

This submission is being made for a revision of the information collection requirements related to COVID-19 vaccine attestation by non-paid employees to comply with Executive Order 14043, as explained further below.

SUPPORTING STATEMENT

This information collection is seeking to revise the collection requirements from the Office of Management and Budget (OMB) for the three year clearance to collect information pertaining to COVID-19 vaccine attestation by non-paid employees. We previously obtained OMB clearance through the emergency process in order to comply with Executive Order 14043.

A. Justification:

1. *Circumstances that make the collection necessary.*

On September 9, 2021, President Biden issued Executive Order 14043 to protect the health and safety of the Federal workforce and to promote the efficiency of the civil service. Pursuant to the Executive Order and implementing guidance, the Federal Communications Commission (FCC) informed its workforce that, other than in limited circumstances where a reasonable accommodation is legally required, all employees needed to be fully vaccinated against COVID-19 by November 22, 2021, regardless of where they are working. To ensure compliance with this mandate, the FCC established a requirement for employees to complete and submit a form attesting to their current vaccination status. Since then, the Executive Order was enjoined by a nationwide injunction, which has recently been overturned although this latter decision may still be appealed. Regardless of the status of the Executive Order, the FCC has developed and implemented health and safety protocols to ensure and maintain the safety of all occupants during standard operations and public health emergencies or similar health and safety incidents, such as the current pandemic, and will continue to request that workers report on their vaccination status. For some special categories of individuals who perform (or will perform) work for the agency but are not considered employees, the FCC is required to obtain OMB approval prior to collecting such information. These include incoming employees, non-paid interns, non-paid legal fellows, individuals performing work for the FCC pursuant to an Intergovernmental Personnel Agreement, participants in advisory committees, and possibly other similar classes of individuals who are not on the FCC payroll but are performing work for the agency.

This information does affect Individuals or households.

The Privacy Act Statement for this collection is the following:

Privacy Act Statement

Authority: The authority to collect this information derives from General Duty Clause; Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 654); Executive Order 12196, Occupational safety and health programs for Federal employees (Feb. 26, 1980); Executive Order 13991, Protecting the Federal Workforce and Requiring Mask-Wearing; Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees; OMB Memorandum M 21-15, COVID-19 Safe Federal Workplace: Agency Model Safety Principles (Jan. 24, 2021), as amended; and the National Defense Authorization Act For Fiscal Year 2017 (5 U.S.C. 6329c(b)). Information will be collected and maintained in accordance with the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.).

Purpose: The FCC collects information in this system to assist with maintaining a safe and healthy workplace, to protect FCC staff and visitors from risks associated with a public health emergency, such as a pandemic or epidemic, and to comply with mandates regarding travel, vaccination, testing, building occupation, etc.

Routine Uses: The FCC may release information contained in this system to other individuals and entities when necessary and appropriate under 5 U.S.C. § 552a(b) of the Privacy Act, including: to federal, state, and local health agencies to the extent necessary to comply with laws and regulations governing reporting of infectious disease; to the FCC staff member's emergency contact for purposes of locating a staff member during a public health emergency or to communicate that the FCC staff member may have potentially been exposed to an infectious disease as the result of a pandemic or epidemic while visiting a FCC facility; to comply with federal laws requiring disclosure of the information contained in our records; to comply with requests from Congress; to other federal agencies or to other administrative or adjudicative bodies before which the FCC is authorized to appear; to federal, state, or local law enforcement when FCC becomes aware of an indication of a violation or potential violation of a civil or criminal statute, law, regulation, or order; to Federal agencies, non-Federal entities, their employees, and agents for the purpose of detecting and preventing fraud, waste, and abuse in Federal programs; to appropriate agencies, entities, and persons when the FCC suspects or has confirmed that there has been a breach of information related to this system of records; and, to third parties, including contractors, performing or working on a contract in connection with providing services to the Federal Government, who may require access to this system. A complete list of the routine uses can be found in the system of records notice associated with this collection, FCC/OMD-33, Ensuring Workplace Health and Safety in Response to a Public Health Emergency, 86 Fed. Reg. 32674 (June 22, 2021).

Consequence of Failure to Provide Information: Providing this information is required and failure to do so may result in disciplinary action for federal staff and/or being denied access to FCC facilities. In providing this information, the submitter authorizes release of the information pursuant to the routine uses set forth in the systems of record notice.

The Statutory authority is contained in Executive Order 14043.

2. *Use of information.* The requirements contained herein are necessary to ensure and maintain the safety of all building occupants during the current pandemic.
3. *Use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.* We anticipate that respondents will submit information through e-mail using a fillable PDF form.
4. *Efforts to identify duplication.* There will be no duplication of information. The information sought is unique to each employee. The Commission does not otherwise collect this information, and it is not available from other sources.
5. *Impact on small entities.* The respondents are individuals who are performing work for the FCC, there will be no impact on small entities.
6. *Consequences if information not collected.* Failing to collect the information, or collecting it less frequently, would negatively impact the health and safety of the FCC workforce, and prevent the Commission from complying with Executive Order 14043 if and when the current injunction is lifted. As a result, some individuals performing functions may be banned from the workplace, thereby preventing the Commission from fulfilling its mission in an effective and efficient manner.

7. *Special circumstances.* There are no special circumstances associated with this information collection.
8. *Federal Register notice; efforts to consult with persons outside the Commission.* The Commission initiated a 60-day comment period seeking comments from the public in the Federal Register on **March 14, 2022 (87 FR 14263)** . There were no comments received from the public.
9. *Payments or gifts to respondents.* There will be no payments or gifts to respondents.
10. *Assurances of confidentiality.* Due to the personal and sensitive nature of the information to be collected, there is an assurance of confidentiality provided to respondents concerning this information collection.
11. *Questions of a sensitive nature.* As explained above, the information to be collected relates to the vaccination status of individuals performing work for the FCC, which is considered medical in nature and therefore could constitute private matters of a sensitive nature.
12. *Estimates of the hour burden of the collection to respondents.* The following represents the hour burden of the collection of information for whom this notice applies. For clarity, we note that the form will also be used by paid employees whose responses are not subject to PRA, and whose numbers and estimated burden are not included in the calculations below.
 - a. Number of estimated annual respondents: 140.
 - b. Total number of annual responses: 140.
 - c. Frequency of response: One-time reporting requirement.
 - d. Total estimated annual burden: 0.25 hours per respondent for 25 respondents filing once. Total estimated annual hours burden is calculated as follows:

140 estimated responses x 0.25 hours per response = 35 total estimated burden hours.
 - e. Total estimate of annual in-house cost to respondents for the hours burden: \$1,576.
 - f. Explanation of calculation: Although most respondents will be non-paid interns, we value their time at an average rate equivalent to the hourly rate of a GS-11, Step 5 government staff member in the Washington, DC metro area (*i.e.*, the rate paid to a recent law school graduate) (\$40.70/hour). For respondents who are not student volunteers, we value their time at an average rate equivalent to the hourly rate of a GS-13, Step 5 government staff member (\$58.01/hour), producing an anticipated blended hourly rate of no more than \$45.03/hour, using the assumption that at least three-quarters of the respondents will be student volunteers. Therefore, the maximum anticipated in-house cost is as follows:

140 estimated responses x 0.25 hours per response x \$45.03/hour = \$1,576.
13. *Estimates for cost burden of the collection to respondents.* There are no external costs to respondents related to this information collection.

14. *Estimate of the cost burden to the Commission.* There will be few, if any, costs to the Commission because reviewing the completed forms will be quick and is encompassed by regular Commission duties performed by human resources personnel.

15. *Program changes or adjustments.* The Commission is reporting a program change and adjustments to this information collection. The program change is due to a form change which did not result in any increases or decreases to this collection.

Also, the Commission is reporting adjustments/increases to the total number of respondents and total annual responses by 115, and to the total annual burden hours by 29 which are based on the most currently available data.

16. *Collections of information whose results will be published.* The collected information will not be published for statistical use.

17. *Display the expiration date for OMB approval of the information collection.* The Commission seeks approval to not display the expiration date for OMB approval on this information collection. The Commission publishes a list of all OMB-approved information collections in 47 CFR § 0.408 of the Commission's rules.

18. *Explain any exceptions to the statement certifying compliance with 5 C.F.R. § 1320.9 and the related provisions of 5 C.F.R. § 1320.8(b)(3).* There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

The Commission does not anticipate that the collection of information will employ statistical methods.