

FINAL SUPPORTING STATEMENT
10 CFR PART 9, PUBLIC RECORDS
(3150-0043)
EXTENSION WITH BURDEN REVISION

Description of the Information Collection

NRC is requesting the extension of a previously approved information collection requirement. The information collection burden estimate is being adjusted to reflect current data on the number of information requests received from the public.

10 CFR Part 9, Public Records: Subpart A (Freedom of Information Act regulations) prescribes the procedures under which NRC records are made available to the public for inspection and copying pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552).

Subpart B (Privacy Act regulations) implements the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) with respect to the procedures by which individuals may determine the existence of, seek access to, and request correction of NRC records concerning themselves.

NRC Forms 509 and 509A are covered under this clearance and are used to inform requesters that are notified that fees will be assessed for processing their FOIA requests, to notify NRC in writing of their agreement to pay fees or to submit a request for a waiver or reduction of fees.

NRC issued a notice of final rulemaking on June 14, 2005 (70 FR 34303) which, among other changes, contained a new §9.28. Section 9.28 established NRC's procedures for predisclosure notification to submitters of confidential financial and commercial information. The burden was incorporated into the clearance at the time OMB approved the rulemaking.

A. JUSTIFICATION

2. Need for and Practical Utility of the Collection of Information.

The Freedom of Information Act (FOIA), 5 U.S.C. 552, and the implementing regulations, 10 CFR Part 9, require individuals seeking access to records under the FOIA and Privacy Act to submit a request in writing and to describe the records sought sufficient for the NRC to conduct a reasonable search. The statute and regulations authorize NRC to charge fees for processing requests under the Acts and to consider requests for fee waivers under certain conditions. The statute and regulations also allow individuals to request expedited processing of their requests if properly justified.

10 CFR 9.23(a)(1) requires that a person may request access to records routinely made available by the NRC under §9.21 in person or by telephone, fax, e-mail, or US mail from the NRC Public Document Room (PDR). (i) Each record requested must be described in sufficient detail to enable the NRC PDR staff to locate the record. (ii) In order to obtain copies of records expeditiously, a person may open an account at the NRC PDR with the private contractor who is responsible for duplicating NRC records for a fee.

10 CFR 9.23(b) requires that a person may request agency records by submitting a request authorized by 5 U.S.C. 552(a)(3) to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, by an appropriate method listed in §9.6. The request must be in writing and clearly state on the envelope and in the letter that it is a "FOIA request." The NRC does not consider a request as received until the date it is actually received by the FOIA/PA Officer. (1) A FOIA request covers only agency records that are in existence on the date the FOIA/PA Officer 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 FOIA requests for copies of agency records must reasonably describe the agency records sought in sufficient detail to permit the NRC to identify the requested agency records. Where possible, the requester should provide specific information regarding dates, titles, docket numbers, file designations, and other information which may help identify the agency records. If a requested agency record is not described in sufficient detail to permit its identification, the FOIA/PA Officer will contact the requester within 10 working days after receipt of the request and inform the requester of the additional information or clarification to process the request. (3) Upon receipt of a request made under paragraph (b) of this section, the NRC will provide written notification to the requester that indicates the request has been received, the name and telephone number of the NRC point of 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 a request made under this paragraph 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.

10 CFR 9.25(e) permits a requester to request expedited processing. (1) NRC may place a person's request at the front of the queue for the appropriate track for that request upon receipt of a written request that clearly demonstrates a compelling need for expedited processing. For the purposes of determining whether to grant expedited processing, the term compelling need means—(i) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or (ii) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity. (2) A person requesting expedited processing must include a statement certifying the compelling need given to be true and correct to the best of his or her knowledge and belief. The certification requirement may be waived by the NRC as a matter of agency discretion. (3) The FOIA/PA Officer will make the initial determination whether to grant or deny a request for expedited processing and will notify a requester within 10 calendar days after the request has been received whether expedited processing will be granted.

10 CFR 9.28(b) permits the submitter 30 calendar days from date of the notice described in paragraph (a) of this section to object to disclosure. If a submitter has any objection to disclosure, the submitter must provide a detailed written statement. The statement must specify all grounds that support why the information is a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified in the notice, the submitter will be considered to have no objection to disclosure of the information. Information provided by the submitter that is not received until after the date specified for response will not be considered unless that date is extended by the FOIA/PA Officer upon request by the submitter.

10 CFR 9.29(a) requires that a requester may appeal a notice of denial of a FOIA request for access to agency records, denial of a request for waiver or reduction of fees, or denial of a request for expedited processing under this subpart within 30 calendar days of the date of the NRC's denial.

10 CFR 9.29(b) requires an appeal of records denied by the Assistant IG for Investigations be in writing, directed to the IG, and sent to the FOIA/PA Officer. The NRC does not consider an appeal received until the date it is actually received by the FOIA/PA Officer.

10 CFR 9.29(c) requires an appeal of records denied by the Executive Assistant to the Secretary of the Commission, the General Counsel, or an office director reporting to the Commission be in writing, directed to the Secretary of the Commission, and sent to the FOIA/PA Officer. The NRC does not consider an appeal received until the date it is actually received by the FOIA/PA Officer.

10 CFR 9.29(d) requires an appeal of records denied by an Office Director reporting to the EDO be in writing, directed to the EDO, and sent to the FOIA/PA Officer. The NRC does not consider an appeal received until the date it is actually received by the FOIA/PA Officer.

10 CFR 9.29(e) requires an appeal of a denial of a request for expedited processing be in writing, directed to the EDO, and sent to the FOIA/PA Officer. The NRC does not consider an appeal received until the date it is actually received by the FOIA/PA Officer.

10 CFR 9.29(f) requires an appeal of a denial of a waiver or reduction of fees for locating and reproducing agency records be in writing, directed to the EDO, and sent to the FOIA/PA Officer. The NRC does not consider an appeal received until the date it is actually received by the FOIA/PA Officer.

10 CFR 9.40(g) requires those requesters that are notified that fees will be assessed for processing their request to notify the NRC in writing of their agreement to pay the fees. Requesters can use NRC Form 509 (see attached).

10 CFR 9.41(a)(1) The NRC will 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 ensure that there will be no delay in the processing of FOIA requests, the request for a waiver or reduction of fees should be included in the initial FOIA request letter.

10 CFR 9.41(a)(2) states that each request for a waiver or reduction of fees should be addressed to the Office of the ~~Chief Information Officer~~ Information Services and sent using an appropriate method listed in §9.6.

10 CFR 9.41(b) requires that a person requesting the NRC to waive or reduce search, review, or duplications fees will—(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 agency record; (3) Describe the nature of the specific activity or research in which the agency 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 or private interest the requester or any other party has in the agency records sought.

10 CFR 9.53(a) Requests may be made in person or in writing. Assistance regarding requests or other matters relating to the Privacy Act of 1974 may be obtained by writing to the FOIA/PA Officer, by an appropriate method listed in §9.6. Requests relating to records in multiple systems of records should be made to the FOIA/PA Officer. The FOIA/PA Officer shall assist the requester in identifying his request more precisely and shall be responsible for forwarding the request to the appropriate system manager.

10 CFR 9.53(b) requires all written requests be made to the FOIA/PA Officer and sent by an appropriate method listed in §9.6 and should clearly state on the envelope and in the letter, as appropriate: "Privacy Act Request," "Privacy Act Disclosure Accounting Request," or "Privacy Act Correction Request." The NRC does not consider a request received until the date it is actually received by the FOIA/PA Officer.

10 CFR 9.54(a) requires identification requirements in paragraphs (1) and (2) of this section which are applicable to any individual who makes requests respecting records about himself, except that no verification of identity shall be required if the records requested are available to the public under the provisions of the FOIA. With respect to certain sensitive records, additional requirements for verification of identity stated in the appropriate published "Notice of System of Records" may be imposed. (1) Written requests. An individual making a written request respecting a record about himself may establish his identity by a signature, address, date of birth, employee identification number, if any, and one other item of identification such as a copy of a driver's license or other

document. (2) Requests in person. An individual making a request in person respecting a record about himself may establish his identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear a name, address and signature (such as a driver's license or credit card).

10 CFR 9.54(b) requires an individual making a request in person or in writing respecting a record about himself who cannot provide the necessary documentation of identity may provide a notarized statement, swearing or affirming to his identity and to the fact that he understands that penalties for false statements may be imposed pursuant to 18 U.S.C. 1001, and that penalties for obtaining a record concerning an individual under false pretenses may be imposed pursuant to 5 U.S.C. 552a(i)(3). Forms for such notarized statements may be obtained on request from the FOIA/PA Officer and may be sent by an appropriate method listed in §9.6.

10 CFR 9.54(c) requires verification of parentage or guardianship. In addition to establishing the identity of the minor, or other individual he represents as required in paragraph (a) of this section, the parent or legal guardian of a minor or of an individual judicially determined to be incompetent shall establish his status as parent or guardian by furnishing a copy of a birth certificate of the minor showing parentage or a copy of a court order establishing guardianship.

10 CFR 9.55(a)(1) requires requests relating to records shall, insofar as practicable, specify the nature of the record sought, the approximate dates covered by the record, the system of records in which the record is thought to be included and the system manager having custody of the record system as shown in the annual compilation, "Notices of Records Systems", published by the GSA. Requests shall, in addition, comply with any additional specification requirements contained in the published "Notice of System of Records" for that system.

10 CFR 9.55(a)(2) requires requests for correction or amendment of records shall, in addition, specify the particular record involved, state the nature of the correction or amendment sought and furnish justification for the correction or amendment.

10 CFR 9.65(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 IG or the EDO, 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 IG for Investigations, the appeal must be in writing directed to the IG and sent to the FOIA/PA Officer by an appropriate method listed in §9.6. For agency records denied by the FOIA/PA Officer, the appeal must be in writing directed to the EDO and sent to the FOIA/PA 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 FOIA/PA Officer.

10 CFR 9.66(b) Appeals from initial adverse determinations. If an individual's request to amend or correct a record has been denied, in whole or in part, the individual may appeal that action and request a final review and determination of that individual's request by the IG or the EDO, as appropriate. An appeal 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 IG for Investigations, the appeal must be in writing directed to the IG and sent to the FOIA/PA Officer by an appropriate method listed in §9.6. For agency records denied by the FOIA/PA Officer, the appeal must be in writing directed to the EDO and sent to the FOIA/PA Officer by an appropriate method listed in §9.6. The appeal should clearly state on the envelope and in the letter "Privacy Act Correction Appeal." The NRC does not consider an appeal received until the date it is actually received by the FOIA/PA Officer. Requests for final review must set forth the specific item of information sought to be corrected or amended and should include, where appropriate, records supporting the correction or amendment.

10 CFR 9.67(a) provides that a written "Statements of Disagreement" may be furnished by the individual within 30 calendar days of the date of receipt of the final adverse determination of the IG or the EDO. "Statements of Disagreement" directed to the EDO must be sent to the FOIA/PA Officer by an appropriate method listed in §9.6, and should be clearly marked on the statement and on the envelope "Privacy Act Statement of Disagreement." "Statements of Disagreement" directed to the IG must be sent to the FOIA/PA Officer by an appropriate method listed in §9.6, and should be clearly marked on the statement and on the envelope "Privacy Act Statement of Disagreement."

3. Agency Use of Information.

Respondents request records at their convenience. The information required by 9.23(a)(1), 9.23(b), 9.25(e), 9.53(a), 9.53(b), 9.54(a)(1), 9.54(b), 9.54(c), 9.55(a)(1), and 9.55(a)(2) is provided by the respondent at the time the request is made to the NRC. Under 9.28(b), the NRC requires submitters of confidential commercial or financial information to provide information within 30 calendar days of the date of request. Under 9.29(a) 9.29(b), 9.29(c), 9.29(d), 9.29(e), and 9.29(f), the NRC requires that appeals of denial of information be forwarded to NRC within 30 calendar days from the date of the denial. Under 9.40(g), the NRC requires those requesters notified that fees will be assessed for processing their request notify NRC within 10 working days of receipt of the notice of their agreement to paid the fees or request a waiver of fees (9.41). Under 9.65(b) and 9.66(b), the NRC requires that appeals of denial of access, amendment or correction of records be forwarded to NRC within 60 calendar days from the date of receipt of the denial. Under 9.67(a), the NRC requires that statements of disagreement be forwarded to NRC within 30 calendar days from receipt of denial. Under Subparts A and B, the information is used to process requests from the public and to keep NRC statistics.

4. Reduction of Burden Through Information Technology.

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use new automated information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58791), consistent with the Government Paperwork Elimination Act, which allows its licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means. Requests which are not for personal records that require verification of identity of the requester are being accepted by electronic mail and facsimile transmission in addition to mail and in-person written request. It is anticipated that between one-fourth and one-half of all requests will be submitted electronically.

5. Effort to Identify Duplication and Use Similar Information.

There is no duplication and there is no way to use similar information, as each request is unique to the requester.

6. Effort to Reduce Small Business Burden.

The request is made on a one-time basis, and thus would have virtually no impact on small business since most of the requesters are individuals who are acting in a personal capacity.

7. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently.

The program could not be conducted without the public submitting their requests for information each time information is sought that is not already publicly available.

8. Circumstances Which Justify Variation from OMB Guidelines.

The NRC is in compliance with OMB Guidelines.

9. Consultations Outside the NRC.

The opportunity for public comment on the information collection requirements was published in the Federal Register on July 5, 2005 (70 FR 38711). No comments were received.

10. Payment or Gift to Respondents.

Not applicable.

11. Confidentiality of Information.

Information released under 9.53 is made available only to the requester and is not made publicly available.

12. Justification for Sensitive Questions.

Not applicable.

13. Estimated Burden and Burden Hour Cost.

The estimated annual burden is 2,120 hours at an estimated total cost to the public of \$426,020 at a rate \$201/hour.

CFR Part	No. of Respondents	Responses per Respondent	Total Responses	Burden Per Response	Total Annual Burden Hours	Cost to Public @ \$201/hr
9.23(a)(1)	7,340	1	7,340	0.25	1835	\$368,835
9.23(b)	400	1	400	0.25	100	\$20,100
9.25(e)	30	1	30	0.50	15	\$3,015
9.28(b)	10	1	10	10	100	\$20,100
9.29(a), (b), (c), (d), (e), (f)	10	1	10	1	10	\$2,010
9.40(g)	100	1	100	0.10	10	\$2,010
9.41(a) & (b)	60	1	60	0.50	30	\$6,030
9.53(a) & (b)	10	1	10	0.50	5	\$1,005
9.54(a)(1)	10	1	10	0.50	5	\$1,005
9.54(b)	10	1	10	0.50	5	\$1,005
9.54(c)	0	1	0	0.50	0	\$0
9.55(a)(1)	5	1	5	0.50	2.5	\$503
9.55(a)(2)	0	1	0	1	0	\$0
9.65(b)	2	1	2	1	2	\$402
9.66(b)	0	1	0	1	0	\$0

9.67(a)	0	1	0	3	0	\$0
TOTALS	7987		7987		2119.5	\$426,020

14. Estimate of Other Additional Costs.

There are no other additional costs.

15. Estimated Annualized Cost to the Federal Government.

The estimated annual burden to the NRC is 872.5 staff hours at a cost \$175,373 at a rate of \$201/hour for labor costs.

CFR Part	Total Responses	Burden Per Response	NRC Staff Hours	Cost to NRC
9.23(a)(1)	7,340	0.10	734	\$147,534
9.23(b)	400	0.10	40	\$8,040
9.25(e)	30	0.10	3	\$603
9.28(b)	10	4	40	\$8,040
9.29(a)	10	1	10	\$2,010
NRC Form 509 9.40(g)	100	0.10	10	\$2,010
9.41(a) & (b)	60	0.50	30	\$6,030
9.53(a) & (b)	10	0.10	1	\$201
9.54(a)(1)	10	0.10	1	\$201
9.54(b)	10	0.10	1	\$201
9.54(c)	0	0.20	0	\$0
9.55(a)(1)	5	0.10	0.5	\$101
9.55(a)(2)	0	1	0	\$0
9.65(b)	2	1	2	\$402
9.66(b)	0	1	0	\$0
9.67(a)	0	3	0	\$0
TOTALS	7987		872.5	\$175,373

16. Reasons for Changes in Burden or Cost.

The overall burden has decreased from 2,932 to 2,120 hours (a decrease of 812 hours) because of the following:

(1) reduction in the number of responses by 3,360 (from 10,700 to 7,340) resulting in a reduction of 840 hours (from 2,675 to 1,835 hours) for Section 9.23(a)(1) because of the increased availability of documents on-line through the Agency-wide Documents Access and Management System (ADAMS) and the NRC Web page (www.nrc.gov);

(2) increase in the number of respondents for Section 9.25(e) from 10 to 30 based on the actual number of responses received during the past 3 years which resulted in a burden increase of 10 hours from 5 to 15 hours.

(3) reduction in the number of respondents for Sections 9.29 (a), (b), (c), (d), (e), and (f) from 20 to 10 based on the actual number of responses received during the past 3 years which resulted in a burden decrease of 10 hours from 20 to 10 hours.

(4) increase in the number of respondents for Section 9.41(b) from 5 to 60 based on the actual number of responses received during the past 3 years which resulted in a burden increase of 28 hours from 2.5 to 30 hours.

The rate has increased from \$157 to \$201.

17. Publication for Statistical Use.

Not applicable.

18. Reason for Not Displaying the Expiration Date.

The requirement will be contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become out of date would confuse the public.

19. Exceptions to the Certification Statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.