

General for Audits, or the Assistant Inspector General for Investigations determines that the agency records sought are exempt from disclosure and that their disclosure is contrary to the public interest and will adversely affect the rights of any person, the Assistant Secretary of the Commission, the General Counsel, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations 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.

(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.

(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 of the 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).

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 55 FR 33646, Aug. 17, 1990]

§ 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 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, to the Secretary of the Commission, or to the Inspector General, as appropriate.

(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.

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 55 FR 33646, Aug. 17, 1990]