

Nuclear Regulatory Commission

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§ 9.55 Specification of records.

(a)(1) Requests relating to records shall, insofar as practicable, specify the nature of the record sought, the approximate dates covered by the record, the system of records in which the record is thought to be included and the system manager having custody of the record system as shown in the annual compilation, "Notices of Records Systems", published by the General Services Administration. Requests shall, in addition, comply with any additional specification requirements contained in the published "Notice of System of Records" for that system.

(2) Requests for correction or amendment of records shall, in addition, specify the particular record involved, state the nature of the correction or amendment sought and furnish justification for the correction or amendment.

(b) Requests which do not contain information sufficient to identify the record requested will be returned promptly to the requestor, with a notice indicating what information is lacking. Individuals making requests in person will be informed of any deficiency in the specification of records at the time the request is made. Individuals making requests in writing will be notified of any such deficiency when their request is acknowledged.

§ 9.56 Accompanying persons.

An individual requesting access to records about himself may be accompanied by another individual of his own choosing. Both the individual requesting access and the individual accompanying him shall sign the required form indicating that the Nuclear Regulatory Commission is authorized to discuss the contents of the subject record in the presence of both individuals.

NRC PROCEDURES FOR PROCESSING REQUESTS

§ 9.60 Acknowledgement of requests.

(a) Written requests by individuals to verify the existence of, obtain access to or correct or amend records about themselves maintained by NRC in a system of records subject to the provisions of the Privacy Act of 1974, shall be acknowledged in writing by the

Freedom of Information Act and Privacy Act Officer within ten working days after date of actual receipt. The acknowledgement shall advise the requestor if any additional information is needed to process the request. Whenever practicable, the acknowledgement shall notify the individual whether his request to obtain access to the record or to correct or amend the record has been granted or denied.

(b) When an individual requests access to records or permission to correct or amend records in person, every effort will be made to make an immediate determination as to whether access or correction or amendment should be granted. If an immediate determination cannot be made, the request will be processed in the same manner as a written request. Records will be made available for immediate inspection whenever possible.

[40 FR 44484, Sept. 26, 1975, as amended at 53 FR 17689, May 18, 1988; 54 FR 53316, Dec. 28, 1989; 63 FR 15743, Apr. 1, 1998]

§ 9.61 Procedures for processing requests for records exempt in whole or in part.

(a) When an individual requests information concerning the existence of, or access to, records about himself which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal, the NRC shall advise the individual only that no record available to him pursuant to the Privacy Act of 1974 has been identified.

(b) *General exemptions.* Generally, 5 U.S.C. 552a(j)(2) allows the exemption of any system of records within the NRC from any part of section 552a except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) of the act if the system of records is maintained by an NRC component that performs as one of its principal functions any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crimes, or to apprehend criminals, and consists of—

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and

notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release and parole, and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(c) *Specific exemptions pursuant to 5 U.S.C. 552a(k)*. Individual requests for access to records which have been exempted from access pursuant to the provisions of 5 U.S.C. 552a(k) and §9.95 shall be processed as follows:

(1) *Information classified pursuant to Executive Order 12356 and exempted pursuant to 5 U.S.C. 552a(k)(1)*. (i) Requested information classified by NRC will be reviewed by the responsible official of the NRC to determine whether it continues to warrant classification under the criteria of section 1.3 of Executive Order 12356.

(ii) Information which no longer warrants classification under these criteria shall be declassified and made available to the individual. If the requested information has been classified by another agency, the responsible official of the NRC will request the classifying agency to review the information to ascertain if classification is still warranted. If the information continues to warrant classification, the individual shall be advised that the information sought is classified, that it has been reviewed and continues to warrant classification, and that it has been exempted from access pursuant to 5 U.S.C. 552a(k)(1).

(2) *Investigatory material compiled for law enforcement purposes exempted pursuant to 5 U.S.C. 552a(k)(2)*. Requests shall be responded to in the manner provided in paragraph (a) of this section unless a review of the information indicates that the information has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under Federal law. In that event, the individual shall be advised of the existence

of the information and shall be provided the information except to the extent it would reveal the identity of a confidential source. Information that would reveal the identity of a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(3) *Material within a system of records required by statute to be maintained and used solely as statistical records and exempted pursuant to 5 U.S.C. 552a(k)(4)*. The exempted information requested will be reviewed by the responsible official of the NRC to determine whether it continues to warrant exemption. Information which no longer warrants exemption shall be made available to the individual. If the information continues to warrant exemption, the individual shall be advised that the information sought is exempt from disclosure, that it has been reviewed and continues to warrant exemption, and that it has been exempted from access pursuant to 5 U.S.C. 552a(k)(4).

(4) *Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information and exempted pursuant to 5 U.S.C. 552a(k)(5)*. Information exempted pursuant to 5 U.S.C. 552a(k)(5) shall be made available to an individual upon request except to the extent that the information would reveal the identity of a confidential source. Material that would reveal the identity of a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(5) *Testing or examination material exempted pursuant to 5 U.S.C. 552a(k)(6)*. Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service which has been exempted pursuant to 5 U.S.C. 552a(k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process

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but may be made available if no possibility of such compromise exists.

[40 FR 44484, Sept. 26, 1975, as amended at 44 FR 50804, Aug. 30, 1979; 50 FR 50284, Dec. 10, 1985; 60 FR 63900, Dec. 13, 1995]

§ 9.62 Special procedures.

(a) *Records under the control of another government agency*—(1) *Medical records*. Requests received by NRC pertaining to medical records under the control of the U.S. Public Health Service or another Government agency will either be referred to the appropriate agency or returned to the requestor with the name of the controlling Government agency, if known, within ten working days after receipt by NRC. NRC will inform the requestor of any referral of his request to another Government agency at the time the referral is made.

(2) *Nonmedical records*. Requests received by NRC pertaining to nonmedical records under the control of another Government agency will be returned to the requestor with the name of the controlling Government agency, if known, within ten working days after receipt by NRC.

[40 FR 44484, Sept. 26, 1975, as amended at 41 FR 44997, Oct. 14, 1976]

DETERMINATIONS AND APPEALS

§ 9.65 Access determinations; appeals.

(a) *Initial determinations*. For agency records located in the Office of the Inspector General, the Assistant Inspector General for Investigations shall determine whether access to the record is available under the Privacy Act. For all other agency records, the Freedom of Information Act and Privacy Act Officer with the advice of the system manager having control of the record to which access is requested, shall determine whether access to the record is available under the Privacy Act. The Freedom of Information Act and Privacy Act Officer shall notify the requesting individual in person or in writing of the determination. Unless the request presents unusual difficulties or involves extensive numbers of records, individuals shall be notified of determinations to grant or deny access within 30 working days after receipt of the request.

(1) Notices granting access shall inform the individual when and where the requested record may be seen, how copies may be obtained, and of any fees or anticipated charges which may be incurred pursuant to § 9.85 of this subpart.

(2) Notices denying access must state the reasons for the denial, and advise the individual that the denial may be appealed to the Inspector General, for agency records located in the Office of Inspector General, or the Executive Director for Operations, for all other agency records, in accordance with the procedures set forth in this section.

(b) *Appeals from denials of access*. If an individual has been denied access to a record the individual may request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations as appropriate. A request for final review of an initial determination must be filed within 60 days of the receipt of the initial determination. For agency records denied by the Assistant Inspector General for Investigations, the appeal must be in writing and addressed to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For agency records denied by the Freedom of Information Act and Privacy Act Officer, the appeal must be in writing addressed to the Executive Director for Operations. The appeal should clearly state on the envelope and in the letter "Privacy Act Appeal-Denial of Access." The NRC does not consider an appeal that is not marked as indicated in this paragraph as received until it is actually received by the Inspector General or Executive Director for Operations.

(c) *Final determinations*. (1) The Inspector General, or the Executive Director for Operations or the EDO's designee, shall make a final determination within 30 working days of the receipt of the request for final review, unless the time is extended for good cause shown such as the need to obtain additional information, the volume of records involved, or the complexity of the issue. The extension of time may not exceed 30 additional working days. The requester shall be advised in advance of