confidential pursuant to sec. 412 of the Communications Act. See §0.457(c)(3).

(3) Files relating to international settlements under part 64 of this chapter.

§0.457 Records not routinely available for public inspection.

The records listed in this section are not routinely available for public inspection pursuant to 5 U.S.C. 552(b). The records are listed in this section by category, according to the statutory basis for withholding those records from inspection; under each category, if appropriate, the underlying policy considerations affecting the withholding and disclosure of records in that category are briefly outlined. Except where the records are not the property of the Commission or where the disclosure of those records is prohibited by law, the Commission will entertain requests from members of the public under §0.461 for permission to

inspect particular records withheld from inspection under the provisions of this section, and will weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in the light of the facts of the particular case. In making such requests, there may be more than one basis for withholding particular records from inspection. The listing of records by category is not intended to imply the contrary but is solely for the information and assistance of persons making such requests. Requests to inspect or copy the transcripts, recordings or minutes of closed agency meetings will be considered under §0.607 rather than under the provisions of this section.

(a) *Materials that are specifically authorized under criteria established by Executive Order (E.O.) to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, 5 U.S.C. 552(b)(1).* (1) Classified materials and information will not be made available for public inspection, including materials classified under E.O. 10450, "Security Requirements for Government Employees"; E.O. 10501, as amended, "Safeguarding Official Information in the Interests of the Defense of the United States"; and E.O. 12958, "Classified National Security Information," or any other executive order concerning the classification of records. See also 47 U.S.C. 154(j).

(2) Materials referred to another Federal agency for classification will not be disclosed while such a determination is pending.

(b) *Materials that are related solely to the internal personnel rules and practices of the Commission, 5 U.S.C. 552(b)(2).* (1) Materials related solely to internal management matters, including minutes of Commission actions on such matters (see paragraph (f) of this section).

(2) Materials relating to the negotiation of contracts.

(c) *Materials that are specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552b, provided that such statute either requires that the materials be withheld from the public in such a manner as to leave no discretion on the issue, or es-*

tablishes particular criteria for withholding or refers to particular types of materials to be withheld). The Commission is authorized under the following statutory provisions to withhold materials from public inspection.

(1) Section 4(j) of the Communications Act, 47 U.S.C. 154(j), provides, in part, that, "The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense." Pursuant to that provision, it has been determined that the following materials should be withheld from public inspection (see also paragraph (a) of this section):

(i) Maps showing the exact location of submarine cables.

(ii) Minutes of Commission actions on classified matters.

(iii) Maps of nation-wide point-to-point microwave networks.

(2) Under section 213 of the Communications Act, 47 U.S.C. 213(f), the Commission is authorized to order, with the reasons therefor, that records and data pertaining to the valuation of the property of common carriers and furnished to the Commission by the carriers pursuant to the provisions of that section, shall not be available for public inspection. If such an order has been issued, the data and records will be withheld from public inspection, except under the provisions of §0.461. Normally, however, such data and information is available for inspection.

(3) Under sec. 412 of the Communications Act, 47 U.S.C. 412, the Commission may withhold from public inspection certain contracts, agreements and arrangements between common carriers relating to foreign wire or radio communication. Any person may file a petition requesting that such materials be withheld from public inspection. To support such action, the petition must show that the contract, agreement or arrangement relates to foreign wire or radio communications; that its publication would place American communication companies at a disadvantage in meeting the competition of foreign communication companies; and that the public interest would be served by keeping its terms confidential. If the Commission orders that such materials be kept confidential, they will be made

available for inspection only under the provisions of §0.461.

(4) Section 605 of the Communications Act, 47 U.S.C. 605(a), provides, in part, that, “no person not being authorized by the sender shall intercept any communication [by wire or radio] and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communications to any person.” In executing its responsibilities, the Commission regularly monitors radio transmissions. Except as required for the enforcement of the communications laws, treaties and the provisions of this chapter, or as authorized in sec. 605, the Commission is prohibited from divulging information obtained in the course of these monitoring activities; and such information, and materials relating thereto, will not be made available for public inspection.

(5) Section 1905 of the federal criminal code, the Trade Secrets Act, 18 U.S.C. 1905, prohibits the unauthorized disclosure of certain confidential information. See paragraph (d) of this section and §19.735–203 of this chapter.

(d) *Trade secrets and commercial or financial information obtained from any person and privileged or confidential—categories of materials not routinely available for public inspection*, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905.

(1) The materials listed in this paragraph have been accepted, or are being accepted, by the Commission on a confidential basis pursuant to 5 U.S.C. 552(b)(4). To the extent indicated in each case, the materials are not routinely available for public inspection. If the protection afforded is sufficient, it is unnecessary for persons submitting such materials to submit therewith a request for non-disclosure pursuant to §0.459. A persuasive showing as to the reasons for inspection will be required in requests submitted under §0.461 for inspection of such materials.

(i) Financial reports submitted by radio or television licensees.

(ii) Applications for equipment authorizations (type acceptance, type approval, certification, or advance approval of subscription television systems), and materials relating to such applications, are not routinely available for public inspection prior to the

effective date of the authorization. The effective date of the authorization will, upon request, be deferred to a date no earlier than that specified by the applicant. Following the effective date of the authorization, the application and related materials (including technical specifications and test measurements) will be made available for inspection upon request (see §0.460). Portions of applications for equipment certification of scanning receivers and related materials will not be made available for inspection.

(iii) Information submitted in connection with audits, investigations and examination of records pursuant to 47 U.S.C. 220.

(iv) Programming contracts between programmers and multichannel video programming distributors.

(v) The rates, terms and conditions in any agreement between a U.S. carrier and a foreign carrier that govern the settlement of U.S. international traffic, including the method for allocating return traffic, if the U.S. international route is exempt from the international settlements policy under §43.51(e)(3) of this chapter.

(vi) Outage reports filed under Part 4 of this chapter.

(vii) The following records, relating to coordination of satellite systems pursuant to procedures codified in the International Telecommunication Union (ITU) Radio Regulations:

(A) Records of communications between the Commission and the ITU related to the international coordination process, and

(B) Documents prepared in connection with coordination, notification, and recording of frequency assignments and Plan modifications, including but not limited to minutes of meetings, supporting exhibits, supporting correspondence, and documents and correspondence prepared in connection with operator-to-operator arrangements.

NOTE TO PARAGRAPH (d): The content of the communications described in paragraph (d)(1)(vii)(A) of this section is in some circumstances separately available through the ITU’s publication process, or through records available in connection with the Commission’s licensing procedures.

(2) Unless the materials to be submitted are listed in paragraph (d)(1) of

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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