

09/21/90

ALPHABETICAL LISTING OF ACTIVE IRM CONTRACTORS  
WHERE THE AWARD WAS A SMALL BUSINESS SET ASIDE  
THE CONTRACT SPECIALIST CAN BE REACHED AT 301-492-4800

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CONTRACTOR	CONTRACT NO	DESCRIPTION	AWARD AMOUNT	SPECIALIST
ANALYSIS & MEASUREMENT SRVCS. CORP. 9111 CROSS PARK DRIVE, N.W. KNOXVILLE TN 37923	04-89-091-00	SBIR PROGRAM - PHASE II, FY 1989 EFFECTS OF AGING ON PERFORMANCE OF NUCLEAR PLANT PRESSURE TRANSMITTERS START DATE: 09/30/89 ENDING DATE: 09/30/91 CONTRACT TYPE IS COST PLUS FIXED FEE	99,439	ANKER
ANN RILEY & ASSOCIATES, LTD. 1612 K STREET, N.W. WASHINGTON DC 20006	21-89-348-00	VERBATIM REPORTING SERVICES (EXCLUDING OFFICES OF THE COMMISSIONERS')  START DATE: 10/16/89 ENDING DATE: 10/15/91 CONTRACT TYPE IS FIRM FIXED PRICE	851,453	KNOX
APPLIED INVENTIONS CORPORATION P.O. BOX 544 GRAFTON MA 01519	04-90-379-00	SBIR PROGRAM - PHASE I, FY 1990 GAMMA TAY SPECTROMETER/DOSIMETER  START DATE: 09/30/90 ENDING DATE: 03/30/91 CONTRACT TYPE IS FIRM FIXED PRICE	49,693	LITTLE
APPLIED MANAGEMENT SYSTEMS, INC. 7315 WISCONSIN AVE., STE 601E BETH DA MD 20814	33-89-132-00	NRC ADP SYSTEMS DEVELOPMENT AND SYSTEMS MAINTENANCE  START DATE: 06/05/89 ENDING DATE: 06/04/92 CONTRACT TYPE IS LABOR HOUR	6,995,582	BOYD
BELTWAY TRANSPORTATION SERVICE 8423 OLD MARLBORO PIKE UPPER MARLBORO MD 20772	39-88-253-00	SHUTTLE BUS SERVICE  START DATE: 07/01/88 ENDING DATE: 06/30/91 CONTRACT TYPE IS FIRM FIXED PRICE	530,693	BOYD
CAREER COUNSELING SERVICES 5640 NICHOLSON LANE, STE 214 ROCKVILLE MD 20852	38-90-322-00	CAREER COUNSELING SERVICES  START DATE: 03/15/90 ENDING DATE: 03/14/92 CONTRACT TYPE IS FIRM FIXED PRICE	51,292	BOYD
CMP CORPORATION 8401C RICHMOND HIGHWAY ALEXANDRIA VA 22309	33-89-152-00	ON-CALL MAINTENANCE ON IBM SYSTEM SIX, MAG CARDS AND DISPLAYWRITERS  START DATE: 07/01/89 ENDING DATE: 06/30/91 CONTRACT TYPE IS FIRM FIXED PRICE	33,700	KNOX

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COMDATA, INC. 5800 MAIN STREET ELKRIDGE MD 21227	33-90-187-00	COMPUTER OUTPUT MICROFILM SERVICES  START DATE: 02/15/90 ENDING DATE: 02/14/92 CONTRACT TYPE IS FIRM FIXED PRICE	25,680	ANKER
COMMCORE, INC. 156 FIFTH AVENUE, STE 701 NEW YORK NY 10010	38-89-331-00	EFFECTIVE COMMUNICATION: MEDIA TRAINING WORKSHOP  START DATE: 12/21/88 ENDING DATE: 12/20/90 CONTRACT TYPE IS FIRM FIXED PRICE	100,265	BOYD
COMPUTER MAINTENANCE & PARTS CORP. P.O. BOX 1837 SPRINGFIELD VA 22151	39-88-249-00	ON-CALL MAINTENANCE OF NRC COMPUTER PERIPHERAL EQUIPMENT  START DATE: 09/22/88 ENDING DATE: 09/23/90 CONTRACT TYPE IS TIME AND MATERIALS	50,742	KNOX
CORTEST COLUMBUS, INC. 2704 SAWBURY BLVD. COLUMBUS OH 43085	04-87-069-00	ENVIRONMENTAL DEGRADATION OF OVERPACK MATERIALS  START DATE: 08/14/87 ENDING DATE: 08/13/92 CONTRACT TYPE IS COST PLUS FIXED FEE	660,296	McCUBBIN
CRITICOM, INC. 8307 FALCON POINT STREET LAUREL MD 20708	32-90-282-00	CABLE INSTALLATION AT REGION V  START DATE: 08/09/90 ENDING DATE: 07/30/91 CONTRACT TYPE IS FIRM FIXED PRICE	53,024	HUGHES
DATA BASE COMPANY, INC. 8928 MCGAW COURT COLUMBIA MD 21045	33-90-210-00	ARCHIVAL RECORD STORAGE AND RELATED SERVICES  START DATE: 11/10/89 ENDING DATE: 11/09/91 CONTRACT TYPE IS FIRM FIXED PRICE	350,700	ANKER
HERNER AND COMPANY 1700 N. MOORE ST. STE 700 ARLINGTON VA 22209	10-90-126-00	NRC ISSUANCES AND INDEXES  START DATE: 11/28/89 ENDING DATE: 11/27/91 CONTRACT TYPE IS FIRM FIXED PRICE	179,724	KNOX

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K E M P CORPORATION 1725 EAST MAGNOLIA AVENUE KNOXVILLE TN 37917	04-89-094-00	SBIR PROGRAM - PHASE II, FY 1989 DEVELOPMENT OF A FIELD-USABLE LARGE AREA SELF- POWERED GAMMA DETECTOR START DATE: 09/30/89 ENDING DATE: 03/31/91 CONTRACT TYPE IS FIRM FIXED PRICE	132,867	ANKER
MANAGEMENT CONCEPTS, INC. 1964 GALLOWS ROAD VIENNA VA 22182	38-90-326-00	ACQUISITION TRAINING FOR PROJECT MANAGERS AND SENIOR MANAGERS START DATE: 02/26/90 ENDING DATE: 02/25/92 CONTRACT TYPE IS FIRM FIXED PRICE	57,590	ANKER
METROTEC, INC. 1441 MANCHESTER LANE, N.W. WASHINGTON DC 20011	10-89-170-00	NUCLEAR REGULATORY COMMISSION RULES AND REGULATIONS START DATE: 08/01/89 ENDING DATE: 07/31/91 CONTRACT TYPE IS COST PLUS FIXED FEE	177,668	KNOX
MICROFORM, INC. BRIDGE AND TACONY STREETS PHILADELPHIA PA 19137	39-89-139-00	MICROFICHE SERVICES FOR SOURCE DRAWING DOCUMENTS START DATE: 09/09/89 ENDING DATE: 09/08/91 CONTRACT TYPE IS FIRM FIXED PRICE	77,511	BOYD
MODELING AND COMPUTING SERVICES 1153 BORDEAUX DRIVE, STE 107 SUNNYVALE CA 94089	04-89-089-00	SBIR PROGRAM - PHASE II, FY 1989 IMPROVED MODEL FOR PREDICTING J-R CURVES FROM CHARPY DATA START DATE: 09/30/89 ENDING DATE: 11/30/90 CONTRACT TYPE IS FIRM FIXED PRICE	149,774	ANKER
NEAL R. GROSS & CO., INC. 1323 RHODE ISLAND AVENUE, N.W. WASHINGTON DC 20005	17-89-116-00	STENOGRAPHIC REPORTING SERVICES (COMMISSION MEETINGS) START DATE: 01/16/89 ENDING DATE: 01/15/91 CONTRACT TYPE IS FIRM FIXED PRICE	46,470	KNOX
OCR SERVICES, INC. 11200 ROCKVILLE PIKE, STE 102 ROCKVILLE MD 20852	04-88-078-00	KEYING OF OCCUPATIONAL RADIATION EXPOSURE INFORMATION START DATE: 04/11/88 ENDING DATE: 04/10/91 CONTRACT TYPE IS LABOR HOUR	170,109	KNOX

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PHOTOCRAFT, INC 50 WEST GUDE DRIVE ROCKVILLE MD 20850	10-89-157-00	PHOTOGRAPHIC REPRODUCTION SERVICES  START DATE: 07/01/89 ENDING DATE: 06/30/91 CONTRACT TYPE IS FIRM FIXED PRICE	80,000	ANKER
PRESS INTELLIGENCE, INC 1334 G STREET, N.W. WASHINGTON DC 20005	33-90-188-00	NEWSPAPER CLIPPING SERVICE  START DATE: 11/01/89 ENDING DATE: 10/31/91 CONTRACT TYPE IS FIRM FIXED PRICE	83,760	BOYD
RISK MANAGEMENT ASSOCIATES, INC. 2309 DIETZ FARM RD., N.W. ALBUQUERQUE NM 87107	04-89-088-00	SBIR PROGRAM - PHASE II, FY 1989 MICROCOMPUTER BASED PARALLEL PROCESSING SYSTEM FOR CODE COMPUTATIONS START DATE: 09/21/89 ENDING DATE: 07/31/91 CONTRACT TYPE IS FIRM FIXED PRICE	175,000	ANKER
SCITRAN 1482 EAST VALLEY ROAD, STE 15 SANTA BARBARA CA 93150	39-88-166-00	NRC TRANSLATION SERVICES  START DATE: 01/22/88 ENDING DATE: 01/20/91 CONTRACT TYPE IS FIRM FIXED PRICE	193,599	ANKER
SYSTEM AUTOMATION CORPORATION 8555 SIXTEENTH STREET SILVER SPRING MD 20910	33-87-224-00	NRC ADP SYSTEMS DEVELOPMENT  START DATE: 12/18/86 ENDING DATE: 12/17/91 CONTRACT TYPE IS COST PLUS FIXED FEE	8,920,281	FIELDS
THE REGULATORY GROUP, INC. 1511 K ST, N.W. STE 545 WASHINGTON DC 20005	38-88-365-00	REGULATORY PROCESS TRAINING  START DATE: 08/24/88 ENDING DATE: 06/23/91 CONTRACT TYPE IS FIRM FIXED PRICE	108,959	BOYD
WILKINS SYSTEMS, INC. 6480 NEW HAMPSHIRE AVE, STE 200 TAKOMA PARK MD 20912	17-89-120-00	ELECTROSTATIC COPYING SERVICES  START DATE: 07/09/89 ENDING DATE: 07/08/91 CONTRACT TYPE IS FIRM FIXED PRICE		KNOX

**UNITED STATES NUCLEAR REGULATORY COMMISSION**  
**RULES and REGULATIONS**  
**TITLE 10, CHAPTER 1, CODE OF FEDERAL REGULATIONS - ENERGY**

**PART**  
**9**

**PUBLIC RECORDS**

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- 9.3 Definitions.
- 9.5 Interpretations.
- 9.8 Information collection requirements: OMB approval.
- Subpart A—Freedom of Information Act Regulations**
- Sec.  
 9.11 Scope of subpart.  
 9.13 Definitions.  
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 9.201 Production or disclosure prohibited unless approved by appropriate NRC official.

- 9.202 Procedure in the event of a demand for production or disclosure.  
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 9.204 Procedure in the event of an adverse ruling.

Authority: Sec. 161, 68 Stat. 1448, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 99-570. Subpart B is also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b.

**§ 9.1 Scope and purpose.**

(a) Subpart A implements the provisions of the Freedom of Information Act, 5 U.S.C. 552, concerning the availability to the public of Nuclear Regulatory Commission records for inspection and copying.

(b) Subpart B implements the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, concerning disclosure and availability of certain Nuclear Regulatory Commission records maintained on individuals.

(c) Subpart C implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, concerning the opening of Commission meetings to public observation.

(d) Subpart D describes procedures governing the production of agency records, information, or testimony in response to subpoenas or demands of courts or other judicial or quasi-judicial authorities in State and Federal proceedings.

**§ 9.3 Definitions.**

As used in this part: "Commission" means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974.

"Government agency" means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

"NRC" means the Nuclear Regulatory Commission, established by the Energy Reorganization Act of 1974.

"NRC personnel" means employees, consultants, and members of advisory boards, committees, and panels of the

52 FR 49350

A/B

**§ 9.17 Agency records exempt from public disclosure.**

(a) The following types of agency records are exempt from public disclosure under § 9.15:

(1) Records (i) which are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and (ii) which are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Intergency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

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

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

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

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information 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, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would

disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

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

(8) Matters 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; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Nothing in this subpart authorizes withholding of information or limiting the availability of records to the public, except as specifically provided in this part, nor is this subpart authority to withhold information from Congress.

(c) Whenever a request is made which involves access to agency records described in paragraph (a)(7) of this section, the NRC may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this subpart when—

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency; and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

**§ 9.19 Segregation of exempt information and deletion of identifying details.**

(a) For records required to be made available under 5 U.S.C. 552(a)(2), the NRC shall delete the name with any identifying details, if the release of the name or other identifying details of, or relating to, a private party will constitute a clearly unwarranted invasion of personal privacy. The NRC shall provide notification that names of parties and certain other identifying details have been removed in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

(b) In responding to a request for information submitted under § 9.23, in which it has been determined to withhold exempt information, the NRC shall segregate—

(1) Information that is exempt from public disclosure under § 9.17(a) from nonexempt information; and

(2) Factual information from advice, opinions, and recommendations in predecisional records unless the

information is inextricably intertwined, or is contained in drafts, legal work products, and records covered by the lawyer-client privilege, or is otherwise exempt from disclosure.

**§ 9.21 Publicly available records.**

(a) Publicly available records of NRC activities described in paragraphs (c) and (d) of this section are available through the National Technical Information Service. Subscriptions to these records are available on 48x microfiche and may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Single copies of NRC publications in the NUREG series, NRC Regulatory Guides, and Standard Review Plans are also available from the National Technical Information Service.

(b) For the convenience of persons who may wish to inspect without charge or purchase copies of a record or a limited category of records for a fee, publicly available records of the NRC's activities described in paragraph (c) of this section are also made available at the NRC Public Document Room. The NRC Public Document Room is located at 2120 L Street NW., Washington, DC, and is open between 7:45 a.m. and 4:15 p.m. on Monday through Friday, except legal holidays.

(c) The following records of NRC activities are publicly available at the NRC Public Document Room for public inspection and copying:

(1) Final opinions including concurring and dissenting opinions as well as orders of the NRC issued as a result of adjudication of cases;

(2) Statements of policy and interpretations which have been adopted by the NRC and have not been published in the Federal Register;

(3) Nuclear Regulatory Commission rules and regulations;

(4) Nuclear Regulatory Commission Manual and instructions to NRC personnel that affect any member of the public;

(5) Records made available for public inspection and copying under this chapter and the NRC Manual (NRC Bulletin 3203-15 describes the "NRC Policy for Routinely Making NRC Records Publicly Available");

(6) Current indexes to records made available under 5 U.S.C. 552(a)(2) and that are made publicly available are listed in NUREG-0550, "Title of List of Documents Made Publicly Available," which is published monthly.

(d) Records made publicly available under paragraphs (c)(1), (2), and (5) of this section are also available for purchase through the National Technical Information Service.

52 FR 49350

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52 FR 49350

53 FR 43419

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PART 9 • PUBLIC RECORDS

9.25(c)

53 FR 52993  
52 FR 49350  
Commission or the General Counsel shall furnish that determination to the Director, Division of Freedom of Information and Publications Services who shall notify the requester of the determination in the manner provided in § 9.27.

(d) If a requested record that is located is one of another Government agency or deals with subject matter over which an agency other than the NRC has exclusive or primary responsibility, the NRC shall promptly refer the record to that Government agency for disposition or for guidance regarding disposition.

(e) The 10 working day period for response to a request for agency records provided in paragraphs (a), (b) and (c) of this section may be extended for unusual circumstances as provided in § 9.31.

53 FR 53993  
(f) In exceptional circumstances where it does not appear possible to complete action on a request within the maximum 20 working day limit as provided in § 9.31, the Director, Division of Freedom of Information and Publications Services may seek an agreement with the requester for a specified extension of time in which to act upon the request. The NRC shall confirm the agreement for an extension of time in writing.

52 FR 49350  
(g) If the NRC does not respond to a request within the 10-working-day period, or within the extended periods described in paragraph (e) of this section, the requester may treat that delay as a denial request and immediately appeal to the Executive Director for Operations as provided in § 9.29(a) or sue in a district court as noted in § 9.29(c).

§ 9.27 Form and content of responses.

53 FR 52993  
(a) When the NRC has located a requested agency record and has determined to disclose the agency record, the Director, Division of Freedom of Information and Publications Services shall promptly furnish the agency record or notify the requester where and when the agency record will be available for inspection and copying. The NRC will normally place copies of agency records disclosed in response to Freedom of Information Act requests in the NRC Public Document Room, and, for agency records relating to a specific nuclear power facility, in the Local Public Document Room established for that facility. The NRC shall also advise the requester of any applicable fees under § 9.35.

(b) When the NRC denies access to a requested agency record or denies a request for a waiver or reduction of fees, the Director, Division of Freedom of

Information and Publications Services shall notify the requester in writing. The denial includes as appropriate—

(1) The reason for the denial;

(2) A reference to the specific exemption under the Freedom of Information Act and the Commission's regulations authorizing the withholding of the agency record or portions of it;

(3) The name and title or position of each person responsible for the denial of the request, including the head of the office recommending denial of a record;

(4) A statement stating why the request does not meet the requirements of § 9.41 if the request is for a waiver or reduction of fees; and

(5) A statement that the denial may be appealed within 30 days from the receipt of the denial to the Executive Director for Operations or to the Secretary of the Commission, as appropriate.

53 FR 52993  
(c) The Director, Division of Freedom of Information and Publications Services shall maintain a copy of each letter granting or denying requested agency records or denying a request for waiver or reduction of fees in accordance with the NRC Comprehensive Records Disposition Schedule.

§ 9.29 Appeal from initial determination.

(a) A requester may appeal a notice of denial of a Freedom of Information Act request for agency records or a request for waiver or reduction of fees under this subpart within 30 days of the date of the NRC's denial. For agency records denied by an Office Director reporting to the Executive Director for Operations or for a denial of a request for a waiver or reduction of fees, the appeal must be in writing and addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For agency records denied by an Office Director reporting to the Commission, the Assistant Secretary of the Commission, or by the Advisory Committee Management Officer, the appeal must be in writing and addressed to the Secretary of the Commission. The appeal should clearly state on the envelope and in the letter that it is an "Appeal from Initial FOIA Decision." 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 Executive Director for Operations or Secretary of the Commission.

(b) The NRC shall make determination on any appeal made under this section within 20 working days after the receipt of the appeal.

54 FR 10138  
(c)(1) If the appeal of the denial of the request for agency records is upheld in whole or in part, the Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission shall notify the requester of the denial, specifying—

- (i) The exemptions relied upon.
- (ii) An explanation of how the exemption applies to the agency records withheld; and
- (iii) The reasons for asserting the exemption.

52 FR 49350  
(2) If, on appeal, the denial of a request for waiver or reduction of fees for locating and reproducing agency records is upheld in whole or in part, the Executive Director for Operations or a Deputy Executive Director shall notify the person making the request of his decision to sustain the denial, including a statement explaining why the request does not meet the requirements of § 9.41.

54 FR 10138  
(3) The Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission shall inform the requester that the denial is a final agency action and that judicial review is available in a district court of the United States in the district in which the requester resides or has a principal place of business, in which the agency records are situated, or in the District of Columbia.

(d) The Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission shall furnish copies of all appeals and written determination on appeals to the Director, Division of Freedom of Information and Publications Services.

§ 9.31 Extension of time for response

(a) In unusual circumstances defined in § 9.13, the NRC may extend the time limits prescribed in § 9.25 or § 9.29 by not more than 10 working days. The extension may be made by written notice to the person making the request to explain the reasons for the extension and indicate the date on which a determination is expected to be dispatched.

(b) An extension of the time limits prescribed in §§ 9.25 and 9.29 may not exceed a combined total of 10 working days per request.

§ 9.33 Search, review, and special service fees.

(a) The NRC charges fees for—  
(1) Search, duplication, and review, when agency records are requested for commercial use;

be provided without charge as provided in paragraphs (a) and (b) of this section, if the NRC finds a requester has filed multiple requests for only portions of an agency record or similar agency records for the purpose of avoiding charges.

#### § 9.40 Assessment of fees.

(a) If the request is expected to require the NRC to assess fees in excess of \$25 for search and/or duplication, the NRC shall notify the requester that fees will be assessed unless the requester has indicated in advance his or her willingness to pay fees as high as estimated.

(b) In the notification, the NRC shall include the estimated cost of search fees and the nature of the search required and estimated cost of duplicating fees.

(c) The NRC will encourage requesters to discuss with the NRC the possibility of narrowing the scope of the request with the goal of reducing the cost while retaining the requester's original objective.

(d) If the fee is determined to be in excess of \$250, the NRC shall require an advance payment.

(e) Unless a requester has agreed to pay the estimated fees or, as provided for in paragraph (d) of this section, the requester has paid an estimated fee in excess of \$250, the NRC may not begin to process the request.

(f) If the NRC receives a new request and determines that the requester has failed to pay a fee charged within 30 days of receipt of the bill on a previous request, the NRC may not accept the new request for processing until payment of the full amount owed on the prior request, plus any applicable interest assessed as provided in § 9.34, is made.

(g) Within 10 working days of the receipt of NRC's notice that fees will be assessed, the requester shall provide advance payment if required, notify the NRC in writing that the requester agrees to bear the estimated costs, or submit a request for a waiver or reduction of fees pursuant to § 9.41.

#### § 9.41 Requests for waiver or reduction of fees.

(a)(1) The NRC shall collect fees for searching for, reviewing, and duplicating agency records, except as provided in § 9.39, unless a requester submits a request in writing for a waiver or reduction of fees. To assure that there will be no delay in the processing of Freedom of Information Act requests, the request for a waiver or reduction of fees should be included in the initial Freedom of Information Act request letter.

(2) Each request for a waiver or reduction of fees must be addressed to the Director, Division of Freedom of

Information and Publications Services,  
Office of Administration  
U.S. Nuclear  
Regulatory Commission, Washington,  
DC 20555.

(b) A person requesting the NRC to waive or reduce search, review, or duplication fees shall:

(1) Describe the purpose for which the requester intends to use the requested information;

(2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;

(3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;

(4) Describe the likely impact on the public's understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure;

(5) Describe the size and nature of the public to whose understanding a contribution will be made;

(6) Describe the intended means of dissemination to the general public;

(7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and

(8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

(c) The NRC will waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records made under § 9.23(b), it can determine that disclosure of the information in the agency records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(d) In making a determination regarding a request for a waiver or reduction of fees, the NRC shall consider the following factors:

(1) How the subject of the requested agency records concerns the operations or activities of the Government;

(2) How the disclosure of the information is likely to contribute to an understanding of Government operations or activities;

(3) If disclosure of the requested information is likely to contribute to public understanding;

(4) If disclosure is likely to contribute significantly to public understanding of Government operations or activities;

(5) If, and the extent to which, the requester has a commercial interest that would be furthered by the disclosure of the requested agency records; and

(6) If the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(e) If the written request for a waiver or reduction of fees does not meet the requirements of this section, the NRC will inform the requester that the request for waiver or reduction of fees is being denied and set forth the appeal rights under § 9.29 to the requester.

#### § 9.43 Processing of requests for a waiver or reduction of fees.

(a) Within 10 working days after receipt of a request for access to agency records for which the NRC agrees to waive fees under § 9.39(a) through (d) or § 9.41(c), the NRC shall respond to the request as provided in § 9.25.

(b) In making a request for a waiver or reduction of fees, a requester shall provide the information required by § 9.41(b).

(c) After receipt of a request for the waiver or reduction of fees made in accordance with § 9.41, the NRC shall either waive or reduce the fees and notify the requester of the NRC's intent to promptly provide the agency records or deny the request and provide a statement to the requester explaining why the request does not meet the requirements of § 9.41(b).

(d) As provided in § 9.29, a requester may appeal a denial of a request to waive or reduce fees within 30 days to the Executive Director for Operations.

#### § 9.45 Annual report to Congress.

(a) On or before March 1 of each calendar year, the Chairman of the NRC will submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report includes—

(1) The number of determinations made by the NRC to deny requests for records made to the NRC under this part and the reasons for each determination;

(2) The number of appeals made by persons under § 9.29, the results of the appeals, and the reason for the action

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(c) *Verification of parentage or guardianship.* In addition to establishing the identity of the minor, or other individual he represents as required in paragraph (a) of this section, the parent or legal guardian of a minor or of an individual judicially determined to be incompetent shall establish his status as parent or guardian by furnishing a copy of a birth certificate of the minor showing parentage or a copy of a court order establishing guardianship.

#### § 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 Director, Office of Administration

or his designee, 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. Wherever 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.

#### § 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) *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 but may be made available if no possibility of such compromise exists.

(2) If the Executive Director for Operations, or his designee, makes a final determination that an amendment or correction of the record is warranted on the facts, he shall notify the Director, Office of Administration, to correct or amend the record pursuant to the procedures in § 9.66(a)(2).

(3) If the Executive Director for Operations, or his designee, makes a final determination that an amendment or correction of the record is not warranted on the facts, he shall notify the individual in writing of his refusal to authorize correction or amendment of the record in whole or in part, and of the reasons therefor, and shall advise the individual of his right to provide a "Statement of Disagreement" for the record and of his right to judicial review pursuant to 5 U.S.C. 552a(g).

#### § 9.67 Statements of disagreement.

(a) Written "Statements of Disagreement" may be furnished by the individual within 30 working days of the date of receipt of the final adverse determination of the Executive Director for Operations. "Statements of Disagreement" shall be addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should be clearly marked on the statement and on the envelope "Privacy Act Statement of Disagreement".

(b) The Executive Director for Operations, or his designee, shall be responsible for ensuring that: (1) The "Statement of Disagreement" is included in the system or systems of records in which the disputed item of information is maintained; and (2) the original record is marked to indicate the information disputed, the existence of a "Statement of Disagreement" and the location of the "Statement of Disagreement" within the system of records.

#### § 9.68 NRC statements of explanation.

The Executive Director for Operations, or his designee, may, if he deems it appropriate, prepare a concise statement of the reasons why the requested amendments or corrections were not made. Any NRC "Statement of Explanation" shall be included in the system of records in the same manner as the "Statement of Disagreement". Courtesy copies of the NRC statement and of the notation of dispute as marked on the original record shall be furnished to the individual who requested correction or amendment of the record.

#### § 9.69 Notices of correction or dispute.

(a) When a record has been corrected upon request or when a "Statement of Disagreement" has been filed, the Director, Office of Administration, or his designee, shall, within 30 working days thereof, advise all prior recipients of the affected record whose identity can be determined pursuant to an accounting of disclosures required by the Privacy Act or any other accounting previously made, of the correction or of the filing of the "Statement of Disagreement".

(b) Any disclosure of disputed information occurring after a "Statement of Disagreement" has been filed shall clearly identify the specific information disputed and be accompanied by a copy of the "Statement of Disagreement" and a copy of any NRC "Statement of Explanation".

#### DISCLOSURE TO OTHERS OF RECORDS ABOUT INDIVIDUALS

§ 9.80 Disclosure of record to persons other than the individual to whom it pertains.

(a) NRC Commissioners and NRC personnel shall not disclose any record which is contained in a system of records maintained by NRC by any means of communication to any person, or to another Government agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record is:

(1) To NRC Commissioners and NRC personnel who have a need for the record in the performance of their duties;

(2) Required under 5 U.S.C. 552;

(3) For a routine use published in the FEDERAL REGISTER;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record and the record is transferred in a form that is not individually identifiable. The advance written statement of assurance shall (i) state the purpose for which the record is requested, and (ii) certify that the record will be used only for statistical purposes. Prior to release for statistical purposes in accordance with the provisions of this paragraph, the record shall be stripped of all per-

sonally identifying information and reviewed to ensure that the identity of any individual cannot reasonably be determined by combining two or more statistical records;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or to the Administrator of General Services or his designee for evaluation to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the NRC specifying the particular portion of the record desired and the law enforcement activity for which the record is sought. A record may be disclosed to a law enforcement agency at the initiative of the NRC if criminal conduct is suspected, provided that such disclosure has been established as a routine use by publication in the FEDERAL REGISTER, and the instance of misconduct is directly related to the purpose for which the record is maintained;

(8) To any person upon a showing of compelling circumstances affecting the health or safety of any individual;

(9) To either House of Congress or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof or to any joint committee of the Congress or to any subcommittee of such joint committee;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

#### § 9.81 Notices of subpoenas.

When records concerning an individual are subpoenaed or otherwise disclosed pursuant to court order, the NRC officer or employee served with the subpoena shall be responsible for assuring that the individual is notified of the disclosure within five days after such subpoena or other order becomes a matter of public record. The notice shall be mailed to the last known address of the individual and shall contain the following information: (a) The date the subpoena is returnable; (b) the court in which it is returnable; (c) the name and number of the case or proceeding; and (d) the nature of the information sought.

## PART 9 • PUBLIC RECORDS

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43 FR 37420  
43 FR 13065  
42 FR 12875

person by this subpart. An open meeting is not part of the formal or informal record of decision of the matters discussed therein except as otherwise required by law. Statements of views or expressions of opinion made by Commissioners or NRC employees at open meetings are not intended to represent final determinations or beliefs.

Such statements may not be pleaded, cited, or relied upon before the Commission or in any proceeding under Part 2 of these regulations (10 CFR Part 2) except as the Commission may direct.

Members of the public attending open Commission meetings may use small electronic sound recorders to record the meeting, but the use of other electronic recording equipment and cameras requires the advance written approval of the Secretary.

#### § 9.104 Closed meetings.

(a) Except where the Commission finds that the public interest requires otherwise, Commission meetings shall be closed, and the requirements of §§ 9.105 and 9.107 shall not apply to any information pertaining to such meeting otherwise required by this subpart to be disclosed to the public, where the Commission determines in accordance with the procedures of § 9.106 that opening such meetings or portions thereof or disclosing such information, is likely to:

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

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including such information as defined in § 2.790(d) of this title;

(5) Involve accusing any person of a crime, imposing a civil penalty on any person pursuant to 42 U.S.C. 2282 or 42 U.S.C. 5846, or any revocation of any license pursuant to 42 U.S.C. Sec.

2236, or formally censuring any person;

(6) Disclose information of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory reports compiled for law enforcement purposes, including specifically enforcement of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*, and the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5801 *et seq.*, 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: (i) Interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) 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, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) (Reserved)

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action, except that this subparagraph shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required to make such disclosure on its own initiative prior to taking final action on such proposal;

(10) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding or an action or proceeding before a state or federal administrative agency, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal agency adjudication pursuant to 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for a hearing pursuant to Part 2 or similar provisions.

(b) Examples of situations in which Commission action may be deemed to be significantly frustrated are: (1) If opening any Commission meeting or negotiations would be likely to disclose information provided or requests made to the Commission in confidence by persons outside the Commission and

which would not have been provided or made otherwise; (2) if opening a meeting or disclosing any information would reveal legal or other policy advice, public knowledge of which could substantially affect the outcome or conduct of pending or reasonably anticipated litigation or negotiations; or (3) if opening any meeting or disclosing any information would reveal information requested by or testimony or proposals to be given to other agencies of government, including the Congress and the Executive Branch before the requesting agency would receive the information, testimony or proposals. The examples in the above sentence are for illustrative purposes only and are not intended to be exhaustive.

#### § 9.105 Commission procedures.

(a) Action under § 9.104 shall be taken only when a majority of the entire membership of the Commission votes to take such action. A separate vote of the Commissioners shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 9.104, or which respect to any information which is proposed to be withheld under § 9.105(c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(b) Within one day of any vote taken pursuant to paragraph (a) of this section, § 9.106(a) or § 9.108(c) the Secretary shall make publicly available in the Public Document Room a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (a) of this section or § 9.106(a), make publicly available in the Public Document Room a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(c) The notices and lists required by paragraph (b) of this section to be made public may be withheld from the public to the extent that the Commission determines that such information itself would be protected against disclosure by § 9.104(a). Any such determination shall be made independently of the Commission's determination

(c) In the case of any meeting closed pursuant to § 9.104, the Secretary of the Commission, upon the advice of the General Counsel and after consultation with the Commission, shall determine which, if any, portions of the electronic recording, transcript or minutes and which, if any, items of information withheld pursuant to § 9.105(c) contain information which should be withheld pursuant to § 9.104, in the event that a request for the recording, transcript, or minutes is received within the period during which the recording, transcript, or minutes must be retained, under paragraph (b) of this section.

(d) If at some later time the Commission determines that there is no further justification for withholding any transcript, recording or other item of information from the public which has previously been withheld, then such information shall be made available.

#### § 9.109 Report to Congress.

The Secretary shall annually report to the Congress regarding the Commission's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Commission pursuant to the Government in the Sunshine Act, including any cost assessed against the Commission in such litigation (whether or not paid by the Commission).

### Subpart D—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

#### § 9.200 Scope of subpart.

(a) This subpart sets forth the procedures to be followed when a subpoena, order, or other demand (hereinafter referred to as a "demand") for the production of NRC records or disclosure of NRC information, including testimony regarding such records, is issued by a court or other judicial or quasi-judicial authority in a proceeding, excluding Federal grand jury proceedings, to which the NRC is not a party. Information and documents subject to this subpart include:

- (1) Any material contained in the files of the NRC;
- (2) Any information relating to material contained in the files of the NRC.

(b) For purposes of this subpart, the term "employee of the NRC" includes all NRC personnel as that term is defined in § 9.3 of this part including NRC contractors.

(c) This subpart is intended to provide instructions regarding the internal operations of the NRC and is not intended, and does not, and may not, be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the NRC.

#### § 9.201 Production or disclosure prohibited unless approved by appropriate NRC official.

No employee of the NRC shall, in response to a demand of a court or other judicial or quasi-judicial authority, produce any material contained in the files of the NRC or disclose, through testimony or other means, any information relating to material contained in the files of the NRC, or disclose any information or produce any material acquired as part of the performance of that employee's official duties or official status without prior approval of the General Counsel of NRC.

#### § 9.202 Procedure in the event of a demand for production or disclosure.

(a) Prior to or simultaneous with a demand upon an employee of the NRC for the production of material or the disclosure of information described in § 9.200, the party seeking production or disclosure must serve the General Counsel of the NRC with an affidavit or statement as described in paragraphs (b) (1) and (2) of this section. Whenever a demand is made upon an employee of the NRC for the production of material or the disclosure of information described in § 9.200, that employee shall immediately notify the General Counsel. If the demand is made upon a regional NRC employee, that employee shall immediately notify the Regional Counsel who, in turn, shall immediately request instructions from the General Counsel.

(b)(1) If oral testimony is sought by the demand, a summary of the testimony desired must be furnished to the General Counsel by a detailed affidavit or, if that is not feasible, a detailed statement by the party seeking the testimony or the party's attorney. This requirement may be waived by the General Counsel in appropriate circumstances.

(2) The General Counsel may request a plan from the party seeking discovery of all demands then reasonably foreseeable, including but not limited to, names of all NRC personnel

from whom discovery is or will be sought, areas of inquiry, length of time away from duty involved, and identification of documents to be used in each deposition, where appropriate.

(c) The General Counsel will notify the employee and such other persons, as circumstances may warrant, of his or her decision on the matter.

#### § 9.203 Procedure where response to demand is required prior to receiving instructions.

If a response to the demand is required before the instructions from the General Counsel are received, a U.S. attorney or NRC attorney designated for the purpose shall appear with the employee of the NRC upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the appropriate NRC official and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions. In the event that an immediate demand for production or disclosure is made in circumstances which would preclude the proper designation or appearance of a U.S. or NRC attorney on the employee's behalf, the employee shall respectfully request the demanding authority for sufficient time to obtain advice of counsel.

#### § 9.204 Procedure in the event of an adverse ruling.

If the court or other judicial or quasi-judicial authority declines to stay the effect of the demand in response to a request made in accordance with § 9.203 pending receipt of instructions, or if the court or other authority rules that the demand must be complied with irrespective of instructions not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing these regulations and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

Appendix A [removed] 50 FR 50283

UNITED STATES NUCLEAR REGULATORY COMMISSION  
RULES and REGULATIONS  
TITLE 10, CHAPTER 1, CODE OF FEDERAL REGULATIONS -- ENERGY

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**PART**  
**9**

PUBLIC RECORDS  
STATEMENTS OF CONSIDERATION

52 FR 759  
Published 1/9/87  
Effective 1/9/87

10 CFR Part 9

Revision of Specific Exemptions

AGENCY: Nuclear Regulatory  
Commission.

ACTION: Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to specific exemptions to the NRC's Systems of Records. This amendment is necessary to reflect the changes that have been made to Part 9 following the revision and republication of the NRC's Systems of Records notices in their entirety in September 1986 and to inform the public

## PART 9 • STATEMENTS OF CONSIDERATION

53 FR 17688  
Published 5/18/88  
Effective 5/18/88

Minor Corrective Amendments

See Part 2 Statements of Consideration

53 FR 43419  
Published 10/27/88  
Effective 10/27/88

*Relocation of NRC's Public Document Room; Other Minor Nomenclature Changes*

See Part 1 Statements of Consideration

53 FR 52993  
Published 12/30/88  
Effective 12/30/88

*Reorganization of Functions Within the Office of Administration and Resources Management and Minor Corrective Amendments*

See Part 1 Statements of Consideration

54 FR 10138  
Published 3/10/89  
Effective 3/10/89

10 CFR Part 9

**Freedom of Information Act; Appeal Authority for Deputy Executive Director**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission is amending its regulations to reflect the recent reorganization within the Office of the Executive Director for Operations. This amendment will permit a Deputy Executive Director to respond to appeals in lieu of the Executive Director for Operations.

**EFFECTIVE DATE:** March 10, 1989.

**FOR FURTHER INFORMATION CONTACT:** Donnie H. Grimsley, Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Telephone: (301) 492-7211.

**SUPPLEMENTARY INFORMATION:** On January 9, 1989, the Nuclear Regulatory Commission (NRC) announced organizational changes within the Office of the Executive Director for Operations. In the reorganization, the Commission appointed a second Deputy Executive Director and assigned specific areas of responsibility to the two deputies. Both Deputy Executive Directors report to the Executive Director for Operations. The NRC is amending portions of its regulations to specify that in lieu of the Executive Director for Operations, a Deputy Executive Director is authorized to respond to an appeal of a denial of a Freedom of Information Act request.

Because these are amendments dealing with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, because these amendments are of a minor and administrative nature, dealing with the agency's reorganization.

**Environmental Impact: Categorical Exclusion**

The NRC had determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

**Paperwork Reduction Act Statement**

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

**List of Subjects in 10 CFR Part 9**

Freedom of Information, Penalty, Privacy, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 9.

54 FR 36757  
Published 9/5/89  
Effective 9/5/89

10 CFR Part 9

RIN 3150-AD29

**Duplication Fees**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations by revising the charges for copying records publicly available at the NRC Public Document Room in Washington, DC. The amendment is necessary in order to reflect the change in copying charges resulting from the Commission's award of a new contract for the copying of records.

**EFFECTIVE DATE:** September 5, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathleen R. Ruhlman, Public Document Room Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 202-634-3366.

**SUPPLEMENTARY INFORMATION:** The NRC maintains a Public Document Room

(PDR) at its headquarters at 2120 L Street NW, Lower Level, Washington, DC. The PDR contains an extensive collection of publicly available technical and administrative records that the NRC receives or generates. Requests by the public for the duplication of records at the PDR have traditionally been accommodated by a duplicating service contractor selected by the NRC. The schedule of duplication charges to the public established in the duplicating service contract is set forth in 10 CFR 9.35 of the Commission's regulations. The NRC has recently awarded a new duplicating service contract. The revised fee schedule reflects the changes in copying charges to the public that have resulted from the awarding of the new contract for the duplication of records at the PDR.

Because this is an amendment dealing with agency practice and procedures, the notice provisions of the Administrative Procedures Act do not apply pursuant to 5 U.S.C. 553(b)(A). In addition, the PDR users were notified on June 30, 1989, that the new contract was being awarded and that the new prices would go into effect on July 10, 1989. The amendment is effective upon publication in the **Federal Register**. Good cause exists to dispense the usual 30-day delay in the effective date because the amendment is of a minor and administrative nature dealing with agency procedures.

**Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1).

Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

**Paperwork Reduction Act Statement**

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0043.

**Backfit Analysis**

This final rule pertains solely to minor administrative procedures of the NRC; therefore, no backfit analysis has been prepared.

**List of Subjects in 10 CFR Part 9**

Freedom of information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 9.