

DRAFT OMB SUPPORTING STATEMENT
FOR
10 CFR PART 5
"NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR
ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE"

(3150-0209)

EXTENSION

DESCRIPTION OF THE INFORMATION COLLECTION

The regulations, under 10 CFR Part 5, implements the provisions of Title IX of the Education Amendments of 1972, as amended, except sections 904 and 906 of those amendments (20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688). The provisions are designed to eliminate, with certain exceptions, discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in the Title IX regulations.

10 CFR 5 follows provisions covered in 10 CFR 4, Section 4.331 Compliance Reviews, which indicates NRC may conduct compliance reviews and Pre-Award reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the act and these regulations. NRC may conduct these reviews even in absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of these regulations has occurred. Each recipient is required to submit requirements during the Pre-Award process, the Post-Award process, an Annual EO Report, and other collections, if requested (e.g. investigate and correct violations, complaint filed, etc.). At a minimum, 3 reports and 3 collections are required unless the NRC determines information is necessary to satisfy a complaint, investigate or correct a violation, or other information as needed. NRC Form 781 does not require a Privacy Act statement. This form is completed by applicants (state or local government, colleges, universities, vocational schools, a private organization, corporation, or partnership) submitting a request for Federal financial assistance or plan required to be approved by NRC.

The purpose for collecting this information is to ensure that recipients of Federal financial assistance operate their programs and activities in a non-discriminatory manner. The form outlines the responsibilities of the recipient under the law to engage in fair practices and provides the NRC with another vehicle to assess recipient programs. Each applicant/recipient is assigned a case file in which this form is filed. Each request is assigned an SBCR compliance review number which reflects the year of the request, month of the request, and the numerical order of receipt of the request. Case files are maintained in paper form in a locked file cabinet.

All recipients of Federal financial assistance from the Nuclear Regulatory Commission (NRC) are subject to Title IX, but Title IX's anti-discrimination prohibitions are limited to the educational components of the recipient's program or activity, if any. Failure to include a type of Federal assistance in the list indicated below shall not mean, if Title IX is otherwise applicable, that a program or activity is not covered by Title IX. The following is a list of Federal financial assistance administered by the NRC to which Title IX applies:

(a) Conferences on regulatory programs and related matters: Agreements for financial assistance to State and local officials, without full-cost recovery, to confer on regulatory programs and related matters at NRC facilities and offices, or other locations.

(b) Orientations and instruction: Agreements for financial assistance to State and local officials, without full-cost recovery, to receive orientation and on-the-job instruction at NRC facilities and offices, or other locations.

(c) Technical training courses: Agreements for financial assistance to State and local officials, without full-cost recovery, to attend training on nuclear material licensing, inspection and emergency response regulatory responsibilities to ensure compatibility between NRC and Agreement State regulation.

(d) Participation in meetings and conferences: Agreements for participation, without full-cost recovery, in meetings, conferences, workshops, and symposia to assist scientific, professional or educational institutions or groups.

(e) Research support: Agreements for the financial support of basic and applied scientific research and for the exchanges of scientific information.

(f) Educational Institutions: Agreements for financial assistance to education institutions to include applicants or recipient that is an institution of higher education, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education.

A. JUSTIFICATION

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

The reporting and recordkeeping requirements are necessary in order for NRC staff to assure that the recipients of Federal financial assistance are in compliance with Title IX of the Education Amendments of 1972, as amended.

The currently effective information collection requirements of Part 5 are identified and explained below:

Section 5.110(c)(1): Each recipient educational institution shall within one year of September 29, 2000: (1) evaluate, in terms of the requirements of these Title IX regulations, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity;

Section 5.110(c)(2): modify any of these policies and practices that do not or may not meet the requirements of these Title IX regulations

Section 5.110(c)(3): take appropriate remedial steps to eliminate the effects of any discrimination that resulted or may have resulted from adherence to these policies and practices.

Section 5.110(d): Recipients shall maintain on file for at least three years following its completion, the evaluation required under paragraph (c) of this section, and

shall provide to the designated agency official upon request, a description of any modifications made pursuant to paragraph (c)(2) of this section and of any remedial steps taken pursuant to paragraph (c)(3) of this section.

Section 5.115(a): Either at the application stage or the award stage, Federal agencies must ensure that applications for Federal financial assistance or awards of Federal financial assistance contain, be accompanied by, or be covered by a specifically identified assurance from the applicant or recipient, satisfactory to the designated agency official, that each education program or activity operated by the applicant or recipient and to which these Title IX regulations apply will be operated in compliance with these Title IX regulations. An assurance of compliance with these Title IX regulations shall not be satisfactory to the designated agency official if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with 5.110 (a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior to or subsequent to the submission to the designated agency official of such assurance.

Section 5.115(b)(1): In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

Section 5.115(b)(2): In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

Section 5.115(b)(3): In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

Section 5.115(c)(1): The assurances required by paragraph (a) of this section, which may be included as part of a document that addresses other assurances or obligations, shall include that the applicant or recipient will comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to Title IX of the Education Amendments of 1972, as amended.

Section 5.115(c)(2): The designated agency official will specify the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractor's transferees, or successors in interest.

Section 5.135(a): Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under these Title IX regulations, including any investigations of any complaint communicated to such recipient alleging its noncompliance with these Title IX regulations or alleging any actions that would be prohibited by these Title IX regulations. The recipient shall notify all of its students and employees of the name, office address, and telephone number of the employee or employees appointed pursuant to this paragraph.

Section 5.135(b): A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by these Title IX regulations.

Section 5.140(a)(1): Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities that it operates, and that it is required by Title IX regulations not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the designated agency official finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and these Title IX regulations, but shall state at least that the requirement not to discriminate in education programs or activities extends to employment therein, and to admission thereto unless Sections 5.300 through 5.310 do not apply to the recipient, and that inquiries concerning the application of Title IX and these Title IX regulations to such recipient may be referred to the employee designated pursuant to Section 5.135, or to the designated agency official.

Section 5.140(a)(2): Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of September 29, 2000 or of the date these Title IX regulations first apply to such recipient, whichever comes later, which notification shall include publication in: (i) newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (ii) memoranda or other written communications distributed to every student and employee of such recipient.

Section 5.140(b)(1): Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form that it makes available to any person of a type, described in paragraph (a) of this section, or which is otherwise used in connection with recruitment of students or employees.

Section 5.140(b)(2): A recipient shall not use or distribute a publication of the type described in paragraph (b)(1) of this section that suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by these Title IX regulations.

Section 5.140(c): Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b)(1) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and shall require such representatives to adhere to such policy of nondiscrimination described in paragraph (a) of this section and shall require such representatives to adhere to such policy.

Section 5.205(b): An educational institution or other entity that wishes to claim the exemption set forth in paragraph (a) of this section shall do so by submitting in writing to the designated agency official a statement by the highest ranking official

of the institution, identifying the provisions of the Title IX regulations that conflict with a specific tenet of the religious organization.

Section 5.230(a): An institution to which Section 5.225 applies and that is composed of more than one administrative separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

Section 5.230(b)(1): In order to be approved by the Secretary of Education, a transition plan shall: (1) State the name, address and Federal Interagency Committee on Education Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

Section 5.230(b)(2): State whether the educational institution or administratively separate unit admits students of both sexes as regular students and, if so, when it began to do so.

Section 5.230(b)(3): Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

Section 5.230(b)(4): Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

Section 5.230(b)(5): Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

Section 5.230(d): To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which Section 5.225 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs that emphasize the institution's commitment to enrolling students of the sex previously excluded.

Section 5.400(d)(2)(i): Such recipient: (i) shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of such recipient that these Title IX regulations would prohibit such recipient from taking and (ii) shall not facilitate, require, permit, or consider such participation if such action occurs.

Section 5.425(b): A recipient that uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials that permit or require different materials that cover the same occupations and interest areas and the use of such different materials is

shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

Section 5.430(b)(2): To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which: (i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to member of a particular sex; (ii) an appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and (iii) no student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

Section 5.445(b)(2): A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation as long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

2. Agency Use of Information

The information is used to incorporate the basic standards for determining sex discrimination, and is designed to provide guidance to recipients of money paid, property transferred, or other Federal financial assistance extended under any program or activity, by way of grant, entitlement, cooperative agreement, loan, contract, or other agreement by NRC, or an authorized contractor or subcontractor of NRC.

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 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. It is estimated that approximately 100% of the potential responses are filed electronically.

4. Efforts to Identify Duplication and Use of 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.

5. Effort to Reduce Small Business Burden

The information collection does not involve small businesses or other small entities.

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

There is no specific time frame for collection. The required information is submitted upon initiation or modification of a program.

7. Circumstances Which Justify Variation from OMB Guidelines

There are no variations from OMB guidelines.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package has been published in the Federal Register.

9. Payment or Gift to Respondents

Not Applicable.

10. Confidentiality of Information

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

An estimated 200 respondents will be subject to approximately 3 collection requirements, requiring minimal information and documentation. Each of these 200 respondents will be requested to submit information and documentation for collection and reporting requirements covered under 10 CFR Part 5. The total reporting responses is 600 (200 x 3 = 600). The total number of responses is 800 (600 reporting plus 200 recordkeepers). The total annual estimated reporting burden is 3,000 hours (600 responses x 5 hours per response). The estimated burden per response includes 1.5 hours (30 minutes each for Parts A, B and C) to complete the form in addition to reading the instructions and preparing the necessary documents. The total annual estimated recordkeeping burden is 600 hours (200 recordkeepers x 3 hours per recordkeeper). The total overall estimated annual burden is 3,600 hours at a cost of \$986,400 (3,600 hours x \$274 per hour).

The burden for third party collections for Sections 5.110(d); 5.115(b)(1); 5.135(a); 5.135(b); 5.140(a)(1); 5.140(a)(2); 5.140(b)(1); 5.140(c); 5.230(b)(1); 5.400(d)(2)(i); and 5.445(b)(2) are incorporated in the estimated recordkeeping burden.

Detailed Description of Burden Calculation:

Each of the 200 respondents will be required to submit 3 reports a year for all of the 10 CFR reporting requirements under Sections 5.110; 5.115; 5.205; and 5.230. The estimated number of responses is 600 (200 respondents x 3 reports). The total annual reporting burden is 3,000 hours (200 respondents x 3 reports x 5 hours per response), with an estimated annual cost of \$822,000 (3,000 x \$274).

Each of the 200 respondents will maintain the records required under sections. Additionally, the burden for third party collections for Sections 5.110(d); 5.115(b)(1); 5.135(a); 5.135(b); 5.140(a)(1); 5.140(a)(2); 5.140(b)(1); 5.140(c); 5.230(b)(1); 5.400(d)(2)(i); and 5.445(b)(2) are incorporated in the estimated recordkeeping burden. The estimated number of recordkeepers is 200. The total annual recordkeeping burden is 600 hours (200 recordkeepers x 3 hours), with an estimated annual cost of \$164,400 (600 hours x \$274).

The overall estimated burden is 3,600 hours (3,000 hours reporting + 600 hours recordkeeping) for an estimated total cost of \$986,400 (3,600 hours x \$274). The estimated cost for each respondent is \$4,932 ($\$986,400 \div 200$ respondents).

NOTE: Each recipient is required to submit requirements during the Pre-Award process, the Post-Award process, an Annual EO report, and other collections, if requested (e.g. investigate and correct violations, complaint filed, etc.). At a minimum, 3 reports and 3 collections are required unless the NRC determines information is necessary to satisfy a complaint, investigate or correct a violation, or other information as needed.

13. Estimate of Other Additional Costs

The NRC has determined that the quantity of records to be maintained is roughly proportional to the recordkeeping burden and, therefore, can be used to calculate approximate records storage costs. Based on the number of pages maintained for a typical clearance, the records storage cost has been determined to be equal to 0.0004 times the recordkeeping burden cost. Because the recordkeeping burden is estimated to be 600 hours, the storage cost for this clearance is \$65.76 (600 hours x 0.0004 x \$274/hour).

14. Estimated Annualized Cost to the Federal Government

The estimated annual cost to the Federal Government in administering the program and procedures data pertaining to Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance contained in these requirements is:

Annual cost - professional effort

(600 reports x 5 hrs x \$274/hr)	=	\$822,000
Annual cost - clerical effort (600 reports x 1 hr x \$47/hr)	=	\$28,200
Annual cost - record holding requirement for ongoing program (4 cubic ft. x \$209/cubic ft.)	=	\$836
Total annual cost	=	\$851,036

These costs are recovered through fee assessments to recipients pursuant to 10 CFR Part 5 170 and/or 171.

15. Reasons for Change in Burden or Cost

The overall burden for this renewal remains unchanged. The burden cost for professional staff-hours increased by \$17 from \$257 to \$274 and remains \$47 for clerical staff-hours.

16. Publication for Statistical Use

There are no plans to publish the information received from licensees pursuant to these reporting requirements.

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 obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in the collection of information.