

DRAFT SUPPORTING STATEMENT
10 CFR PART 9, PUBLIC RECORDS
(3150-0043)

REVISION

Description of the Information Collection

NRC is requesting the extension and revision 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. In addition, some burden is being removed based on review of Paperwork Reduction Act requirements.

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 also covered under this clearance and are used 1) by the NRC to notify requesters that fees will be assessed for processing their FOIA requests, 2) by the requester to notify NRC in writing of their agreement to pay fees, 3) by the NRC to notify the requester to submit a written request for a waiver pursuant to 10 CFR 9.41 with 10 working days from the receipt of the notice, and 4) by the NRC to notify the requester to provide advanced payment of estimated fees.

A. JUSTIFICATION

1. 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 sufficiently 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 and to appeal denials of their requests. See supplemental documentation for more detail on regulations in 10 CFR Part 9.

NRC needs this information in order to comply with the FOIA and Privacy Act. Forms 509 and 509A are used: 1) by the NRC to notify requesters that fees will be assessed for processing their FOIA requests, 2) by the requester to notify NRC in writing of their agreement to pay fees, 3) by the NRC to notify the requester to submit a written request for waiver pursuant to 10 CFR 9.41 with 10 working days from the receipt of the notice, and 4) by the NRC to notify the requester to provide advanced payment of estimated fees.

2. Agency Use of Information.

Respondents request records at their convenience. At the time of the request, they must describe each requested record in sufficient detail to enable the NRC staff to locate the record, including specific information regarding dates, titles, docket numbers, and file designations, whenever possible. Requestors who are informed by the NRC that they will be assessed processing fees have 10 working days following receipt of the notice to provide advanced payment, notify the NRC in writing that they agree to pay the fees, or request a waiver or reduction of fees. Requestors can use Form 509 for this purpose.

If information is denied to the requestor, and the requestor wishes to appeal the decision, he must submit an appeal in writing within 30 days from the date of the denial. Similarly, if a fee waiver or expedited processing request is denied and the requestor wishes to appeal the decision, he must also submit an appeal in writing.

If a requestor wishes to appeal a denial of access to Privacy Act information, or appeal a denial of a request to amend or correct a record, he must submit an appeal in writing within 60 days. If these appeals are denied, the requestor may submit in writing a statement of disagreement within 30 days.

The NRC uses the information provided by requestors to process requests from the public and to keep NRC statistics.

In addition to information received by the NRC from individuals requesting information, as part of the FOIA process, the NRC also receives information from parties who have previously submitted information to the NRC. Whenever the NRC makes an initial determination that information should be disclosed which was previously designated by the submitter as trade secrets or confidential commercial or financial information, the NRC notifies the submitter in writing. If the submitter objects to the release of this information, the submitter must provide a detailed written statement within 30 calendar days. The NRC needs this information from submitters to properly process FOIA requests that involve confidential information or trade secrets.

3. 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. NRC receives FOIA requests and other information related to Part 9 through web-based submittal forms, e-mail, fax, and mail. It is anticipated that 50% of all requests will be submitted electronically.

4. Effort to Identify Duplication and Use Similar Information.

No sources of similar information are available. There is no duplication of requirements. NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections. There is no way to use similar information, as each request is unique to the requester.

5. 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.

6. 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.

7. Circumstances Which Justify Variation from OMB Guidelines.

The information collection is in compliance with OMB Guidelines.

8. Consultations Outside the NRC.

The opportunity for public comment on the information collection requirements was published in the Federal Register.

9. Payment or Gift to Respondents.

Not applicable.

10. Confidentiality of Information.

Privacy Act Information is made available only to the requester and is not made publicly available.

FOIA Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b).

11. Justification for Sensitive Questions.

Not applicable.

12. Estimated Burden and Burden Hour Cost.

The estimated annual burden is 167 hours at an estimated total cost to the public of \$43,086 at a rate \$258/hour. See Table 1.

13. Estimate of Other Additional Costs.

There are no other additional costs.

14. Estimated Annualized Cost to the Federal Government.

The estimated annual burden to the NRC is 97.8 staff hours at a cost \$25,232 at a rate of \$258/hour for labor costs. See Table 2.

15. Reasons for Changes in Burden or Cost.

The overall burden has decreased from 2,119.5 to 167 hours (a decrease of 1,952.5 hours) because of the following:

Based on a review of the past 3 years of data the NRC has made the following burden adjustments:

- 1) Decrease in the number of respondents for Section 9.25(e) (requests for expedited processing) from 30 to 23 based on the actual number of responses received during the past 3 years which resulted in a burden decrease of 3.5 hours from 15 to 11.5 hours.
- 2) Increase in the number of respondents for Section 9.41(b) (requests for reduction or waiver of fees) from 60 to 67 based on the actual number of responses received during the past 3 years which resulted in a burden increase of 3.5 hours from 30 to 33.5.

In addition, the NRC reviewed the requirements under 10 CFR Part 9 in conjunction with the Implementing Guidance for OMB Review of Agency Information Collection (Draft issued 1999). A review of these documents suggested that some of the requirements previously included under this clearance number should not have been submitted as information collections, and are actually exempt from requirements under the Paperwork Reduction Act (PRA).

The first set of requirements that the NRC believes are exempt from PRA requirements are: Public access to records in the Public Document Room, Requests for Agency records under the FOIA, and Privacy Act requests. According to the OMB Guidance document, these requirements are exempt from the PRA because they are:

“...disclosures that require persons to provide or display only facts necessary to identify themselves, e.g., ‘they entail no burden other than that necessary to identify the respondent, the date, the respondent’s address, and the nature of the instrument.’

‘Nature of the instrument’ refers to a respondent’s request for materials, such as publications or other information from an agency. To facilitate such requests for information from an agency, and agency may ask

requesters to describe the material or information sought in detail sufficient to describe the individual desires.”

In short, these regulations simply require requestors to identify themselves and the information that they are seeking. As a result, NRC does not consider these regulations to constitute an information collection, and has removed their burden from this submission.

The second set of requirements that the NRC believes are exempt from the PRA are the identifying documents required for Privacy Act requests. This includes Identification for Privacy Act requests, the Notarized statement (submitted in lieu of documents supporting the requestor’s identity), and Documents verifying parentage of guardianship. These items fall under the exemption for certifications, which “Identify an individual in a routine, non-intrusive, non-burdensome way.” These three identification methods do not substitute for a collection of information, and are the minimum required for the NRC to verify an individual’s identity for the purpose of processing a Privacy Act request.

The NRC has removed from the total burden the hours associated with these requirements, for a total reduction of 1,952.5 hours. Following is a table summarizing the requirements and the burden reduction for each:

Section	Description	Burden reduction
9.23(a)(1)	Public access to records in the Public Document Room	-1,835
9.23(b)	Requests for agency records under the FOIA	-100
9.53(a) & (b)	Privacy Act requests, how and where presented	-5
9.54(a)(1)	Identification for Privacy Act requests	-5
9.54(b)	Notarized statement (submitted in lieu of documents supporting the requestor’s identity) for Privacy Act requests	-5
9.54(c)	Documents verifying parentage or guardianship for Privacy Act requests	0
9.55(a)(1)	Specification of records sought in Privacy Act request	-2.5
TOTAL		-1,952.5

In addition, the rate has increased from \$201 to \$258.

16. Publication for Statistical Use.

Not applicable.

17. 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.

18. Exceptions to the Certification Statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

TABLE 1.
ANNUAL REPORTING BURDEN

CFR Part	Description	No. of Respondents	Responses per Respondent	Total Responses	Burden Per Response	Total Annual Burden Hours	Cost to Public @ \$258/hr
9.25(e)	Requests for expedited processing	23	1	23	0.50	11.5	\$2,967
9.28(b)	Submitter objection to disclosure	10	1	10	10	100	\$25,800
9.29(a), (b), (c), (d), (e), (f)	Appeals from initial determination, submitted by requestor	10	1	10	1	10	\$2,580
9.40(g) NRC Form 509	Agreement to pay fees, or a request for a waiver	100	1	100	0.10	10	\$2,580
9.41(a) & (b)	Waiver request submitted with a FOIA request – detailed information about the use of information	67	1	67	0.50	33.5	\$8,643
9.55(a)(2)	Request for correction or amendment of a record	0	1	0	1	0	\$0
9.65(b)	Appeals from denials of access for Privacy Act request	2	1	2	1	2	\$516
9.66(b)	Appeals from an initial adverse determination for Privacy Act request	0	1	0	1	0	\$0
9.67(a)	Privacy Act statements of disagreement	0	1	0	3	0	\$0
TOTALS		212		212		167	\$43,086

TABLE 2.
ANNUAL COSTS TO THE FEDERAL GOVERNMENT

CFR Part	Description	Total Responses	Burden Per Response	NRC Staff Hours	Cost to NRC
9.25(e)	Requests for expedited processing	23	0.10	2.3	\$593
9.28(b)	Submitter objection to disclosure	10	4	40	\$10,320
9.29(a), (b), (c), (d), (e), (f)	Appeals from initial determination, submitted by requestor	10	1	10	\$2,580
9.40(g) NRC Form 509	Agreement to pay fees, or a request for a waiver	100	0.10	10	\$2,580
9.41(a) & (b)	Waiver request submitted with a FOIA request – detailed information about the use of information	67	0.50	33.5	\$8,643
9.55(a)(2)	Request for correction or amendment of a record	0	1	0	\$0
9.65(b)	Appeals from denials of access for Privacy Act request	2	1	2	\$516
9.66(b)	Appeals from an initial adverse determination for Privacy Act request	0	1	0	\$0
9.67(a)	Privacy Act statements of disagreement	0	3	0	\$0
TOTALS		212		97.8	\$25,232