

DRAFT 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.
- Equal Employment Opportunity Commission's (EEOC) Title 29 Code of

Federal Regulations, Part 1614 (29 C.F.R., Part 1614), Federal Sector Equal Employment Opportunity¹

- 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 Tyler Technology's Entellitrak (ETK EEO) 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 ETK EEO 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 ETK EEOiComplaints 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). It is estimated that 100% of the potential responses are filed electronically.

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>

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*.

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 counselor⁴, 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).

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.

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>.

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.