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 Library 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.


§ 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, the NRC will give the submitter of the information written notice of NRC’s initial disclosure 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.

(b) Submitter objection to disclosure. The submitter will be allowed 30 calendar days from date of the notice described in paragraph (a) of this section

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to object to disclosure, unless the Com- mission determines that a shorter pe- riod of time to respond is necessary in a particular instance. If a submitter has any objection to disclosure, the submitter must provide a detailed writ- ten statement. The statement must specify all grounds that support why the information is a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified in the notice, the submitter will be considered to have no objection to disclosure of the information. Information provided by the submitter that is not received until after the date specified for response will not be considered unless that date is extended by the Freedom of Informa- tion Act and Privacy Act Officer upon request by the submitter.

(c) Notice of final decision to disclose. The NRC shall consider a submitter’s written statement and specific grounds for nondisclosure. If the NRC agrees to withhold the information from public disclosure, the NRC will inform the re- quester in the manner described in §9.27 of the agency decision to deny ac- cess to the requested information. Whenever the NRC denies the submit- ter’s request for nondisclosure and de- cides to disclose the information, the NRC shall give the submitter written notice, which must include:

(1) A statement of the reason(s) for the determination;
(2) A description of the business in- formation to be disclosed; and
(3) A specified disclosure date, which will be 30 calendar days subsequent to the date of the notice, or less, as pro- vided under paragraph (b) of this sec- tion, after which the information will be made available to the public.

(d) Corresponding notice to requesters. When the NRC provides a submitter with notice and opportunity to object to disclosure under paragraph (b) of this section, the NRC shall also notify the requester(s). Whenever the NRC noti- fies a submitter of its final decision to disclose the requested information under paragraph (c) of this section, the NRC shall also notify the requester(s). When a submitter files a lawsuit seek- ing to prevent the disclosure of trade secrets or confidential commercial or financial information, the NRC shall notify the requester(s).

(e) Notice to submitter of Freedom of In- formation Act lawsuit. Whenever a re- quester files a lawsuit seeking to com- pel disclosure of trade secrets or confi- dential commercial or financial infor- mation, the NRC shall promptly notify the submitter.

[70 FR 34307, June 14, 2005]

§ 9.29 Appeal from initial determina- tion.

(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 re- quest for expedited processing under this subpart within 30 calendar days of the date of the NRC’s denial.

(b) For agency records to which ac- cess is denied by the Assistant Inspec- tor General for Investigations, the appeal must be in writing directed to the Inspector General and sent to the Free- dom 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 Free- dom of Information Act Decision.” The NRC does not consider an appeal re- ceived until the date it is actually re- ceived by the Freedom of Information Act and Privacy Act Officer. The Ins- spector General will make the NRC de- termination 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, ex- planing the exemptions relied upon and how the exemptions apply to the agency records withheld. The notice will inform the requester that the de- nial is a final agency action and that judicial review is available in a district court of the United States in the dis- trict 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.

(c) For agency records to which ac- cess is denied by the Executive Assist- ant to the Secretary of the Commis- sion, the General Counsel, or an office director reporting to the Commission,