

Nuclear Regulatory Commission

§ 9.61

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 under 5 U.S.C. 552a(k).* Individual requests for access to records which have been exempted from access under the provisions of 5 U.S.C. 552a(k) shall be processed as follows:

(1) *Information classified under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and exempted under 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 criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.

(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

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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 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; 70 FR 34309, June 14, 2005]

§9.62 Records under control of another Government agency.

Requests received by NRC pertaining to records under the control of another Government agency will be returned to the requester with the name of the controlling Government agency, if known, within ten working days after receipt by the NRC.

[70 FR 34309, June 14, 2005]

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