

FINAL SUPPORTING STATEMENT
FOR
NRC FORM 798
“REQUEST FOR A MEDICAL EXCEPTION TO THE COVID-19 VACCINATION
REQUIREMENT”

(3150-0249)

EXTENSION

Description of the Information Collection

Executive Order (EO) 14043, titled, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees,” requires all Federal employees, as defined in 5 U.S.C. § 2105, to be vaccinated against COVID-19, with exceptions only as required by law. Requests for "medical accommodation" or "medical exceptions" will be treated as requests for a disability accommodation and evaluated and decided under applicable Rehabilitation Act standards for reasonable accommodation absent undue hardship to the agency. An employee may also request a delay for complying with the vaccination requirement based on certain medical considerations that may not justify an exception under the Rehabilitation Act. The agency will be required to keep confidential any medical information provided, subject to the applicable Rehabilitation Act standards. Employees who receive an exception or a delay from the vaccination requirement would instead comply with alternative health and safety protocols.

In November 2021, the Nuclear Regulatory Commission (NRC) received emergency clearance for the NRC Form 798, which is used to collect information from employees seeking a medical exception from the COVID-19 vaccination requirement. The information was needed before the expiration of the normal time limits under the Office of Management and Budget’s regulations at 5 CFR 1320 that implement the provisions of the Paperwork Reduction Act of 1995. Because of the nature of the public health emergency and the urgent need for the agency to meet the required deadline that all Federal employees be vaccinated except those approved for an exception as required by law, the NRC could not reasonably comply with the normal clearance procedures because of a need for a swift response to allow for the collection of this information by required deadlines.

With the current submission, the NRC seeks to renew the OMB clearance for this form and to extend the expiration date by three years.

JUSTIFICATION

1. Need For the Collection of Information

Consistent with Executive Order 14043, of September 9, 2021, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees” and included within

the Safer Federal Workforce Task Force Guidance mandating all Federal employees be vaccinated by November 22, 2021, the NRC has established specific safety protocols for individuals fully vaccinated and not fully vaccinated against coronavirus disease 2019 (COVID-19). Individuals who are not fully vaccinated against COVID-19 by November 22, 2021, or who choose not to provide this information will be required to comply with applicable OMB, OPM, and NRC guidance for individuals not fully vaccinated against COVID-19, which may include wearing masks regardless of the transmission rate in a given area, physical distancing, regular screening testing, and adhering to applicable travel requirements.

NRC employees may request an exception on the basis of a medical condition or circumstance. Exceptions will be granted in limited circumstances and only where legally required.

2. Agency Use and Practical Utility of Information

NRC Form 798, "Request for a Medical Exception to the COVID-19 Vaccine Requirement" which is completed by employees who seek a medical exception and their personal medical providers. The NRC Form 798 is used by NRC staff and provided to employees to ensure they submit adequate information to support the exception request. This form ensures the information collected is consistent and minimizes the need to seek additional evidence. Rendered decisions should be in accordance with guidelines established by the Safer Federal Workforce Task Force Guidance.

The NRC will use the information submitted for the sole purpose of determining if a medical exception is legally warranted.

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.

The NRC has issued [Guidance for Electronic Submissions to the NRC](#) which provides direction for the electronic transmission and submittal of documents to the NRC. Electronic transmission and submittal of documents can be accomplished via the following avenues: the Electronic Information Exchange (EIE) process, which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (OSM) (e.g. CD-ROM, DVD), by facsimile or by e-mail. The NRC has developed a fillable, fileable form to collect the information. 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

This information collection does not impose a significant economic impact on a substantial number of small businesses or entities.

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

The information will be required one-time; therefore, the frequency of the collection cannot be reduced. If the NRC did not collect the information, the agency would be unable to comply with EO 14043.

7. Circumstances Which Justify Variation from OMB Guidelines

Contrary to 5 CFR 1320.5(d)(2), in order to meet vaccination deadlines set by E.O. 14043, the information will need to be submitted in less than 30 days.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package was published in the *Federal Register* on December 28, 2021 (86 FR 76808). The NRC received emergency clearance for the use of this form in November 2021. Due to privacy concerns associated with contacting respondents providing medical information, the NRC staff did not directly contact respondents to solicit input during the 60-day comment period. The NRC received one comment from an NRC employee during the comment period.

Comment: The NRC received one comment from an employee regarding a discrepancy between the NRC's COVID-19 Workplace Safety Implementation Plan and the NRC's system of records notice for Health Emergency Records-NRC 46 (SORN 46) for the NRC Form 798.

NRC staff response: SORN 46 is the lawful Privacy Act notice for health emergency records maintained by the NRC, and that notice describes routine uses for the information collected under it. SORN 46 provides that records collected and maintained by the NRC may be disclosed to third parties in certain circumstances. The COVID-19 Workplace Safety Implementation Plan is imprecise to the extent it indicates that the requested vaccine information will only be disseminated to NRC officials. The COVID-19 task force will revise the Plan to ensure that it aligns with SORN 46 in this respect. No changes were made to the form or to burden estimates as a result of this comment.

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).

There is an NRC Privacy Act System of Records Notice for employee medical files. The System of Records Notice for NRC Form 798 is a system of records designated as NRC-46, described at 86 *Federal Register* 61331(November 05, 2021). A Privacy Act statement is included as part of NRC Form 798.

11. Justification for Sensitive Questions

The questions included on this form are consistent with OMB's guidance for requesting a medical exception.

12. Estimated Burden and Burden Hour Cost

To date, the NRC has received medical exception requests from fewer than 1% of current employees. There is a very limited possibility of a second postponement request from current employees. The form will primarily be used for new hires, after they on-board at the agency and become official NRC employees. The NRC staff estimates 200 new hires annually. A conservative estimate of 5% of applicants requesting a medical exception would result in 10 form submissions annually at 0.5 hours per request for a medical professional to complete the form. The total annual burden will be 5 hour (10 requests x 0.5 hrs/request). The total cost of the collection will be \$1,440 (5 hours x \$288/hour).

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 staff has developed estimates of annualized costs to the Federal Government related to the conduct of this collection of information. These estimates are based on staff experience and subject matter expertise and include the burden needed to review, analyze, and process the collected information and any relevant operational

expenses. The NRC estimates that it will take 2 hours per form for NRC staff to review and process each request. For 10 forms, this will require 204 hours of NRC staff time (10 forms x 2 hours per form) at an estimated cost of \$5,760 (20 hours x \$288/hour).

15. Reasons for Change in Burden or Cost

The burden to respondents has decreased from 25 hours to 5 hours, a decrease of 20 hours. NRC's initial estimate was based on receiving requests from all current staff who wished to request a medical exception to the COVID-19 vaccine mandate. In the future, NRC anticipates newly hired employees may need to complete this form, but current staff should not need to complete it again unless they initially requested a postponement and need to request another postponement. In addition, the number of forms received from current NRC employees was less than anticipated.

16. Publication for Statistical Use

Not applicable.

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.