

**Special September Duck Seasons**

**Iowa September duck season:** Iowa may experimentally hold a portion of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. In 1987, the 5-day season segment may commence no earlier than September 19, with daily bag and possession limits being the same as those in effect during the 1987 regular duck season.

**Florida September duck season:** An experimental 5-consecutive-day duck season may be selected in September subject to the following conditions:

1. The season will be in lieu of the extra teal option.
2. The daily bag limit will be 4 ducks, no more than one of which may be a species other than teal or wood duck, and the possession limit will be double the daily bag limit.

**Tennessee and Kentucky September duck seasons:** Experimental 5-consecutive-day duck seasons may be selected in September by Tennessee and Kentucky subject to the following conditions:

1. The seasons will be in lieu of September teal seasons.
2. The daily bag limit will be 4 ducks, no more than 2 of which may be wood ducks, and no more than 1 of which may be a species other than teal or wood duck. The possession limit will be double the daily bag limit.

**Special Early-September Canada Goose Seasons**

Experimental Canada goose seasons of up to 10 consecutive days may be

selected in September by Michigan, Illinois, and Minnesota subject to the following conditions:

1. Outside dates for the season are September 1-10, 1987.
2. The daily bag and possession limits will be no more than 5 and 10 Canada geese, respectively.

3. Areas open to the hunting of Canada geese are as follows:

**Michigan**—The Lower Peninsula, exclusive of the major goose migration/concentration areas that remained closed during the 1986 early-September season, except for the areas outside the posted boundaries of the Fish Point, Shiawassee and Allegan State Game and Wildlife Areas and the Shiawassee National Wildlife Refuge. On the Upper Peninsula the areas open to hunting are limited to the Garden Peninsula, that area south of US Highway 2 but east of Escanaba, Michigan, that area east of Interstate Highway 75, and that area west of Interstate Highway 75 bounded by Highways M-28 and M-221.

**Illinois**: McHenry, Lake, Kane, DuPage, Cook, Kendall, Grundy, Will, and Kankakee Counties.

**Minnesota**: All or portions of Anoka, Washington, Ramsey, Hennepin, Carver, Scott and Dakota Counties.

4. Areas open to hunting must be described, delineated and designated as such in each State's hunting regulations.

**Special Falconry Regulations**

**Extended Seasons:** Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended

season for taking migratory game birds in accordance with the following:

**Framework dates:** Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

**Daily bag and possession limits:** Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

**Regulations publication:** Each State selecting the special season must inform the Service of the season dates and publish said regulations.

**Regular seasons:** General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

**Note:** In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, special scaup season, special scaup and goldeneye season or falconry season) exceed 107 days for a species in one geographical area.

Dated: July 27, 1987.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

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# Proposed Rules

Federal Register

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1030

[Docket No. AO-361-A25]

#### Milk in the Chicago Regional Marketing Area; Extension of Time for Filing Briefs

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Extension of time for filing briefs.

**SUMMARY:** This notice extends the time for filing briefs on the record of the hearing held June 2-4, 1987, at Madison, Wisconsin, concerning proposals six through ten to amend the Chicago Regional marketing order. Counsel for proponent cooperatives requested more time to review the hearing record and to prepare a brief.

**DATE:** Briefs are now due on or before August 6, 1987.

**ADDRESS:** Briefs (4 copies) should be filed with the Hearing Clerk, Room 1079, South Building, U. S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington, DC 20250 (202) 447-4829.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding:

Notice of Hearing: Issued May 15, 1987; published May 19, 1987.

Notice is hereby given that the time for filing briefs, proposed findings and conclusions on the record of the public hearing held June 2-4 1987, at Madison, Wisconsin, on proposals six through ten with respect to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area pursuant to notice of hearing issued May 15, 1987, (52 FR 18894, May 19, 1987) is hereby further extended to August 6, 1987.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7

U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

#### List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC, on: July 31, 1987.

William T. Manley

Acting Administrator.

[FR Doc. 87-17861 Filed 8-5-87; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 2 and 9

#### Revision of Freedom of Information Act Regulations; Conforming Amendments

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations pertaining to Public Records in order to conform its Freedom of Information Act (FOIA) regulations to the Freedom of Information Reform Act of 1986 and to reflect current NRC organizational structure and current agency practice and delegation. These amendments will also reduce the repetition of statutory requirements. These amendments are necessary to inform the public about the procedural changes to the FOIA regulations.

**DATES:** The comment period expires on August 26, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

**ADDRESSES:** Send written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW., Washington, DC between 7:30 a.m. and 4:15 p.m. Copies of any comments received may be examined at the NRC

Public Document Room, 1717 H Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Donnie H. Grimsley, Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

**SUPPLEMENTARY INFORMATION:** The Freedom of Information Reform Act of 1986 (Pub. L. 99-570) was signed by the President on October 27, 1986. The Act provides for broader exemption protection for law enforcement information (Exemption 7 of the FOIA) and new law enforcement record exclusions. The new exemption provisions became effective immediately. The amendments changed the threshold of records encompassed under Exemption 7 from "investigatory records" to all records or information compiled for law enforcement purposes.

The OMB guidelines containing a uniform schedule of fees for all agencies were published on March 27, 1987 (52 FR 10012) and became effective on April 25, 1987. Important features of the new fee structure involve substantial changes that relate to agency charges for search, review, and duplication of records. In addition, the new guidelines set forth procedures for conducting searches without charge, duplicating records without charge, waiving or reducing a fee, and the provisions for assessing interest on unpaid bills that are more than 30 days delinquent. Moreover, the OMB guidelines set forth the exclusions to the Act which require the agency to provide the first 100 pages of requested records free of charge. The Act requires affected agencies to use the March 27, 1987 OMB guidelines in structuring their implementing regulations. The new fee structure provisions of the Act became effective on April 25, 1987.

Currently, the NRC is undergoing a major consolidation effort, affecting the entire organizational structure of the agency. While finalization of the total reorganization has not yet been completed, Part 9 has been revised to reflect certain organizational changes that have been completed.

In revising Subpart A, the NRC has renumbered most of the sections to conform to the Office of the Federal Register guidelines which will allow



greater flexibility and ease in making future amendments.

The proposed rule also contains several changes to Part 9, Subpart A, that were proposed by the NRC's Office of the General Counsel. Among the recommended changes included in the proposed rule are four exclusions from the definition of "agency record," a provision that FOIA requests cover only agency records in existence on the date the request is received, and reflection of the delegations made in NRC Manual Chapter 0211.

Conforming amendments are also being made to Part 2 and Part 9, Subparts B, C, and D, to conform cross references to the renumbered sections of Part 9, Subpart A, and to reflect the changes to Exemption 7 of the Freedom of Information Act.

#### Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

#### Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval numbers 3150-0136 (Part 2) and 3150-0043 (Part 9).

#### Regulatory Analysis

The proposed rule implements the provisions of the Freedom of Information Reform Act of 1986 and brings Part 9 into conformance with current agency practice and several of the major recommendations of the Office of the General Counsel.

The Freedom of Information Reform Act of 1986 established (1) three levels of fees, (2) new standards for waiving or reducing fees, and (3) an exclusion from providing records without charge. Basically, the NRC will not charge fees for the first two hours of search and the first 100 pages duplicated for all requesters, except commercial-use requesters. Any requester may also seek a waiver or reduction of fees for records in excess of 100 pages. The NRC will not charge fees if the cost of collecting the fee is equal to or greater than the fee itself.

There will be an economic impact on all requesters. However, the most significant economic impact will fall on commercial-use requesters. In keeping

with the intent of the Federal user fee concept, the NRC will charge commercial-use requesters full direct cost fees for all search for, review, and duplication of requested records. Commercial-use requesters are not considered to be "small entities," and the NRC believes that assessment of the fees will not cause a significant economic burden on them.

#### Estimated Annual Costs for Commercial-Use Requesters

[Figure of 350 commercial-use requesters based on actual 1986 statistics]

Search costs (1/3 clerical + 2/3 Professional).....	\$14,000
Review costs (Professional).....	17,000
Total estimated costs.....	31,000

For the remaining three categories of requesters, the Freedom of Information Reform Act requires agencies to provide 100 pages and two hours of search time free of charge. In addition, these requesters may request a waiver or reduction of fees, which would normally be charged for duplication and search time in excess of the initially waived amounts, if they can show that their request for agency records is in the public interest and is not primarily in their commercial interest.

As a result of the amendments, several principal economic impacts on the NRC are expected. Additional administrative effort will be required by the staff to record time spent in processing FOIA requests, time spent in recording staff processing reports, and time spent in determining the amount requesters will be billed. Also, additional staff duplication effort will be required to provide requesters copies that must be provided without charge.

#### Estimated Annual Costs for NRC to Process FOIA Requests

[Figures based on estimated 833 hours]

Staff recording of time (1/3 Clerical + 2/3 Professional).....	\$17,000
Division of Rules and Records Billing Costs.....	3,000
Duplication of first 100 free pages (23,000 sheets x \$.20 per page).....	5,000
Total estimated costs.....	25,000

#### Regulatory Flexibility Certification

As required by the Regulatory flexibility Act, 5 U.S.C. 605(b), the

Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule implements the Freedom of Information Reform Act of 1986 (Pub. L. 99-570) which includes the establishment of three levels of fees and specific provisions regarding waiver or assessment of fees for search, review, and duplication of records. Because the Freedom of Information Reform Act of 1986 provides relief for all requesters, except for commercial-use requesters, through waiver or reductions of fees, the NRC does not believe that the majority of potential requesters would fall under the definition of "small entities" set forth in the Regulatory flexibility Act or the Small Business Size Standards issued by the Small Business Administration at 13 CFR Part 121.

#### Backfit analysis

This proposed rule pertains to the implementation of the Freedom of Information Reform Act of 1986; therefore, no backfit analysis has been prepared.

#### List of Subjects

##### 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

##### 10 CFR Part 9

Freedom of information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 2 and 9.

#### PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 2.790, paragraphs (a)(7), (b)(1)(ii), and (d) are revised to read as follows:

§ 2.790 Public inspections, exemptions, requests for withholding.

(a) \* \* \*



(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

\* \* \*

(b)(1) \* \* \*

(ii) Contains a full statement of the reasons on the basis of which it is claimed that the information should be withheld from public disclosure. Such statement shall address with specificity the considerations listed in paragraph (b)(4) of this section. In the case of an affidavit submitted by a company, the affidavit shall be executed by an officer or upper-level management official who has been specifically delegated the function of reviewing the information sought to be withheld and authorized to apply for its withholding on behalf of the Company. The affidavit shall be executed by the owner of the information, even though the information sought to be withheld is submitted to the Commission by another person. The application and affidavit shall be submitted at the time of filing the information sought to be withheld. The information sought to be withheld shall be incorporated, as far as possible, into a separate paper. The affiant may designate with appropriate markings information submitted in the affidavit as a trade secret or confidential or privileged commercial or financial information within the meaning of

§ 9.17(a)(4) of this chapter and such information shall be subject to disclosure only in accordance with the provisions of § 9.19 of this chapter.

\* \* \*

(d) The following information shall be deemed to be commercial or financial information within the meaning of § 9.17(a)(4) of this chapter and shall be subject to disclosure only in accordance with the provisions of § 9.19 of this chapter.

\* \* \*

## PART 9—PUBLIC RECORDS

3. The authority citation for Part 9 is revised to read as follows:

**Authority:** Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 99-570. Subpart B also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b.

4. Section 9.1 is revised to read as follows:

### § 9.1 Scope and purpose.

(a) Subpart A implements the provisions of the Freedom of Information Act, 5 U.S.C. 552, concerning the availability to the public of Nuclear Regulatory Commission records for inspection and copying.

(b) Subpart B implements the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, concerning disclosure and availability of certain Nuclear Regulatory Commission records maintained on individuals.

(c) Subpart C implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, concerning the opening of Commission meetings to public observation.

(d) Subpart D describes procedures governing the production of agency records, information, or testimony in response to subpoenas or demands of courts or other judicial or quasi-judicial authorities in State and Federal proceedings.

### § 9.1a, 9.3, 9.5, and 9.8 [Removed]

5. Sections 9.1a, 9.3, 9.5 and 9.8 are removed.

6. Section 9.2 is redesignated § 9.3 and revised to read as follows:

### § 9.3 Definitions.

As used in this part:

"Commission" means the Commission of five members of a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974.

"Government agency" means any executive department, military

department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

"NRC" means the Nuclear Regulatory Commission, established by the Energy Reorganization Act of 1974.

"NRC personnel" means employees, consultants, and members of advisory boards, committees, and panels of the NRC; members of boards designated by the Commission to preside at adjudicatory proceedings; and officers or employees of Government agencies, including military personnel, assigned to duty at the NRC.

"Working days" means Monday through Friday, except legal holidays.

7. Section 9.2a is redesignated § 9.5 and is republished to read as follows:

### § 9.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding upon the Commission.

8. Section 9.2b is redesignated § 9.8 and revised to read as follows:

### § 9.8 Information collection requirements: OMB approval.

(a) The NRC has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) OMB has approved the information collection requirements contained in this part under control number 3150-0043.

(b) The approved information collection requirements contained in this part appear in §§ 9.29, 9.41, 9.54, 9.55, and 9.202.

9. Subpart A currently consists of §§ 9.3-9.16. New §§ 9.3, 9.5, and 9.8 are redesignated to precede Subpart A and the remaining sections in Subpart A are renumbered and revised to read as follows (new §§ 9.11 through 9.45):

### Subpart A—Freedom of Information Act Regulations

Sec.

9.11 Scope of subpart.

9.13 Definitions.

9.15 Availability of records.

9.17 Agency records exempt from public disclosure.

9.19 Segregation of exempt information and deletion of identifying details.

9.23 Requests for records.

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- Sec.
- 9.23 Requests for records.
  - 9.25 Initial disclosure determination.
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  - 9.33 Search, review, and special service fees.
  - 9.34 Assessment of interest and debt collection.
  - 9.35 Duplication fees.
  - 9.37 Fees for search, review, and duplication of records by NRC personnel.
  - 9.39 Search and duplication provided without charge.
  - 9.41 Requests for waiver or reduction of fees.
  - 9.43 Processing of requests for a waiver or reduction of fees.
  - 9.45 Annual Report to Congress.

#### Subpart A—Freedom of Information Act Regulations

##### § 9.11 Scope of subpart.

This subpart prescribes procedures for making NRC agency records available to the public for inspection and copying pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and provides notice of procedures for obtaining NRC records otherwise publicly available. This subpart does not affect the dissemination or distribution of NRC-originated, or NRC contractor-originated, information to the public under any other NRC public, technical, or other information program or policy.

##### § 9.13 Definitions.

As used in this subpart:

"Agency record" is a record in the possession and control of the NRC that is associated with Government business. Agency record does not include records such as—

- (1) Publicly available books, periodicals, or other publications that are owned or copyrighted by non-Federal sources;
- (2) Records solely in the possession and control of NRC contractors;
- (3) Personal records in possession of NRC personnel that have not been circulated, were not required to be created or retained by the NRC, and can be retained or discarded at the author's sole discretion, or records of a personal nature that are not associated with any Government business; and
- (4) Non-substantive information in logs or schedule books of the Chairman or Commissioners, uncirculated except for typing or recording purposes.

"Commercial-use request" means a request made under § 9.23(b) for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

"Direct costs" mean the expenditures that an agency incurs in searching for and duplicating agency records. For a

commercial-use request, direct costs include the expenditures involved in reviewing records to respond to the request. Direct costs include the salary of the employee category performing the work based on that basic rate of pay plus 16 percent of that rate to cover fringe benefits and the cost of operating duplicating machinery.

"Duplication" means the process of making a copy of a record necessary to respond to a request made under § 9.23. Copies may take the form of paper copy, microform, audio-visual materials, disk, magnetic tape, or machine readable documentation, among others.

"Educational institution" means an institution which operates a program or programs of scholarly research. Educational institution refers to a preschool, a public or private elementary or secondary school, an institution or graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education.

"News" means information that is about current events or that would be of current interest to the public.

"Noncommercial scientific institution" means an institution that is not operated on a commercial basis, as the term "commercial" is referred to in the definition of "commercial-use request," and is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

"Office", unless otherwise indicated, means all offices, boards, panels, and advisory committees of the NRC.

"Record" means any book, paper, map, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics. Record does not include an object or article such as a structure, furniture, a tangible exhibit or model, or a vehicle or piece of equipment.

"Representative of the news media" means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

"Review" means the process of examining records identified as responsive to a commercial-use request to determine whether they are exempted from disclosure in whole or in part. Also, review includes examining records to determine which Freedom of Information Act exemptions are applicable, identifying records or portions thereof to be disclosed, and

excising from the records those portions which are to be withheld.

"Search" means all time spent looking for records, either by manual search or search using existing computer programs, that respond to a request including a page-by-page or line-by-line identification or responsive information within the records.

"Unusual circumstances" mean—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the NRC having substantial subject-matter interest therein.

##### § 9.15 Availability of records.

The NRC will make available for public inspection and copying any reasonably described agency record in the possession and control of the NRC under the provisions of this subpart, and upon request by any person. Records that the NRC routinely makes publicly available are described in § 9.21. Procedures and conditions governing requests for records are set forth in § 9.23.

##### § 9.17 Agency records exempt from public disclosure.

(a) The following types of agency records are exempt from public disclosure under § 9.15:

(1) Records (i) which are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and (ii) which are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;



(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purpose, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulations or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Nothing in this subpart authorizes withholding of information of limiting the availability or records to the public, except as specifically provided in this part, nor it this subpart authority to withhold information from Congress.

(c) Whenever a request is made which involves access to agency records described in paragraph (a)(7) of this section, the NRC may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this subpart when—

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency; and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

#### **§ 9.19 Segregation of exempt information and deletion of identifying details.**

(a) For records required to be made available under 5 U.S.C. 552(a)(2), the NRC shall delete the name with any identifying details, if the release of the name or other identifying details of, or relating to, a private party will constitute a clearly unwarranted invasion of personal privacy. The NRC shall provide notification that names of parties and certain other identifying details have been removed in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

(b) In responding to a request for information submitted under § 9.23, in which it has been determined to withhold exempt information, the NRC shall segregate—

(1) Information that is exempt from public disclosure under § 9.17(a) from nonexempt information; and

(2) Factual information from advice, opinions, and recommendations in predecisional records unless the information is inextricably intertwined, or is contained in drafts, legal work products, and records covered by the lawyer-client privilege, or is otherwise exempt from disclosure.

#### **§ 9.21 Publicly available records.**

(a) Publicly available records of NRC activities described in paragraphs (c) and (d) of this section are available through the National Technical Information Service. Subscriptions to these records are available on 48× microfilm and may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Single copies of NRC publications in the NUREG series, NRC Regulatory Guides, and Standard Review Plans are also available from the National Technical Information Service.

(b) For the convenience of persons who may wish to inspect without charge or purchase copies of a records or a limited category of records for a fee, publicly available records of the NRC's activities described in paragraph (c) of this section are also made available at the NRC Public Document Room. The NRC Public Document Room is located

at 1717 H Street, NW, Washington, DC, and is open between 7:45 a.m. and 4:15 p.m. on Mondays through Friday, except legal holidays.

(c) The following records of NRC activities are publicly available at the NRC Public Document Room For public inspection and copying:

(1) Final opinions including concurring and dissenting opinions as well as orders of the NRC issued as a result of adjudication of cases.

(2) Statements of policy and interpretations which have been adopted by the NRC and have not been published in the *Federal Register*.

(3) Nuclear Regulatory Commission rules and regulations.

(4) Nuclear Regulatory Commission Manual and instructions to NRC personnel that affect any member of the public.

(5) Records made available for public inspection and copying under this chapter and the NRC Manual. (NRC Bulletin 3203-15 describes the "NRC Policy for Routinely Making NRC Records Publicly Available.")

(6) Current indexes to records made available under 5 U.S.C. 552 (a)(2) and that are made publicly available are listed in NUREG-0550, "Title of List of Documents Made Publicly Available," which is published monthly.

(d) Records made publicly available under paragraphs (c)(1), (2), and (5) of this section are also available for purchase through the National Technical Information Service.

#### **§ 9.23 Requests for records.**

(a)(1) A person may request access to records routinely made available by the NRC under § 9.21 in person or in writing at the NRC Public Document Room, 1717 H. Street NW., Washington, DC 20555.

(i) Each record requested must be described in sufficient detail to enable the Public Document Room to locate the record. If the description of the records is not sufficient to allow the Public Document Room staff to identify the record, the Public Document Room shall advise the requester to select the record from the indexes published under § 9.21(c)(6).

(ii) In order to obtain copies of records expeditiously, a person may open an account at the Public Document Room with the private contracting firm that is responsible for duplicating NRC records.

(2) A person may also order records routinely made available by the NRC under § 9.21 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22168.

(b) A person may request agency records by submitting a request



authorized by 5 U.S.C. 552(a)(3) to the Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The request must be in writing and clearly state on the envelope and in the letter that it is a "Freedom of Information Act request." The NRC does not consider a request as received until it has been received and logged in by the Director, Division of Rules and Records, Office of Administration and Resources Management.

(1) A Freedom of Information request covers only agency records that are in existence on the date the Director, Division of Rules and Records, receives the request. A request does not cover agency records destroyed or discarded before receipt of a request or which are created after the date of the request.

(2) All Freedom of Information Act requests for copies of agency records must reasonably describe the agency records sought in sufficient detail to permit the NRC to identify the requested records. Where possible, the requester should provide specific information regarding dates, titles, docket numbers, file designations, and other information which may help identify the records. If a requested record is not described in sufficient detail to permit its identification, the Director, Division of Rules and Records, shall inform the requester of the deficiency within 10 working days after receipt of the request and ask the requester to submit additional information regarding the request or meet with appropriate NRC personnel in order to clarify the request.

(3) Upon receipt of a request made under paragraph (b) of this section, the NRC shall provide written notification to the requester that indicates the request has been received, the name of the individual and telephone number to contact to find out the status of the request, and other pertinent matters regarding the processing of the request.

(4)(i) The NRC shall advise a requester that fees will be assessed if—

(A) A request involves anticipated costs in excess of the minimum specified in § 9.39; and

(B) Search and duplication is not provided without charge under § 9.39; or

(C) The requester does not specifically state that the cost involved is acceptable or acceptable up to a specified limit.

(ii) The NRC has discretion to discontinue processing for records responsive to a request made under paragraph (b) until—

(A) A required advance payment has been received;

(B) The requester has agreed to bear the estimated costs;

(C) A determination has been made on a request for waiver or reduction of fees; or

(D) The requester meets the requirements of § 9.39.

(c) If a requested agency record that has been reasonably described is located at a place other than the NRC Public Document Room or NRC headquarters, the NRC may, at its discretion, make the record available for inspection and copying at the other location.

(d) Except as provided in § 9.39, if the record requested under paragraph (b) of this section is a record available through the National Technical Information Service, the NRC shall refer the requester to the National Technical Information Service. If the requested record has been placed in the NRC Public Document Room under § 9.21, the NRC shall inform the requester that the record is in the PDR, and that the record may be obtained in accordance with the procedures set forth in paragraph (a) of this section.

(e) The Director, Division of Rules and Records, shall promptly forward a Freedom of Information Act request made under § 9.23(b) for an agency record which is not publicly available in the NRC Public Document Room under § 9.21 to the head of the office primarily concerned with the records requested and to the General Counsel, as appropriate. The responsible office will conduct a search for the records responsive to the request and compile those records to be reviewed for initial disclosure determination under §§ 9.25 and 9.27.

#### § 9.25 Initial disclosure determination.

(a) The head of the responsible office shall review agency records located in a search under § 9.23(b) to determine whether the agency records are exempt from disclosure under § 9.17(a). If the head of the office determines that, although exempt, the disclosure of the agency records will not be contrary to the public interest and will not affect the rights of any person, the head of the office may authorize disclosure of the agency records. If the head of the office authorizes disclosure of the agency records, the head of the office shall furnish the agency records to the Director, Division of Rules and Records, who shall notify the requester of the determination in the manner provided in § 9.27.

(b) Except as provided in paragraph (c) of this section, if, as a result of the review specified in paragraph (a) of this section, the head of the responsible

office finds that agency records should be denied in whole or in part, the head of the office will submit that finding to the Director, Division of Rules and Records, who will, in consultation with the General Counsel, make an independent determination whether the agency records should be denied in whole or in part. If the Director, Division of Rules and Records, determines that the agency records sought are exempt from disclosure and disclosure of the records is contrary to the public interest and will adversely affect the rights of any person, the Director, Division of Rules and Records, shall notify the requester of the determination in the manner provided in § 9.27.

(c) For agency records located in the office of a Commissioner or in the Office of the Secretary of the Commission, the Assistant Secretary of the Commission shall make the initial determination to deny agency records in whole or in part under § 9.17(a) instead of the Director, Division of Rules and Records. For agency records located in the Office of the General Counsel, the General Counsel shall make the initial determination to deny agency records in whole or in part instead of the Director, Division of Rules and Records. If the Assistant Secretary of the Commission or the General Counsel 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 or the General Counsel shall furnish that determination to the Director, Division of Rules and Records, 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 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 Rules and Records, 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 (c) 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 to a district court as provided in § 9.29(c).

#### § 9.27 Form and content of responses.

(a) When the NRC has located a requested record and has determined to disclose the record, the Director, Division of Rules and Records, shall promptly furnish the record or notify the requester where and when the record will be available for inspection and copying. The NRC will normally place copies of records disclosed in response to Freedom of Information Act requests in the NRC Public Document Room and, for 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 Rules and Records, 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 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 or to the Commission, as appropriate.
- (c) The Director, Division of Rules and Records, shall maintain a copy of each letter granting or denying requested records or denying a request for waiver or reduction of fees in accordance with the NRC Comprehensive Records Disposition Schedule.

#### § 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 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 record denied by an Office Director reporting to the Commission, the Assistant Secretary of the Commission, or by the Advisory Committee Management Officer, the appeal must be in writing and addressed to the Secretary of the Commission. 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 or Secretary of the Commission.

(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 record is upheld in whole or in part, the Executive Director for Operations or the Secretary of the Commission shall notify the requester of the denial, specifying—

- (i) The exemptions relied upon;
  - (ii) An explanation of how the exemption applies to the 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 records is upheld in whole or in part, the Executive Director for Operations 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 the Secretary of the Commission shall inform the requester that the denial is 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, has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

(d) The Executive Director for Operations or the Secretary of the Commission shall furnish copies of all appeals and written determinations on appeals to the Director, Division of Rules and Records.

#### § 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 records are requested for commercial use;
  - (2) Duplication of records provided in excess of 100 pages when records are not sought for commercial use and the request is made by an educational, noncommercial scientific institution, or a representative of the news media;
  - (3) Search and duplication of records in excess of 100 pages for any request not described in paragraph (a) (1) and (2) of this section;
  - (4) The direct costs of searching for records. The NRC will assess fees even when no records are located as a result of the search or when 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 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, 1717 H Street NW., Washington, DC 20555 by the duplicating service contractor are as follows:

(i) Six cents per page for paper copy to paper copy, except for engineering drawings and any other records larger than 17 x 11 inches for which the charges vary as follows depending on the reproduction process that is used:

(A) Xerographic process—\$1.50 per square foot for large documents or engineering drawings (random size up to 24 inches in width and with variable length) reduced or full size;

(B) Photographic process—\$7.00 per square foot for large documents or engineering drawings (random size exceeding 24 inches in width up to a maximum size of 42 inches in length) full size only.

(ii) Six cents per page for microform to paper copy, except for engineering drawings and any other records larger than 17 x 11 inches for which the charge is \$1.25 per square foot or \$3.00 for a reduced size print (18 x 24 inches).

(iii) One dollar per microfiche to microfiche.

(iv) One dollar per aperture card to aperture card.

(2) Self-service, coin-operated, duplicating machines are available at the PDR for the use of the public. Paper to paper is \$0.10 per page. Microform 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 made by writing to the NRC Public Document Room. The charges for mail-order duplication of records 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.

(b) The NRC shall assess the following charges for copies of records to be duplicated by the NRC at locations

other than the NRC Public Document Room located in Washington, DC or at Local Public Document Rooms:

(1) Sizes up to 8½ x 14 inches made on office copying machines—\$0.20 per page of copy; and

(2) The charge for duplicating records other than those specified in paragraphs (a) and (b) of this section is computed on the basis of NRC's direct costs.

(c) In compliance with the Federal Advisory Committee Act, a requester may purchase copies of transcripts of testimony in NRC Advisory Committee proceedings, which are transcribed by a reporting firm under contract with the NRC directly from the reporting firm at the cost of reproduction as provided for in the contract with the reporting firm. A requester may also purchase transcripts from the NRC at the cost of reproduction as set out in paragraphs (a) and (b) of this section.

(d) Copyrighted material may not be reproduced in violation of the copyright laws.

(e) Charges for the duplication of NRC documents located in NRC Local Public Document Rooms are those costs that the institutions maintaining the NRC Local Public Document Room collections establish.

**§ 9.37 Fees for search, review, and duplication of records by NRC personnel.**

The NRC shall charge the following hourly rates for search, review, and duplication of records by NRC personnel:

(a) Clerical search, review, and duplication at a salary rate that is equivalent to a GG-7, Step 5 plus 16 percent fringe benefits;

(b) Professional/managerial search, review, and duplication at a salary rate that is equivalent to a GG-13, Step 5 plus 16 percent fringe benefits; and

(c) Senior executive or Commissioner search, review, and duplication at a salary rate that is equivalent to an ES-3 plus 16 percent fringe benefits.

**§ 9.39 Search and duplication provided without charge.**

(a) The NRC shall search for records requested under § 9.23(b), without charges:

(1) If the requester is a representative of the news media;

(2) If the requester is an educational institution.

(3) If the requester is a noncommercial scientific institution; and

(4) For the first two hours of search if the requester is not a commercial-use requester;

(b) The NRC shall duplicate records requested under § 9.23(b) without charge for the first 100 pages of standard paper

copies, or equivalent pages on microfiche, computer, disks, etc., if the requester is not a commercial-use requester.

(c) The NRC may not bill any requester for fees if the cost of collecting the fee would be equal to or greater than the fee itself.

(d) The NRC may aggregate requests in determining search and duplication to be provided without charge as provided in paragraphs (a) and (b) of this section, if the NRC finds a requester has filed multiple requests for only portions of a document or similar documents for the purpose of avoiding charges.

**§ 9.41 Requests for waiver or reduction of fees.**

(a)(1) The NRC shall collect fees for searching for, reviewing, and duplicating agency records, except as provided in § 9.39, unless a requester submits a request in writing for a waiver or reduction of fees. To assure that there will be no delay in the processing of Freedom of Information Act requests, the request for a waiver or reduction of fees should be included in the initial Freedom of Information Act request letter.

(2) Each request for a waiver or reduction of fees must be addressed to the Director, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) A person requesting the NRC to waive or reduce search, review, or duplication fees shall:

(1) Describe the purpose for which the requester intends to use the requested information;

(2) Explain the extent to which the requester will extract and analyze the substantive content of the record;

(3) Describe the nature of the specific activity or research in which the records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;

(4) Describe the likely impact on the public's understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure;

(5) Describe the size and nature of the public to whose understanding a contribution will be made;

(6) Describe the intended means of dissemination to the general public;

(7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and



(8) Describe any commercial interest the requester has in the records sought.

(c) The NRC will waive or reduce fees, without further specific information from the requester if, from information provided with the request for records made under § 9.23(b), it can determine that disclosure of the information in records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(d) In making a determination regarding a request for a waiver or reduction of fees, the NRC shall consider the following factors:

(1) How the subject of the requested records concerns the operations or activities of the Government;

(2) How the disclosure of the information is likely to contribute to an understanding of Government operations or activities;

(3) If disclosure of the requested information is likely to contribute to public understanding;

(4) If disclosure is likely to contribute significantly to public understanding of Government operations or activities;

(5) If, and the extent to which, the requester has a commercial interest that would be furthered by the disclosure of the requested records;

(6) If the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester;

(7) If the request involves search fees, to what extent the search is likely to identify records which will be disclosed;

(8) If a concurrent request for the same or similar records has been made under Subpart D of this part or under § 2.720 of this chapter; and

(9) If the requested records are already publicly available or will not add appreciably to the substance of information already available to the public in the NRC Public Document Room, a Local Public Document Room, the National Technical Information Service, or from other public sources.

(d) If the written request for a waiver or reduction of fees does not meet the requirements of this section, the NRC will inform the requester that the request for waiver or reduction of fees is being denied and set forth the appeal rights under § 9.29 to the requester.

#### § 9.43 Processing of requests for a waiver or reduction of fees.

(a)(1) Within 10 working days after receipt of a request for access to records for which the NRC agrees to waive fees

under § 9.39(a)-(d) or § 9.41(c), the NRC shall respond to the request as provided in § 9.25.

(2) If the request is expected to require the NRC to assess fees in excess of \$25 for search and/or duplication, the NRC shall notify the requester that fees will be assessed unless the requester has indicated in advance his or her willingness to pay fees as high as estimated.

(3) In the notification, the NRC shall include the estimated cost of search fees and the nature of the search required and estimated cost of duplicating fees.

(4) The NRC will encourage requesters to discuss with the NRC the possibility of narrowing the scope of the request with the goal of reducing the cost while retaining the requester's original objective.

(5) If the fee is determined to be in excess of \$250, the NRC shall require an advance payment. If the fee is determined to be \$250 or less, the NRC may not begin to process the request until the requester agrees to bear the estimated costs.

(b) If the NRC receives a new request and determines that the requester has failed to pay a fee charged within 30 days of receipt of the bill on a previous request, the NRC may not accept the new request for processing until payment of the full amount owed on the prior request, plus any applicable interest assessed as provided in § 9.34, is made.

(c)(1) Within 10 working days of the receipt of NRC's notice that fees will be assessed, the requester shall provide advance payment if required, notify the NRC in writing that the requester agrees to bear the estimated costs, or submit a request for a waiver or reduction of fees pursuant to § 9.41.

(2) In making a request for a waiver or reduction of fees, a requester shall provide the information required by § 9.41(b).

(d) Within 10 working days after receipt of a request for the waiver or reduction of fees made in accordance with § 9.41, the NRC shall either waive or reduce the fees and notify the requester of the NRC's intent to promptly provide the records or deny the request and provide a statement to the requester explaining why the request does not meet the requirements of § 9.41(b).

(e) As provided in § 9.29, a requester may appeal a denial of a request to waive or reduce fees within 30 days to the Executive Director for Operations.

#### § 9.45 Annual Report to Congress.

(a) On or before March 1 of each calendar year, the Chairman of the NRC

will submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report includes—

(1) The number of determinations made by the NRC to deny requests for records made to the NRC under this part and the reasons for each determination;

(2) The number of appeals made by persons under § 9.29, the results of the appeals, and the reason for the action taken on each appeal that results in a denial of information;

(3) The names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) The results of each proceeding conducted pursuant to 5 U.S.C.

552(a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records, or an explanation of why disciplinary action was not taken;

(5) A copy of every rule the NRC published affecting this part;

(6) A copy of the fee schedule and the total amount of fees collected by the NRC for making records available under this part; and

(7) Any other information that indicates efforts to administer fully the provisions of 5 U.S.C. 552.

(b) The NRC shall make a copy of each report submitted to the Congress under paragraph (a) of this section available for public inspection and copying in the NRC Public Document Room.

10. Section 9.85 is revised to read as follows:

#### § 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 Director, Division of Rules and Records, 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.

11. Section 9.100 is revised to read as follows:



**§ 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. Sec. 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 documents considered at NRC meetings shall continue to be governed by Subpart A of this part.

12. In § 9.200, paragraph (b) is revised to read as follows:

**§ 9.200 Scope of subpart.**

(b) For purposes of this subpart, the term "employee of the NRC" includes all NRC personnel as that term is defined in § 9.3 of this part, including NRC contractors.

Dated at Washington, DC, this 27th day of July 1987.

For the Nuclear Regulatory Commission,  
Samuel J. Chilk,  
Secretary of the Commission.

[FR Doc. 87-17564 Filed 8-5-87; 8:45 am]

BILLING CODE 7590-01-M

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 61, 71, and 91**

[Docket No 25304; Notice N 87-7]

**Terminal Control Area (TCA)  
Classification and Pilot and Equipment  
Requirements**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM); extension of comment period.

**SUMMARY:** This notice announces extension of the comment period of an NPRM which proposes to establish a single-class TCA and to revise the associated pilot and equipment requirements. Under this proposal, the separate classifications of TCA's, which are currently Group I, Group II, and Group III, would be eliminated. Existing and future TCA's would be designated simply as "terminal control areas." This notice also proposes expanded pilot and equipment requirements for operation in and near TCA's as follows: (a) The pilot-in-command of a civil aircraft operating

within a TCA would be required to hold at least a private pilot certificate, with a limited exception for student pilots with certain training; (b) automatic pressure altitude reporting equipment (Mode C) would be required in all airspace from the surface to and including 12,500 feet above mean sea level (MSL) within 30 miles of the primary TCA airport; and (c) helicopters would be required to operate under the same equipment requirements as fixed-wing aircraft. Student pilots would not be allowed to operate at certain primary airports and would require specific training and an instructor's endorsement for all other TCA operations.

**DATES:** Comments must be received on or before September 16, 1987.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204) Docket No. 25304, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Burns, Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Communications should identify the regulatory docket and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on the NPRM must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25304." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered

before taking action on the proposed rule. The proposal may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRM's**

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of the document. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**Background**

Docket No. 25304, published on June 16, 1987 (52 FR 22918) proposed to establish a single-class TCA and to revise the associated pilot and equipment requirements. Under this proposal, the separate classifications of TCA's, which are currently Group I, Group II, and Group III, would be eliminated. Existing and future TCA's would be designated simply as "terminal control areas." This notice also proposes expanded pilot and equipment requirements for operation in and near TCA's as follows: (a) The pilot-in-command of a civil aircraft operating within a TCA would be required to hold at least a private pilot certificate, with a limited exception for student pilots with certain training; (b) automatic pressure altitude reporting equipment (Mode C) would be required in all airspace from the surface to and including 12,500 feet above mean sea level (MSL) within 30 miles of the primary TCA airport; and (c) helicopters would be required to operate under the same equipment requirements as fixed-wing aircraft. Student pilots would not be allowed to operate at certain primary airports and would require specific training and an instructor's endorsement for all other TCA operations.

On June 28, 1987, the Experimental Aircraft Association (EAA) petitioned the FAA for a 60-day extension to the comment period in order to circularize the notice to the organization's members. The FAA is aware that many general aviation pilots receive