

## §9.81

record desired and the law enforcement activity for which the record is sought. A record may be disclosed to a law enforcement agency at the initiative of the NRC if criminal conduct is suspected, provided that such disclosure has been established as a routine use by publication in the FEDERAL REGISTER, and the instance of misconduct is directly related to the purpose for which the record is maintained;

(8) To any person upon a showing of compelling circumstances affecting the health or safety of any individual;

(9) To either House of Congress or, to the extent of matter within its jurisdiction, to any committee or subcommittee thereof or to any joint committee of the Congress or to any subcommittee of such joint committee;

(10) To the Comptroller General, or any authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction; or

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(b) [Reserved]

[40 FR 44484, Sept. 26, 1975, as amended at 60 FR 63900, Dec. 13, 1995]

## §9.81 Notices of subpoenas.

When records concerning an individual are subpoenaed or otherwise disclosed pursuant to court order, the NRC officer or employee served with the subpoena shall be responsible for assuring that the individual is notified of the disclosure within five days after such subpoena or other order becomes a matter of public record. The notice shall be mailed to the last known address of the individual and shall contain the following information: (a) The date the subpoena is returnable; (b) the court in which it is returnable; (c) the name and number of the case or proceeding; and (d) the nature of the information sought.

## §9.82 Notices of emergency disclosures.

When information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the NRC officer or employee who made or authorized the disclosure shall notify the in-

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dividual at his last known address within five days of the disclosure. The notice shall contain the following information: (a) The nature of the information disclosed; (b) the person or agency to whom the information was disclosed; (c) the date of the disclosure; and (d) the compelling circumstances justifying the disclosure.

### FEES

## §9.85 Fees.

Fees shall not be charged for search for or review of records requested pursuant to this subpart or for making copies or extracts of records in order to make them available for review. Fees established pursuant to 31 U.S.C. 483c and 5 U.S.C. 552a(f)(5) shall be charged according to the schedule contained in §9.35 of this part for actual copies of records requested by individuals, pursuant to the Privacy Act of 1974, unless the Freedom of Information Act and Privacy Act Officer waives the fee because of the inability of the individual to pay or because making the records available without cost, or at a reduction in cost, is otherwise in the public interest.

[52 FR 49362, Dec. 31, 1987, as amended at 53 FR 52993, Dec. 30, 1988; 63 FR 15743, Apr. 1, 1998]

### ENFORCEMENT

## §9.90 Violations.

(a) An injunction or other court order may be obtained pursuant to 5 U.S.C. 552a(g) (1-3) to compel NRC to permit an individual to review, amend or copy a record pertaining to him, or to be accompanied by someone of his own choosing when he reviews his record. A court order may be obtained for the payment of a civil penalty imposed pursuant to 5 U.S.C. 552a(g)(4) if NRC intentionally or willfully fails to maintain a record accurately, or fails to comply with any provision of 5 U.S.C. 552a, or any provision of this subpart, if such failure results in an adverse determination or has an adverse effect on an individual. Court costs and attorney's fees may be awarded in civil actions.

(b) Any officer or employee of NRC who willfully maintains a system of

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records without meeting the notice requirements of 5 U.S.C. 552a(e)(4), or who willfully discloses information knowing such disclosure to be prohibited by 5 U.S.C. 552a or by any rules or regulations issued thereunder, may be guilty of a criminal misdemeanor and upon conviction may be fined up to \$5000. Any person who knowingly and willfully requests or obtains any record concerning an individual from NRC under false pretenses may be convicted of a criminal misdemeanor and upon conviction may be fined up to \$5,000.

### EXEMPTIONS

#### §9.95 Specific exemptions.

The following records contained in the designated NRC Systems of Records (NRC-5, NRC-9, NRC-11, NRC-18, NRC-22, NRC-23, NRC-28, NRC-29, NRC-31, NRC-33, NRC-35, NRC-37, and NRC-39) are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) in accordance with 5 U.S.C. 552a(k). In addition, the records contained in NRC-18 are exempt from the provisions of 5 U.S.C. 552a and the regulations in this part, under 5 U.S.C. 552a(j)(2), except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). Each of these systems of records is subject to the provisions of §9.61:

(a) Contracts Records Files, NRC-5 (Exemptions (k)(1) and (k)(5));

(b) Equal Employment Opportunity Discrimination Complaint Files, NRC-9 (Exemption (k)(5));

(c) General Personnel Records (Official Personnel Folder and Related Records), NRC-11 (Exemptions (k)(5) and (k)(6));

(d) Office of the Inspector General (OIG) Investigative Records, NRC-18 (Exemptions (j)(2), (k)(1), (k)(2), (k)(5), and (k)(6));

(e) Personnel Performance Appraisals, NRC-22 (Exemptions (k)(1) and (k)(5));

(f) Office of Investigations Indices, Files, and Associated Records, NRC-23 (Exemptions (k)(1), (k)(2), and (k)(6));

(g) Recruiting, Examining, and Placement Records, NRC-28 (Exemption (k)(5));

(h) Nuclear Documents System (NUDOCS), NRC-29 (Exemption (k)(1));

(i) Correspondence and Records, Office of the Secretary, NRC-31 (Exemption (k)(1));

(j) Special Inquiry File, NRC-33 (Exemptions (k)(1), (k)(2), and (k)(5));

(k) Drug Testing Program Records, NRC-35 (Exemption (k)(5));

(l) Information Security Files and Associated Records, NRC-37 (Exemptions (k)(1) and (k)(5)); and

(m) Personnel Security Files and Associated Records, NRC-39 (Exemptions (k)(1), (k)(2), and (k)(5)).

[60 FR 63900, Dec. 13, 1995]

### Subpart C—Government in the Sunshine Act Regulations

SOURCE: 42 FR 12877, Mar. 7, 1977, unless otherwise noted.

#### §9.100 Scope of subpart.

This subpart prescribes procedures pursuant to which NRC meetings shall be open to public observation pursuant to the provisions of 5 U.S.C. 552b. This subpart does not affect the procedures pursuant to which NRC records are made available to the public for inspection and copying which remain governed by subpart A, except that the exemptions set forth in §9.104(a) shall govern in the case of any request made pursuant to §9.23 to copy or inspect the transcripts, recordings, or minutes described in §9.108. Access to records considered at NRC meetings shall continue to be governed by subpart A of this part.

[52 FR 49362, Dec. 31, 1987]

#### §9.101 Definitions.

As used in this subpart:

(a) *Commission* means the collegial body of five Commissioners or a quorum thereof as provided by section 201 of the Energy Reorganization Act of 1974, or any subdivision of that collegial body authorized to act on its behalf, and shall not mean any body not composed of members of that collegial body.

(b) *Commissioner* means an individual who is a member of the Commission.

(c) *Meeting* means the deliberations of at least a quorum of Commissioners where such deliberations determine or