FINAL SUPPORTING STATEMENT FOR
NRC FORM 655, "EEO COUNSELOR'S REPORT"

(3150-XXXX)
NEW

Abstract

As set forth under 29 CFR 1614, the Equal Employment Opportunity (EEO) complaint process prescribes that when an aggrieved individual believes that they have been discriminated against on the basis of their race, color, religion, sex (including sexual orientation, gender identity and expressions, and pregnancy), national origin, age, disability, genetic information (including family medical history), marital status, parental status, political affiliation, military service, and reprisal, the aggrieved individual must consult a Counselor prior to filing a complaint in order to try to informally resolve the matter. The assigned EEO Counselor conducts the pre-complaint (Informal) with the intentions of resolving the complaint within the Agency. At the conclusion of pre-complaint (Informal) process, and if resolution was unsuccessful, during the final interview with the aggrieved person, the EEO counselor must discuss what occurred during the counseling process and provide the aggrieved with information to move the matter forward.

Pursuant to 29 CFR § 1614.105(c), if the aggrieved individual decides to file a Formal complaint (i.e., NRC Form 646), the EEO Counselor must submit a written report (i.e., EEO Counselors Report) within fifteen (15) calendar days to the SBCR Director or designated official that will contain relevant information about the aggrieved individual, jurisdiction, claims, bases, Responding Management Officials (RMO), witnesses, requested remedies, and the EEO Counselor's checklist. The NRC Form 655, "EEO Counselor's Report" is completed by an EEO counselor during this consultation, which must be conducted within 45 days of the date of the matter alleged to be discriminatory or, in the case of personnel action, within 45 days of the effective date of the action. Once the form is completed, an authorized NRC representative will place the completed NRC Form 646 in a secure folder created specifically for the aggrieved individual within an automated tracking system.

A. JUSTIFICATION

1. Need for the Collection of Information

On behalf of the NRC, the Office of Small Business and Civil Rights (SBCR) Civil Rights Program (CR) administers, manages, and ensures agency compliance that prohibit discrimination in the workplace in accordance with the following Federal civil rights laws, regulations, policies, and guidance:

- Title VII of the Civil Rights Act of 1964, as amended
- Age Discrimination in Employment Act of 1967
- Section 501 of the Rehabilitation Act of 1973
- Equal Pay Act of 1963
- Genetic Nondiscrimination Act of 2008.
- Notification and Federal Employee Antidiscrimination and Retaliation Act of

2002

- Elijah E. Cummings Federal Employees Antidiscrimination Act of 2020
- Equal Employment Opportunity Commission's (EEOC) Title 29 Code of Federal Regulations, Part 1614 (29 C.F.R., Part 1614), Federal Sector Equal Employment Opportunity[1]
- EEOC's Management Directive 110 (MD 110), *Complaint Processing*[2]
- EEOC's Management Directive 715 (MD 715), *Affirmative Action Programs*[3]

The information is needed to ensure agency compliance with these laws, regulations, policies, and guidance.

2. Agency Use and Practical Utility of Information

The NRC Form 655 serves as written report from the EEO counselor to the agency's EEO office concerning the issues discussed and the actions taken during pre-complaint (Informal) counseling process to pursue claim(s) of unlawful discrimination in accordance with 29 C.F.R. §1614.105 (c) and MD 110. The information collected enables the Agency to properly document and identify the claim(s) raised by the complainant and determine if such claim(s) can legally be accepted for investigation or dismissed in accordance with 29 C.F.R. §1614.106 and 29 C.F.R. §1614.107.

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. Respondents are able to submit the requested information using fillable-fillable forms. The form is currently placed a secure drive and uploaded into the iComplaints case management system, which is the secure automated tracking system that provides a complaint number for the file and is used to create mandated agency reports. iComplaints maintains individual data records for all individuals who contact the Office of Small Business and Civil Rights (SBCR) to file informal and formal Equal Employment Opportunity (EEO) complaints. SBCR uses iComplaints to collect, track, and monitor EEO complaints in order to comply with Equal Employment Opportunity Commission (EEOC) data reporting requirements as set forth in the Code of Federal Regulations governing Federal Sector EEO complaint processing (29 CFR part 1614) and The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). In December 2021, SBCR will be upgrading the tracking system by migrating from iComplaints to Tyler Technology's Entellitrak (ETK EEO). ETK EEO will include a

[1] 29 C.F.R., Part 1614: https://www.gpo.gov/fdsys/pkg/CFR-2007-title29-vol4/pdf/CFR-2007-title29-vol4-part1614.pdf
[2] MD 110: https://www.eeoc.gov/federal-sector/management-directive/management-directive-110
[3] MD 715: https://www.eeoc.gov/federal-sector/management-directive/instructions-federal-agencies-eeo-md-715

new feature called e-File. E-File will provide agency employees, along with members of the public that are applicants for employment, the ability to electronically contact SBCR, request a Counselor, and initiate an EEO complaint. Throughout the complaint cycle, the e-File user will be able to see accurate and current information on their complaint. Potential complainants will no longer need to mail or hand-deliver paper forms in order initiate a complaint. It is estimated that 100% of the potential responses are filed electronically. It is estimated that approximately **100%** of the potential responses are filed electronically.

4. Effort to Identify Duplication and Use Similar Information

   No sources of similar information are available. There is no duplication of requirements.

5. Effort to Reduce Small Business Burden

   Not applicable. Information is collected from individuals rather than businesses.

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

   If the information on the NRC Form 655 were not collected, the NRC would not be in compliance with Federal laws and regulations regarding the processing of EEO complaints. The NRC Form 655 is completed once per complaint and cannot be completed less frequently while still maintaining compliance with Federally mandated processes.

7. Circumstances Which Justify Variation from OMB Guidelines

   Pursuant to 29 CFR § 1614.105(c), the NRC (i.e., EEO Counselor) must submit a written report (EEO Counselors Report) within fifteen (15) calendar days after notification that a formal complaint has been filed to the SBCR Director or designated official when an aggrieved individual has filed a formal complaint (i.e., NRC Form 646).

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*** on February 11, 2022 (87 FR 8058). Two comments were received on the proposed NRC Form 655.

   The NRC received comments from U.S. Equal Employment Opportunity Commission. The first commenter requested the following items be added to the form: 45th Day after Event; Reason for delayed contact beyond 45 days, if applicable; equal pay; genetics information; other (marital status, parental status, political affiliation, military service); and two selection boxes within Reprisal/Retaliation that

say “Prior EEO Activity” and “Opposing policies/practices made unlawful.” The NRC staff updated the form to reflect the requested changes.

The second commenter was generally supportive of the EEO process but had concerns about costs associated with the form.

NRC staff response: The commenter misunderstood the burden cost of $8,640 to represent the cost of the counselor completing the form; however, this cost represents the time for the aggrieved to provide the information on the form to the counselor. The NRC Form 655 is completed as part of the informal complaint process as prescribed by Federal EEO laws, including Title 29 Code of Federal Regulations, Part 1614 (29 C.F.R., Part 1614), Federal Sector Equal Employment Opportunity. The NRC cannot further reduce costs without compromising compliance with these laws.

In addition, the NRC staff piloted the form with four potential respondents to ascertain whether the burden estimate was accurate. Feedback from participants in this pilot suggested that the burden estimate for the form was accurate.

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).

This information is maintained in a system of records designated as EEOC/GOVT-1 Equal Employment Opportunity in the Federal Government Complaint and Appeal Records described at 71 Federal Register 24704 (April 26, 2006).

11. Justification for Sensitive Questions

The EEOC MD 110 requires the Federal agency to determine if the aggrieved individual believes that he/she was discriminated against based on race, color, sex (gender; sexual harassment; pregnancy; or lesbian, gay, bisexual, or transgender-LGBT, religion, national origin, age (40 years or older at the time of the event giving rise to the claim), physical or mental disability, equal pay/compensation, genetic information, sexual orientation, or retaliation for participating in activities by EEO statutes. The NRC permits claims of discrimination based on sexual orientation. Collection of this information from the individuals is mandatory and forms the basis(es) for a complaint. The information is necessary to enter the EEO complaint process. All information provided by persons alleging EEO discrimination is safeguarded and treated in accordance with the Privacy Act of 1974, as amended.

12. Estimated Burden and Burden Hour Cost

An EEO counseling session typically lasts 1 hour. During this time, the aggrieved person provides information to the counselor[4], who records it and completes the NRC Form 655. The NRC receives an estimated 30 submissions of NRC Form 655 annually. The total annual burden for NRC Form 655 is 30 hours (30 forms x 60 minutes per form) at a cost of $8,640 (2 hours x $288/hr).

The $288 hourly rate used in the burden estimates is based on the Nuclear Regulatory Commission's fee for hourly rates as noted in 10 CFR 170.20 "Average cost per professional staff-hour." For more information on the basis of this rate, see the Revision of Fee Schedules; Fee Recovery for Fiscal Year 2021 (86 FR 32146, June 17, 2021).

13. Estimate of Other Additional Costs

There are no additional costs.

14. Estimated Annualized Cost to the Federal Government

The estimated total annual burden for NRC staff to process NRC Form 655 is 15 hours (30 forms x 30 minutes per form) at a cost of $4,320 (15 hours x $288/hr).

Annual cost for contractor services for EEO Counseling is approximately $54,000 ($1,800 per counseling session x 30 annual complaint submissions).

The total cost to the Federal government is $58,320 ($4,320 + $54,000).

15. Reasons for Change in Burden or Cost

This is a request for a new OMB clearance.

16. Publication for Statistical Use

Pursuant to 29 C.F.R. § 1614.703, agencies are required to post cumulative quarterly and fiscal year EEO complaint statistics, titled "Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. No. 107-174," on the home page of the agency's public website. Section 1614.704 of 29 C.F.R. sets forth the list of statistical data the agency must post. Additional information regarding No FEAR Act posting is found at http://www.eeoc.gov/federal/directives/index.cfm. The results of the collection are available on the NRC's public website. https://www.nrc.gov/about-nrc/civil-rights/crp/dca.html.

[4] The NRC Form 655 is completed by an EEO counselor under contract to the NRC. The contractor's time to complete the form is not included in the burden estimate, only the respondent's time.

17. Reason for Not Displaying the Expiration Date

    The expiration date will be displayed.

18. Exceptions to the Certification Statement

    There are no exceptions to the certification statement.