

(4) *Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information and exempted pursuant to 5 U.S.C. 552a(k)(5).* Information exempted pursuant to 5 U.S.C. 552a(k)(5) shall be made available to an individual upon request except to the extent that the information would reveal the identity of a confidential source. Material that would reveal the identity of a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(5) *Testing or examination material exempted pursuant to 5 U.S.C. 552a(k)(6).* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service which has been exempted pursuant to 5 U.S.C. 552a(k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process but may be made available if no possibility of such compromise exists.

[40 FR 44484, Sept. 26, 1975, as amended at 44 FR 50804, Aug. 30, 1979; 50 FR 50284, Dec. 10, 1985; 60 FR 63900, Dec. 13, 1995; 70 FR 34309, June 14, 2005]

§ 9.62 Records under control of another Government agency.

Requests received by NRC pertaining to records under the control of another Government agency will be returned to the requester with the name of the controlling Government agency, if known, within ten working days after receipt by the NRC.

[70 FR 34309, June 14, 2005]

DETERMINATIONS AND APPEALS

§ 9.65 Access determinations; appeals.

(a) *Initial determinations.* For agency records located in the Office of the Inspector General, the Assistant Inspector General for Investigations shall determine whether access to the record is available under the Privacy Act. For all other agency records, the Freedom of Information Act and Privacy Act Officer with the advice of the system

manager having control of the record to which access is requested, shall determine whether access to the record is available under the Privacy Act. The Freedom of Information Act and Privacy Act Officer shall notify the requesting individual in person or in writing of the determination. Unless the request presents unusual difficulties or involves extensive numbers of records, individuals shall be notified of determinations to grant or deny access within 30 working days after receipt of the request.

(1) Notices granting access shall inform the individual when and where the requested record may be seen, how copies may be obtained, and of any fees or anticipated charges which may be incurred pursuant to § 9.85 of this subpart.

(2) Notices denying access must state the reasons for the denial, and advise the individual that the denial may be appealed to the Inspector General, for agency records located in the Office of Inspector General, or the Executive Director for Operations, for all other agency records, in accordance with the procedures set forth in this section.

(b) *Appeals from denials of access.* If an individual has been denied access to a record the individual may request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations, as appropriate. A request for final review of an initial determination must be filed within 60 calendar days of the receipt of the initial determination. For agency records 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. For agency records denied by the Freedom of Information Act and Privacy Act Officer, the appeal must be in writing directed to the Executive Director for Operations 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 "Privacy Act Appeal-Denial of Access." 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.

(c) *Final determinations.* (1) The Inspector General, or the Executive Director for Operations or the EDO's designee, shall make a final determination within 30 working days of the receipt of the request for final review, unless the time is extended for good cause shown such as the need to obtain additional information, the volume of records involved, or the complexity of the issue. The extension of time may not exceed 30 additional working days. The requester shall be advised in advance of any extension of time and of the reasons therefor.

(2) If the Inspector General, or the Executive Director for Operations or the EDO's designee, determines that access was properly denied because the information requested has been exempted from disclosure, the Inspector General, or the Executive Director for Operations or the EDO's designee shall undertake a review of the exemption to determine whether the information should continue to be exempt from disclosure. The Inspector General, or the Executive Director for Operations or the EDO's designee, shall notify the individual in writing of the final agency determination to grant or deny the request for access. Notices denying access must state the reasons therefor and must advise the individual of his/her right to judicial review pursuant to 5 U.S.C. 552a(g).

[40 FR 44484, Sept. 26, 1975, as amended at 41 FR 20645, May 20, 1976; 41 FR 25997, June 24, 1976; 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989; 55 FR 33647, Aug. 17, 1990; 63 FR 15743, Apr. 1, 1998; 68 FR 58800, Oct. 10, 2003; 70 FR 34309, June 14, 2005]

§ 9.66 Determinations authorizing or denying correction of records; appeals.

(a) *Initial determinations.* (1) For agency records located in the Office of the Inspector General, the Assistant Inspector General for Investigations shall determine whether to authorize or refuse correction or amendment of a record. For all other agency records, the Freedom of Information Act and Privacy Act Officer with the advice of the system manager having control of

the record, shall determine whether to authorize or refuse correction or amendment of a record. The Freedom of Information Act and Privacy Act Officer shall notify the requesting individual. Unless the request presents unusual difficulties or involves extensive numbers of records, individuals must be notified of determinations to authorize or refuse correction or amendment of a record within 30 working days after receipt of the request. In making this determination, the NRC official shall be guided by the following standards:

(i) Records shall contain only such information about an individual as is relevant and necessary to accomplish an NRC function required to be accomplished by statute or by executive order of the President;

(ii) Records used by NRC in making any determination about any individual shall be as accurate, relevant, current, and complete as is reasonably necessary to assure fairness to the individual in the determination;

(iii) No record shall describe how any individual has exercised rights guaranteed by the First Amendment unless such record is expressly authorized by statute or by the individual about whom the record is maintained, or is pertinent to and within the scope of an authorized law enforcement activity.

(2) For agency records located in the Office of Inspector General, if correction or amendment of a record is authorized, the Assistant Inspector General for Investigations shall correct or amend the record. For all other agency records, the Freedom of Information Act and Privacy Act Officer shall correct or amend the record. The Freedom of Information Act and Privacy Act Officer shall notify the requesting individual in writing that the correction or amendment has been made and provide the individual with a courtesy copy of the corrected record.

(3) If correction or amendment of a record is refused, the Freedom of Information Act and Privacy Act Officer shall notify the requesting individual in writing of the refusal and the reasons therefor, and shall advise the individual that the refusal may be appealed