responsibility, the NRC will promptly refer the record to that Federal Government agency for disposition or for guidance regarding disposition.

(j) If the NRC does not respond to a request within the 20 working-day period, or within the extended periods described in paragraph (b) of this section, the requester may treat that delay as a denial of the request and immediately appeal as provided in §9.29(a) or sue in a Federal District Court as noted in §9.29(c).

(63 FR 2876, Jan. 20, 1998, as amended at 70 FR 34306, June 14, 2005)

§9.27 Form and content of responses.

(a) When the NRC has located a requested agency record and has determined to disclose the agency record, the Freedom of Information Act and Privacy Act Officer will 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 also advise the requester of any applicable fees under §§9.35 and 9.37. The NRC will routinely make copies of non-sensitive records disclosed in response to Freedom of Information Act requests publicly available through the Agencywide Document Access and Management System (ADAMS) located in the NRC’s Electronic Reading Room that can be accessed via the NRC Web site at http://www.nrc.gov/NRC/reading-rm/adams.html. Records that contain information personal to the requester, involve matters that are not likely to be of public interest to anyone other than the requester or contain privileged or confidential information that should only be disclosed to the requester will not be made publicly available on the NRC Web site.

(b) When the NRC denies access to a requested agency record or denies a request for expedited processing or for a waiver or reduction of fees, the Freedom of Information Act and Privacy Act Officer will notify the requester in writing. The denial will include as appropriate—

1. The reason for the denial;
2. A reference to the specific exemption under the Freedom of Information Act, or other appropriate reason, and the Commission’s regulations authorizing the denial;
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 the 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 calendar days from the date of the denial to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, as appropriate.

(c) The Freedom of Information Act and Privacy Act Officer will maintain a copy of each letter granting or denying requested agency records, denying a request for expedited processing, or denying a request for a waiver or reduction of fees in accordance with the NRC Comprehensive Records Disposition Schedule.

(63 FR 2876, Jan. 20, 1998, as amended at 70 FR 34307, June 14, 2005)

§9.28 Predisclosure notification procedures for information containing trade secrets or confidential commercial or financial information.

(a) Notice of opportunity to object to NRC’s initial disclosure determination. Whenever NRC makes an initial determination that information should be disclosed in response to a Freedom of Information Act request or a Freedom of Information Act appeal which has been designated by the submitter as trade secrets or confidential commercial or financial information, or the NRC believes the information contains such trade secrets or confidential commercial or financial information, the NRC will give the submitter of the information written notice of NRC’s initial determination, or NRC’s need for information on which to base a determination, and an opportunity to object. The notice must describe the business information requested or include copies of the requested records or record portions containing the information.
§ 9.29 Appeal from initial determination.

(a) A requester may appeal a notice of denial of a Freedom of Information Act request for access to agency records, denial of a request for waiver or reduction of fees, or denial of a request for expedited processing under this subpart within 30 calendar days of the date of the NRC’s denial.

(b) For agency records to which access is denied by the Assistant Inspector General for Investigations, the appeal must be in writing directed to the Inspector General and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in §9.6. The appeal should clearly state on the envelope and in the letter that it is an “Appeal from Initial Freedom of Information Act Decision.” The NRC does not consider an appeal received until the date it is actually received by the Freedom of Information Act and Privacy Act Officer. The Inspector General will make the NRC determination on the appeal within 20 working days after the receipt of the appeal. If the Inspector General denies an appeal of access to records, in whole or in part, the Inspector General will notify the requester of the denial, explaining the exemptions relied upon and how the exemptions apply to the agency records withheld. The notice will 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.