

§ 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 the Advisory Committee Management Officer, the appeal must be in writing and addressed to the Secretary of the Commission. For agency records denied by the Assistant Inspector General for Audits or the Assistant Inspector General for Investigations, the appeal must be in writing and addressed to the Inspector General. 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, Secretary of the Commission, or the Inspector General.

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

(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 Director, or the Secretary of the Commission, or the Inspector General 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.

(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.

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

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 54 FR 10138, Mar. 10, 1989; 55 FR 33646, Aug. 17, 1990]

§ 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;

(2) Duplication of agency records provided in excess of 100 pages when agency records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, or a representative of the news media;

(3) Search and duplication of agency records in excess of 100 pages for any request not described in paragraphs (a) (1) and (2) of this section;

(4) The direct costs of searching for agency records. The NRC will assess fees even when no agency records are located as a result of the search or when agency records that are located as a result of the search are not disclosed; and

(5) Computer searches which include the cost of operating the Central Processing Unit for that portion of operating time that is directly attributable to searching for agency records plus the operator/programmer salary apportionable to the search.

(b) The NRC may charge requesters who request the following services for the direct costs of the service:

(1) Certifying that records are true copies; or

(2) Sending records by special methods, such as express mail, package delivery service, etc.

§ 9.34 Assessment of interest and debt collection.

(a) The NRC shall assess interest on the fee amount billed starting on the 31st day following the day on which the billing was sent in accordance with NRC's regulations set out in § 15.37 of this chapter. Interest is at the rate prescribed in 21 U.S.C. 3717.

(b) The NRC will use its debt collection procedures under part 15 of this chapter for any overdue fees.

§ 9.35 Duplication fees.

(a)(1) Charges for the duplication of records made available under § 9.21 at the NRC Public Document Room (PDR), 2120 L Street, NW. (Lower Level), Washington DC, by the duplicating service contractor are as follows:

(i) Paper to paper reproduction is \$0.08 per page up to and including 8.5x14 inches. Pages 11x17 inches are \$0.15. Pages larger than 11x17 inches are \$1.50 each.

NOTE: Pages greater than legal size, 8.5x14 inches and smaller than or equal to 11x17 inches shall be reduced to legal size and reproduced for \$0.08 per page, unless the order specifically requests full size reproduction.

(ii) Microfiche to paper reproduction is \$0.08 per page. Aperture card blowbacks are \$3.00 (reduced size) or \$5.00 (full size).

(iii) Microfiche duplication is \$0.75 per card. Aperture card duplication is \$1.00.

(iv) Diskette to diskette duplication is \$2.92. Video cassette duplication is \$15.00 per cassette. Audio tape duplication is \$3.00 per tape. Slide/Negative duplication is \$5.00 each; photographs up to 8x10 inches is \$10.00 per print. Electronic full text/citation reproduction to diskette is available at \$3.00 per diskette or \$0.08 per page.

(v) Rush processing is offered for standard size paper to paper and blowbacks, excluding standing order documents and pages reproduced from bound volumes. The charge is \$0.15 per page. The rush processing for microfiche duplication is \$1.00. Diskette rush processing is \$4.96.

(vi) Facsimile charges are: \$0.30 per page-local calls; \$0.50-U.S. long distance; and \$1.50-foreign long distance.

(2) Self-service duplicating machines are available at the PDR for the use of the public. Paper to paper copying is \$0.08. Microfiche to paper is \$0.10 per page on the reader printers.

(3) A requester may submit mail-order requests for contractor duplication of NRC records by writing, faxing, calling or e-mailing the NRC Public Document Room. The charges for any of the requests are the same as those set out in paragraph (a)(1) of this section, plus mailing or shipping charges.

(4) A requester may open an account with the duplicating service contractor. A requester may obtain the name and address and billing policy of the contractor from the NRC Public Document Room.

(5) Any change in the costs specified in this section will become effective immediately pending completion of the Commission's rulemaking that amends this section to reflect the new charges. The Commission shall post the charges that will be in effect for the interim period in the Public Document Room. The Commission shall complete the rulemaking necessary to reflect the new charges within 15 working days from the beginning of the interim period.