

**ADAMS Template: SECY-067**

**DOCUMENT DATE:** 12/08/1987

**TITLE:** PR-MISC. NOTICE - 52FR46546 - PRIVACY ACT OF 1974:  
REPORT OF NEW SYSTEM OF RECORDS

**CASE REFERENCE:** PR-MISC. NOTICE  
52FR46546

**KEY WORD:** RULEMAKING COMMENTS

Document Sensitivity: Non-sensitive - SUNSI Review Complete

STATUS OF RULEMAKING

PROPOSED RULE: PR-MISC. NOTICE OPEN ITEM (Y/N) N  
RULE NAME: PRIVACY ACT OF 1974: REPORT OF NEW SYSTEM OF RECORDS  
PROPOSED RULE FED REG CITE: 52FR46546  
PROPOSED RULE PUBLICATION DATE: 12/08/87 NUMBER OF COMMENTS: 0  
ORIGINAL DATE FOR COMMENTS: 01/07/88 EXTENSION DATE: / /  
FINAL RULE FED. REG. CITE: 55FR40694 FINAL RULE PUBLICATION DATE: 08/15/91  
NOTES ON EDO SIGNED IT ON 12/1/87. FILE LOCATED ON P1.  
STATUS  
OF RULE  
TO FIND THE STAFF CONTACT OR VIEW THE RULEMAKING HISTORY PRESS PAGE DOWN KEY

HISTORY OF THE RULE

PART AFFECTED: PR-MISC. NOTICE  
RULE TITLE: PRIVACY ACT OF 1974: REPORT OF NEW SYSTEM OF RECORDS  
PROPOSED RULE SECY PAPER: PROPOSED RULE SRM DATE: / / DATE PROPOSED RULE SIGNED BY SECRETARY: 12/01/87  
FINAL RULE SECY PAPER: FINAL RULE SRM DATE: / / DATE FINAL RULE SIGNED BY SECRETARY: 07/29/91

STAFF CONTACTS ON THE RULE

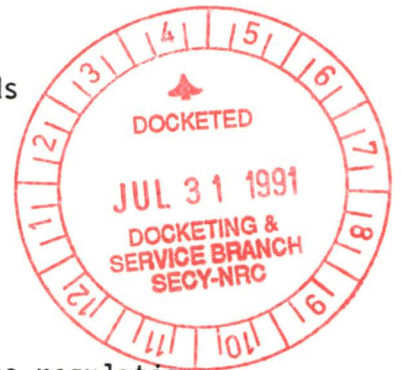
CONTACT1: RAYMOND J. BRADY MAIL STOP: 5721MNBB PHONE: 492-4100  
CONTACT2: MAIL STOP: PHONE:

DOCKET NUMBER  
PROPOSED RULE PR Misc  
(52 FR 46546) (91-1)

[7590-01]

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Report of New System of Records



AGENCY: Nuclear Regulatory Commission.

ACTION: Establishment of new system of records.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to provide for issuing enforcement actions to unlicensed persons whose deliberate misconduct causes a licensee to be in violation of Commission requirements. The NRC also issues Orders, Civil Penalties, Letters of Reprimand, and Demands for Information to individuals who are licensed reactor operators. Currently, NRC maintains enforcement records by licensees and not the name of unlicensed individuals who may be involved in enforcement actions. The NRC is proposing to establish a new system of records, NRC-3, Enforcement Actions Against Individuals, that will contain records accessible by personal identifier of both licensed and unlicensed individuals and that are maintained and used by the Office of Enforcement in conducting the enforcement program for the protection of the public health and safety.

DATES: The proposed new system of records will take effect without further notice (60 days after publication in the Federal Register), unless comments received on or before that date cause a contrary decision. If, based on NRC's review of comments received, changes are made, NRC will publish a new final notice.

ADDRESS: Send comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may

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be hand delivered to Lower Level, Gelman Building, 2120 L Street NW., Washington, DC, between 7:45 am and 4:15 pm.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC, Telephone: 301-492-0741.

SUPPLEMENTARY INFORMATION: The NRC's enforcement authority is drawn from the Atomic Energy Act of 1954 (AEA) and the Energy Reorganization Act of 1974 (ERA). Section 161 of the AEA authorizes NRC to conduct inspections and investigations and to issue orders as necessary to promote common defense or to protect public health. Section 186 authorizes NRC to revoke licenses under certain circumstances, such as violation of an NRC regulation. Section 234 authorizes NRC to issue civil penalties for violations of certain provisions of the Act, as do sections 84 and 147. Section 232 authorizes NRC to seek injunctive or other equitable relief.

Chapter 18 of the AEA provides varying levels of criminal penalties for willful violations of the Act or regulations or orders issued under certain sections of the Act.

Section 206 of the ERA authorizes NRC to impose civil penalties for knowing failures to provide certain safety information to the NRC. Under Commission regulations, violation of Section 210 of the ERA may result in imposition of a civil penalty.

Records in this system include enforcement actions taken against individuals, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters, Demands for Information, responses to these actions, and any other enforcement actions taken by the NRC against individuals and documents directly related to those actions that have been issued. When considered appropriate for disciplinary purposes, information may be disclosed to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensed activity. Information on actions taken by the NRC may be publicly disseminated in order to deter future violations. A report of this system of records, required by 5 U.S.C. 552(r), as implemented by OMB Circular A-130, has been sent to the Chairman, Committee on Government Operations, U.S. House of Representatives; the Chairman, Committee on Governmental Affairs, U.S. Senate; and the Office of Management and Budget.

1. The following new system of records, NRC-3, "Enforcement Actions Against Individuals," is being proposed for adoption by the NRC.

NRC-3

SYSTEM NAME: Enforcement Actions Against Individuals--NRC.

SYSTEM LOCATION: Primary system: Office of Enforcement, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems: Duplicate systems may exist, in whole or in part, in the enforcement coordinator's offices at NRC Regional Offices at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals involved in NRC licensed activities who have been subject to NRC Enforcement Actions.

CATEGORIES OF RECORDS IN THE SYSTEM: The system consists of individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, and Demands for Information. Also included are responses to these actions. In addition, the files may contain other relevant documents directly related to those actions that have been issued. Files will be arranged numerically by Individual Action (IA) number, assigned as individual enforcement actions are issued. The system will include a computerized database with alphabetical and numerical indices, by names of the individuals subject to the action and IA numbers, respectively.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 42 U.S.C. 2114, 2167, 2201(c), 2236, and 2282 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: Information in these records may be used:

(a) To respond to general information requests from the Congress;

(b) To deter future violations, information in this system of records may be routinely disseminated to the public by (1) publication in the Federal Register of each enforcement action issued to an individual; and (2) a listing of all individuals currently subject to an order that affects their participation in licensed activities and a copy of that order will be sent to all power reactor licensees twice a year and will be made available to other licensees and the general public on request;

(c) When considered appropriate for disciplinary purposes, to disclose information, such as a copy of an enforcement action and any hearing proceedings, to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensed activity;

(d) To disclose information, such as a copy of an enforcement action and any hearing proceedings, concerning an individual to a Federal or State government agency with licensing jurisdiction, where appropriate, to ensure the public health and safety; and

(e) For the routine uses specified in paragraph numbers 1, 2, 3, and 4 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: Records are maintained on paper in file folders, on computer

printouts, and on computer disks.

RETRIEVABILITY: Records are accessed by individual action file number or by the name of the individual.

SAFEGUARDS: The files are maintained in file cabinets or a computer database. Access to and use of these records are limited to those NRC employees whose official duties require that access. These files are under visual control during duty hours.

RETENTION AND DISPOSAL: The files are permanently retained for historical purposes and for later comparison with other cases to ensure consistency of application of enforcement policies.

SYSTEM MANAGER(S) AND ADDRESS: Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE: Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES: Same as "Notification Procedure."

CONTESTING RECORD PROCEDURES: Same as "Notification Procedure."

RECORD SOURCE CATEGORIES: Information in the records is primarily obtained

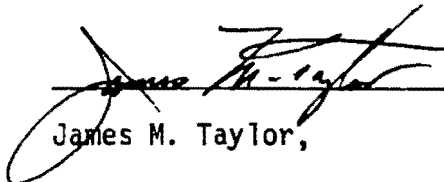


from NRC inspectors and investigators and other NRC employees, including individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the agency.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THIS ACT: None.

Dated at Rockville, MD, this 29<sup>th</sup> day of July 1991.

FOR THE NUCLEAR REGULATORY COMMISSION.

  
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James M. Taylor,  
Executive Director for Operations.

## NARRATIVE STATEMENT

The Nuclear Regulatory Commission is proposing to establish a new Privacy Act System of Records notice: NRC-3, Enforcement Actions Against Individuals.

### 1. Purpose

NRC-3 is being established to delineate records of enforcement actions directed against individuals. The records are maintained and used by the Office of Enforcement and inspection and licensing personnel of the NRC in conducting an enforcement program for the protection of the public health and safety. The primary purpose for the records is deterrence of future violations by persons who have been subject to prior enforcement actions and other persons engaged in licensed activities. The records will also assist in conducting inspections and making licensing decisions as to licensees who may be using individuals who have been subject to enforcement action.

### 2. Authority

The authorities for this system of records are 42 U.S.C. 2114, 2167, 2201(c), 2236, and 2282 (1988).

### 3. Potential effects on privacy of individuals

The enforcement actions contained in this system are published actions and contain data related to the conduct of licensed activities. Therefore, maintenance itself of this file would not create an unwarranted invasion of personal privacy.

4. Relationship to other governmental entities

Records may be used in support of enforcement actions that are litigated in administrative or civil hearings. Records will be shared within NRC and with Federal or State regulatory agencies and private certifying bodies to the extent necessary to accomplish specific enforcement goals.

5. Protection of the Information

Access to the information is limited to those NRC employees whose official duties require that access. Records at all locations are stored in file folders, on computer printouts, and on computer disks, all of which are kept in a location that limits access to government employees and is under visual control during duty hours.

6. Compatibility with (a)(7) of the Privacy Act

Each routine use described in the Federal Register notice supports the objective of the enforcement program: to ensure compliance with NRC regulations and conditions, to obtain prompt correction of violations, to deter future violations, and to encourage improvement of performance. Consistent with these goals, prompt and vigorous enforcement action is taken when licensees and others do not achieve the necessarily high standards of compliance. Notices of Violation, Civil Penalties, Orders, and other enforcement actions, such as Letters of Reprimand and Demands for Information, are issued to promote safe operations. Information regarding the more significant actions that the NRC

takes is publicly disseminated in order to deter future violations. This dissemination includes publication in the Federal Register, advice to NRC licensees and Agreement States through newsletters or individual copies, and through the circulation of the compilation developed under this System of Records. As such, these uses are fully compatible with the purposes for which the data is collected.

7. OMB control numbers

None.

Approved for Publication

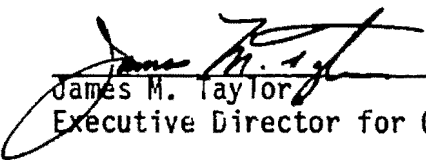
The Commission has delegated to the EDO (10 CFR 1.31(c)) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551(4)) subject to the limitations in NRC Chapter 0103, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, and 0310.

The enclosed Federal Register notice, entitled "Privacy Act of 1974; Report of New System of Records," establishes a new NRC System of Records, NRC-3, Enforcement Actions Against Individuals. The new system will contain records accessible by personal identifier of both licensed and unlicensed individuals whose deliberate misconduct causes a licensee to be in violation of Commission requirements. The records are maintained and used by the Office of Enforcement in conducting the enforcement program for the protection of the public health and safety,

The new system of records does not constitute significant question of policy, nor does it amend regulations contained in 10 CFR Parts 7, 8, or 9 Subpart C concerning matters of policy. I therefore find that the establishment of this new system of records is within the scope of my rulemaking authority and am proceeding to issue it.

Date

7/29/91

  
James M. Taylor

Executive Director for Operations.