Occupational Safety and Health Review Commission

Supporting Statement Part A for Information Collection in Medical Exception Request Form

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

In accordance Executive Order 14043, "Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees" (Sept. 9, 2021), each agency is required to "implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law." The Safer Federal Workforce Task Force (SFWTF)—a team of federal departments and agencies established by President Biden to provide federal agencies with guidance on issues related to the COVID-19 pandemic—subsequently issued guidance regarding reasonable accommodation requests that may constitute "legally required exception[s] to the vaccination requirement." More specifically, under certain circumstances, federal law—such as section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791—may require an agency to provide a reasonable accommodation for an employee or applicant who, because of a disability, requests and is granted an exception from the COVID-19 vaccine mandate.

The template request form for a medical exception developed by SFWTF, which the Review Commission has adopted, includes a section that requires information from the employee's medical provider. The form is therefore covered by the Paperwork Reduction Act.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

This is a new collection of information. The information collected will be used to determine whether an employee is entitled under section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, to a medical exception to the vaccine mandate for federal employees set forth in E.O. 14043.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The medical exception form is a fillable pdf. The employee and their medical provider could transmit the form via email to the agency and retain a copy of the form as a pdf file. The Commission is allowing transmission of the form via email due to the time-sensitive nature of the vaccine mandate. However, in light of the Review Commission's limited budget, time constraints, and size (less than 60 FTEs), a decision has been made not to provide a method for submitting the form through the agency's website.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Information concerning an employee's medical condition that could serve as a basis for requesting an exception to the vaccine mandate is not otherwise collected by the Review Commission.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The impact on small businesses and other small entities is minimal. The medical exception form is available only to federal employees who work at the Review Commission (less than 60 FTEs). This form would be distributed to a medical provider only if one of those employees is requesting a medical exception to the vaccine requirement. The form itself is relatively short and the information sought is limited to the employee's medical condition that would support the medical exception request.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The collection of information is limited to circumstances in which a federal employee requests an exception to the vaccine requirement for medical reasons. If the collection of information is not conducted, the Review Commission would lack sufficient information to determine whether the employee is legally entitled to an exception to the vaccine mandate and granted a reasonable accommodation.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
    - Not applicable.
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
    - Not applicable.
- requiring respondents to submit more than an original and two copies of any document;
    - Not applicable.
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
    - Not applicable.
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
    - Not applicable.
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
    - Not applicable.
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are

consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- Not applicable.

- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

  - Not applicable.

8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

A notice has not been published in the *Federal Register*. During the requested six-month emergency authorization period, the Review Commission will complete the PRA notice-and-comment process specified in 5 C.F.R. part 1320.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Not applicable.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Not applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The medical exception form states: “The agency will be required to keep confidential any medical information provided, subject to the applicable Rehabilitation Act standards.” Qualifying language similar to this statement has been included in the Review Commission’s recently published SORN covering its reasonable accommodation records, 86 Fed. Reg. 64,532 (Nov. 18, 2021). As relevant, the opening paragraph to the SORN’s routine uses states as follows:

> In addition to disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected, and to the extent disclosure of any medical and/or genetic information is in compliance

with Section 501 of the Rehabilitation Act of 1973 and Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008. With respect to medical and genetic information protected under the Rehabilitation Act and/or GINA, records will be withheld or redacted to comply with the specific confidentiality and disclosure requirements set forth by the U.S. Equal Employment Opportunity Commission at 29 CFR pt. 1630 (Rehabilitation Act) and 29 CFR pt. 1635 (GINA).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The medical exception form asks the medical provider to provide information concerning the employee's medical condition that supports their request for an exception, either temporarily or in the long term, from the COVID-19 vaccine mandate. This information will be used by the agency to evaluate the employee's request. The medical provider, in the form, is made aware of the vaccine mandate, that a request for reasonable accommodations has been made, and that the information provided is necessary to assist the Review Commission in its reasonable accommodation process. As to consent, employees provide the form to their medical providers for completion of Part 2, thereby consenting to the release of their medical information for the purposes specified in the form.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.

Respondents	Frequency of Response	Annual Hour Burden
3	1	3 Hours

ASSUMPTIONS	
Respondents:	The Review Commission currently has a 100% vaccination rate and 14 vacancies. We estimate 3 or 20% of applicants for vacancies to seek a medical exception.
Frequency:	The Review Commission estimates each requestor will only require one response. We will reassess collecting this information in three years based on whether or not a COVID-19 vaccine mandate is still in place.
Hour Burden:	The Review Commission estimates 3 hours for respondents to collect the information. This includes the time necessary to read the instructions, gather the required data, complete Part 1 and review responses, provide the form to medical providers for completion of Part 2, and retrieve the form for submission to the agency.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

	Costs
Capital and Start-up Costs	$0
Operation and Maintenance Costs	$0
Total	**$0**

ASSUMPTIONS	
Capital and Start-up Costs:	The Review Commission is not purchasing any equipment, software, or services to collect this information. Employees will be allowed to submit the form via email due to the time constraints of getting the vaccine. Also, forms will be maintained per our privacy policy and reasonable accommodations process.
Operation and Maintenance Costs:	The Review Commission is not anticipating any additional operation and maintenance cost to collect and process the forms.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

	Costs
Annualized Costs to Federal Government	$1,608
Total	**$1,608**

ASSUMPTION	
Annualized Costs to Federal Government:	The Review Commission estimates that it will take 8 hours to process each request for a medical exception at an average hourly rate of $67 (8x3x$67). We do not anticipate incurring any additional costs to process the estimated requests. The estimated 8 hours and average hourly rate includes staff involved in our reasonable accommodation process.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

Not applicable.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Not applicable.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

The information is not collected for statistical purposes.