

**VACCINE RULES
APPENDIX B
RULES OF THE UNITED STATES
COURT OF FEDERAL CLAIMS**

As amended through July 29, 2024



APPENDIX B
VACCINE RULES OF THE UNITED STATES COURT
OF FEDERAL CLAIMS

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APPENDIX B
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TITLE I. SCOPE OF RULES;
COMMENCING AN ACTION

Rule 1. Scope of Rules

- (a) In General.** These rules govern all proceedings before the United States Court of Federal Claims pursuant to the National Childhood Vaccine Injury Act, as amended, 42 U.S.C. §§ 300aa-1 to -34 (Vaccine Act), including proceedings before the Office of Special Masters and any subsequent proceedings before a judge of the Court of Federal Claims.
- (b) Matters Not Specifically Addressed by the Vaccine Rules.** In any matter not specifically addressed by the Vaccine Rules, the special master or the court may regulate the applicable practice, consistent with these rules and with the purpose of the Vaccine Act, to decide the case promptly and efficiently.
- (c) Applying the RCFC.** The RCFC apply only to the extent they are consistent with the Vaccine Rules.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 2. Commencing an Action

- (a) In General.** A proceeding for compensation under the Vaccine Act is commenced by filing a petition with the United States Court of Federal Claims. Only one petition may be filed with respect to each administration of a vaccine.
- (b) Number of Copies; Signature; Cover Sheet**
- (1) Paper Form.** Petitioner must forward one copy of the petition, including an original signature and a completed cover sheet (*see* Appendix of Forms, Form 2), by mail or other delivery, to:

Clerk
United States Court of Federal
Claims
717 Madison Place, NW
Washington, DC 20439

A copy of the applicable schedule of fees may be found on the court's website at www.uscfc.uscourts.gov or may be obtained by contacting the clerk's office.

- (2) Electronic Form.** If petitioner is not appearing pro se pursuant to Vaccine Rule 14, petitioner may file the petition, along with a completed cover sheet, electronically in the court's electronic-filing system in compliance with the Supplement to the Vaccine Rules.
- (c) Contents of a Petition.**
- (1) The Petition.** The petition must set forth:
- (A)** a short and plain statement of the grounds for an award of compensation, including:
- (i)** the name of the individual to whom the vaccine was administered;
- (ii)** the date and place of the vaccination;
- (iii)** a specific description of the injury alleged; and
- (iv)** whether the injury claimed is contained within the Vaccine Injury Table (*see* "Guidelines for Practice Under the National Vaccine Injury Compensation Program," Attachment 8, posted on the court's website at www.uscfc.uscourts.gov); and
- (B)** a specific demand for relief to which the petitioner asserts entitlement or a statement that such demand will be deferred pursuant to 42 U.S.C. § 300aa-11(e).
- (2) Required Attachments.** As required by 42 U.S.C. § 300aa-11(c), the petition must be accompanied by the following documents:
- (A) Medical Records.** Petitioner must include a certified copy of all

available medical records supporting the allegations in the petition, including physician and hospital records relating to:

- (i) the vaccination itself;
- (ii) the injury or death, including, if applicable, any autopsy reports or death certificate;
- (iii) any post-vaccination treatment of the injured person, including all in-patient and out-patient records, provider notes, test results, and medication records; and
- (iv) if the injured person was younger than five years when vaccinated, the mother's pregnancy and delivery records and the infant's lifetime records, including physicians' and nurses' notes, test results, and well-baby visit records, as well as growth charts, until the date of vaccination.

(B) Affidavits.

- (i) If the required medical records are not submitted, the petitioner must include an affidavit detailing the efforts made to obtain such records and the reasons for their unavailability.
- (ii) If petitioner's claim does not rely on medical records alone but is also based in any part on the observations or testimony of any person, the petitioner should include the substance of each person's proposed testimony in a detailed affidavit(s) supporting all elements of the allegations made in the petition.

(C) Proof of Authority to File in a Representative Capacity. If the petition is filed on behalf of a deceased person or is filed by an individual other than the injured person or the parent of an injured minor, the petition must also be accompanied by documents establishing the authority to file the petition in a representative capacity

or a statement explaining when such documentation will be available.

(d) Format. All documents accompanying a petition filed in paper form must comply with RCFC 5.5(c) and be assembled into one or more bound volume(s) or three-ring notebook(s). Each bound volume or notebook must contain the caption of the case and a table of contents, and all pages of each bound volume or notebook must be numbered consecutively.

(e) Service.

(1) The petition must include a certificate of service in accordance with RCFC 5.3 stating that one copy of the petition and accompanying documents has been served on the Secretary of Health and Human Services. The petition may be served either:

(A) by first class or certified mail, to:

Secretary, Health and Human
Services
Director, Division of Injury
Compensation Programs
Health Resources and
Services Administration
National Vaccine Injury
Compensation Program (VICP)
5600 Fishers Lane, Room 8W-25B
Rockville, MD 20857; or

(B) electronically (*see*
<https://www.hrsa.gov/vaccine-compensation/index.html>).

(2) The clerk must serve one copy of the petition and accompanying documents on the Attorney General.

(f) Statement of Completion.

(1) Petitioner should file a "Statement of Completion," indicating that a certified copy of all medical and other records relevant to the petition has been filed, as soon as possible after the petition is filed.

(2) If additional medical records or other documents are necessary to complete the record, petitioner should delay filing the Statement of Completion until all necessary and relevant records have been filed.

(3) The record certification requirement may be waived by order of the special master or the court.

(As revised and reissued May 1, 2002; as amended Sept. 15, 2003, Aug. 2, 2005, July 13, 2009, July 15, 2011, Aug. 3, 2015, Aug. 1, 2016, Aug. 1, 2017, July 1, 2019, Aug. 2, 2021, July 31, 2023.)

TITLE II. PROCEEDINGS BEFORE THE SPECIAL MASTER

Rule 3. Role of the Special Master

- (a) **Case Assignment.** After a petition has been filed with the clerk, the chief special master will assign the case to a special master to conduct proceedings in accordance with the Vaccine Rules.
- (b) **Duties.** The special master is responsible for:
- (1) conducting all proceedings, including taking such evidence as may be appropriate, making the requisite findings of fact and conclusions of law, preparing a decision, and determining the amount of compensation, if any, to be awarded; and
 - (2) endeavoring to make the proceedings expeditious, flexible, and less adversarial, while at the same time affording each party a full and fair opportunity to present its case and creating a record sufficient to allow review of the special master's decision.
- (c) **Absence.** In the absence of the assigned special master, the chief special master may act on behalf of the special master or designate another special master to act.
- (d) **Reassignment.** When necessary for the efficient administration of justice, the chief special master may reassign the case to another special master.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 4. Respondent's Review of Petitioner's Records; Early Status Conference; Respondent's Report

- (a) **Respondent's Review of Petitioner's Records.**
- (1) **In General.** Within 30 days after the filing of a petition, respondent must review the accompanying documents to

determine whether all information necessary to enable respondent to evaluate the merits of the claim has been filed.

- (2) **Missing Documents.** If respondent concludes that relevant documents are missing, respondent must immediately notify petitioner regarding the perceived omission.
- (3) **Disagreement Between the Parties.** If the parties disagree about the completeness of the records filed or the relevance of the requested information, either party may request the special master to resolve the matter.
- (b) **Early Status Conference.** The special master may convene an early status conference within 45 days after the filing of the petition to discuss the case.
- (c) **Respondent's Report.**
 - (1) **In General.** Within 90 days after the filing of a petition, or in accordance with any schedule set by the special master after petitioner has satisfied all required documentary submissions, respondent must file a report setting forth a full and complete statement of its position as to why an award should or should not be granted.
 - (2) **Contents.** The report must contain respondent's medical analysis of petitioner's claims and must present any legal arguments that respondent may have in opposition to the petition. General denials are not sufficient.

(As revised and reissued May 1, 2002; as amended Aug. 2, 2005, July 13, 2009.)

Rule 5. Preliminary Status Conference and Tentative Findings and Conclusions

- (a) **In General.** The special master will hold a status conference within 30 days after the filing of respondent's report under Vaccine Rule 4(c) to:
- (1) afford the parties an opportunity to address each other's positions;
 - (2) review the materials submitted and evaluate the parties' respective positions; and

- (3) present tentative findings and conclusions.
- (b) **Scheduling Order.** At the conclusion of this status conference, the special master may issue a scheduling order outlining the necessary proceedings for resolving the issues presented in the case.
- (c) **Imposing Fees and Costs.**
 - (1) **Authority.** To ensure effective case management, the special master is authorized under RCFC 16(f)(2) to order a party, its attorney, or both to pay the reasonable expenses—including attorney’s fees—incurred because of any noncompliance with a scheduling or other pretrial order unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust.
 - (2) **Contents of the Order.** The special master’s order imposing fees and costs must describe the noncompliance and explain the basis for the imposition of fees and costs.
 - (3) **Review.** An order by a special master imposing fees and costs will be reviewable by an assigned judge on motion by the noncompliant party or the noncompliant party’s attorney either:
 - (A) upon the filing of the special master’s decision; or
 - (B) upon the filing of an order concluding proceedings.

(As revised and reissued May 1, 2002; as amended July 13, 2009, Jan. 11, 2010.)

Rule 6. Informal Status Conferences

- (a) **In General.** To expedite the processing of the case, the special master will conduct informal status conferences on a periodic basis.
- (b) **Input From the Parties.** A party may:
 - (1) request a status conference at any time; and
 - (2) propose procedures to aid in resolving the case in the least adversarial and most efficient way possible.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 7. Discovery

- (a) **In General.** There is no discovery as a matter of right. The informal and cooperative exchange of information is the ordinary and preferred practice.
- (b) **Formal Discovery.**
 - (1) **By Motion.** If a party believes that informal discovery is not sufficient, the party may move the special master, either orally during a status conference or by filing a motion, to employ any of the discovery procedures set forth in RCFC 26–37.
 - (2) **Contents of the Motion.** The moving party must indicate the discovery sought and state with particularity the reasons therefor, including an explanation as to why informal discovery techniques have not been sufficient.
- (c) **Subpoena.** The special master’s approval is required before the clerk or counsel may issue a subpoena that is otherwise in compliance with RCFC 45. *See* RCFC Appendix of Forms, Form 7A.

(As revised and reissued May 1, 2002; as amended July 13, 2009, Aug. 2, 2021.)

Rule 8. Taking Evidence; Hearing Argument

- (a) **In General.** The special master will determine the format for taking evidence and hearing argument based on the specific circumstances of each case and after consultation with the parties.
- (b) **Evidence.**
 - (1) **Rules.** In receiving evidence, the special master will not be bound by common law or statutory rules of evidence but must consider all relevant and reliable evidence governed by principles of fundamental fairness to both parties.
 - (2) **Form.** The parties may present evidence in the form of documents, affidavits, or oral testimony which may be given in person or by telephone, videoconference, or videotape.
- (c) **Conducting an Evidentiary Hearing.**
 - (1) **Purpose.** The special master may conduct an evidentiary hearing to provide for the questioning of witnesses

either by the special master or by counsel, or for the submission of sworn testimony in written form.

(2) **Subpoenas.** The special master may order the clerk or counsel to issue a subpoena requiring the attendance of a witness at the hearing.

(3) **Transcript.** The hearing will be recorded and, upon request of a party or the special master, will be transcribed in accordance with RCFC 80.1.

(d) Decision Without an Evidentiary Hearing.

The special master may decide a case on the basis of written submissions without conducting an evidentiary hearing. Submissions may include a motion for summary judgment, in which event the procedures set forth in RCFC 56 will apply.

(e) **Hearing Argument.** The special master may hear argument during a scheduled telephone conference or a hearing, or through written submissions. The special master may establish requirements for any written submissions, e.g., contents or page limitations, as appropriate.

(f) Waiver of a Fact or Argument.

(1) **In General.** Any fact or argument not raised specifically in the record before the special master will be considered waived and cannot be raised by either party in proceedings on review of a special master's decision.

(2) **Exception.** This rule does not apply to legal arguments raised by the party that stands in the role of the appellee on review.

(As revised and reissued May 1, 2002; as amended July 13, 2009, Aug. 30, 2013.)

Rule 9. Suspending Proceedings

(a) **In General.** On motion of a party and for good cause shown, the special master may suspend proceedings on a petition.

(b) Period of Suspension.

(1) **Initial Motion.** The special master will grant an initial motion for suspension, filed by either party, for a period of 30 days.

(2) **Subsequent Motions.** The special master may grant subsequent motions for

suspension, if deemed appropriate, for not more than 150 additional days in total.

(c) **Effect.** All periods of suspension will be excluded for purposes of the time limitations set forth in 42 U.S.C. § 300aa-12(d)(3)(A) and Vaccine Rules 4(c) and 10.

(As revised and reissued May 1, 2002; as amended June 20, 2006, July 13, 2009.)

Rule 10. Decision of the Special Master

(a) **In General.** Pursuant to 42 U.S.C. § 300aa-12(d)(3)(A), the special master will issue a decision on the petition with respect to whether an award of compensation is to be made and, if so, the amount thereof.

(b) **Timing.** The special master must issue a decision on the petition within 240 days after the date the petition was filed, exclusive of any periods of:

(1) remand; or

(2) suspension pursuant to Vaccine Rule 9.

(c) **Effect.** The special master's decision concludes the proceedings on the petition, except for any ancillary proceedings pursuant to Vaccine Rules 12(b) or 13.

(d) Failing to Issue a Timely Decision.

(1) **Notice to Petitioner.** If the special master fails to issue a decision within the time specified in Vaccine Rule 10(b), the special master must file a notice to petitioner pursuant to 42 U.S.C. § 300aa-12(g)(1).

(2) **Notice to Continue or to Withdraw the Petition.** Within 30 days after the date of filing of the special master's notice, the petitioner may file a notice to continue or to withdraw the petition pursuant to 42 U.S.C. § 300aa-21(b).

(3) **Concluding Proceedings.** If the petitioner elects to withdraw the petition, the special master must issue an order concluding proceedings. The special master's order, upon entry, will be deemed a judgment for purposes of 42 U.S.C. § 300aa-15(e)(1).

(e) Motion for Reconsideration.

(1) **Initial Motion.** Either party may file a motion for reconsideration of the special master's decision within 21 days after the

issuance of the decision, if a judgment has not been entered and no motion for review under Vaccine Rule 23 has been filed.

(2) **Response.** The special master may seek a response from the nonmoving party, specifying both the method of and the timing for the response.

(3) **Ruling on the Motion.** The special master has the discretion to grant or deny the motion, in the interest of justice.

(A) **If Granted.** If the special master grants the motion for reconsideration, the special master must file an order withdrawing the challenged decision. The decision, once withdrawn, becomes void for all purposes and the special master must subsequently enter a superseding decision. The special master may not, however:

(i) issue an order withdrawing a decision if either a judgment has been entered or a motion for review has been filed; or

(ii) issue a superseding decision reaching a result different from the original decision without affording the nonmoving party an opportunity to respond to the moving party's arguments.

(B) **If Denied or Not Acted Upon.** The filing of a motion for reconsideration will not toll the 30-day period for filing a motion for review pursuant to Vaccine Rule 23. If the special master denies the motion for reconsideration or fails to act upon the motion, the 30-day period for filing a motion for review will continue to run and either party may file a motion for review before the expiration of that period.

(As revised and reissued May 1, 2002; as amended Aug. 2, 2005, July 13, 2009, Aug. 3, 2020.)

TITLE III. JUDGMENT AND FURTHER PROCEEDINGS

Rule 11. Judgment

(a) **In General.** If a motion for review under Vaccine Rule 23 is not filed within 30 days after either the filing of the special master's decision under Vaccine Rule 10 or the entry of an order of dismissal under Vaccine Rule 21(b), the clerk will enter judgment immediately. The clerk may enter judgment prior to the expiration of the 30-day period if each party files a notice stating that the party will not seek such review.

(b) **Stipulation for Judgment.** Any stipulation for a money judgment must be signed by authorized representatives of the Secretary of Health and Human Services and the Attorney General.

(As revised and reissued May 1, 2002; as amended June 20, 2006, July 13, 2009, Aug. 3, 2015.)

Rule 12. Election

(a) **In General.** Within 90 days after the entry of judgment under Vaccine Rule 11, petitioner must file with the clerk an election either:

(1) to accept the judgment; or

(2) to file a civil action for damages for the alleged injury or death.

(b) **Failure to File an Election.** If petitioner fails to file an election within the time prescribed, petitioner will be deemed to have filed an election to accept the judgment.

(c) **Moving for Limited Compensation.**

(1) **In General.** If petitioner does not elect to receive an award of compensation, the election to file a civil action for damages may be accompanied by a motion for the limited compensation provided by 42 U.S.C. § 300aa-15(f)(2).

(2) **Decision on the Motion.** The clerk will forward the motion to the special master for a decision thereon. The decision of the special master on the motion constitutes a separate decision for purposes of Vaccine Rules 11, 18, and 23.

(3) **Waiver.** If such a motion is not filed at the time the election is filed, petitioner

will be deemed to have waived the limited compensation.

(As revised and reissued May 1, 2002; as amended June 20, 2006, July 13, 2009.)

Rule 13. Attorney’s Fees and Costs

(a) In General. Any request for attorney’s fees and costs pursuant to 42 U.S.C. § 300aa-15(e) must be filed no later than 180 days after the entry of judgment or the filing of an order concluding proceedings under Vaccine Rule 10(d)(3) or 29, unless otherwise ordered. A timely motion for enlargement of time may be sought pursuant to Vaccine Rule 19. A motion for enlargement of time to file a request for attorney’s fees and costs is timely if filed within 180 days following the entry of judgment or the filing of an order concluding proceedings.

(1) Contents of the Request. Petitioner must include any and all materials necessary to substantiate the request, including, but not limited to, the contents specified in the Second Supplement to Appendix B. Failure to include complete documentation in support of the request may result in the denial, or reduction in amount, of an attorney’s fees and costs award.

(2) Untimely Request. Absent compelling circumstances, an untimely request for attorney’s fees and costs may result in the denial, or reduction in amount, of an attorney’s fees and costs award.

(3) Response and Reply. Respondent may file a response and petitioner may file a reply pursuant to Vaccine Rule 20. The failure of respondent to identify with particularity any objection to a request for attorney’s fees and costs may be taken into consideration by the special master in the decision.

(b) Decision on the Motion. Except for a request for fees and costs arising under Vaccine Rule 34(b), the clerk will forward the fee request to the special master for a decision thereon. The decision of the special master on the fee request—including a request for interim fees—constitutes a separate decision for purposes of Vaccine Rules 11, 18, and 23.

(As revised and reissued May 1, 2002; as amended Aug. 2, 2005, July 13, 2009, July 31, 2023.)

TITLE IV. GENERAL PROVISIONS

Rule 14. Attorneys

(a) Eligibility to Practice.

(1) In General. An attorney is eligible to practice before the Office of Special Masters if the attorney is a member of the bar of the United States Court of Federal Claims under RCFC 83.1 and complies with the Vaccine Rules.

(2) Pro Se Litigants. An individual who is not an attorney may represent oneself or a member of one’s immediate family. The terms counsel, attorney, or attorney of record in the Vaccine Rules include such individuals appearing pro se.

(b) Attorney of Record.

(1) In General. A party may have only one attorney of record in a case at any one time and, with the exception of a pro se litigant appearing under Vaccine Rule 14(a), must be represented by an attorney (not a firm) admitted to practice before the Court of Federal Claims. Any attorney assisting the attorney of record must be designated “of counsel.”

(2) Contact Information. The attorney of record must include on all filings the attorney’s name, address, electronic mail address, and telephone number and must promptly file with the clerk and serve on all other parties a notice of any change in the attorney’s contact information.

(3) Signing Filings. All filings must be signed in the attorney of record’s name. Any attorney who is admitted to practice before the Court of Federal Claims may sign a filing in the attorney of record’s name by adding the following after the name of the attorney of record: “by [the signing attorney’s full name].”

(c) Substituting Counsel. A party may substitute its attorney of record pursuant to RCFC 83.1(c)(4).

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 1, 2019.)

Rule 15. Third Parties

No person may intervene in a vaccine injury compensation proceeding, but the special master may afford all interested individuals an opportunity to submit relevant written information within 60 days after publication of notice of the petition in the Federal Register, or later with leave of the special master.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 16. Caption of Filings

(a) In General. All filings, including the petition, must be captioned with the court's name, the case title and docket number, and the name of the assigned special master. (The petition should leave blank the spaces for the special master's name and the docket number.) *See* Appendix of Forms, Form 7.

(b) Petitions Filed on Behalf of a Minor. If the petition is filed on behalf of a minor, the caption must include only the minor's initials.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 15, 2011, July 29, 2024.)

Rule 17. Serving and Filing Papers After the Petition

(a) Serving a Document.

(1) In General. A copy of every document filed with the clerk must be served on opposing counsel or the opposing unrepresented party.

(2) Certificate of Service. A certificate of service in accordance with RCFC 5.3 must be appended to the original document or filed within a reasonable time after service.

(b) Filing a Document.

(1) In General. All pleadings and other papers required under the Vaccine Rules or by order of the special master or the court must be brought to the attention of the special master or the court through

formal filings with the clerk rather than through correspondence.

(2) Nonelectronic Filing. A paper not filed electronically is filed by delivering it to the clerk at the address provided in Vaccine Rule 2.

(3) Electronic Filing and Signing.

(A) By a Represented Person—Generally Required; Exceptions. A person represented by an attorney must file electronically in the court's electronic-filing system, unless non-electronic filing is allowed by the court for good cause or is otherwise allowed under the Supplement to the Vaccine Rules.

(B) By an Unrepresented Person. A person not represented by an attorney may file electronically by e-mail consistent with the Supplement to the Vaccine Rules.

(C) Signing. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

(D) Same as a Written Paper. A paper filed electronically is a written paper for purposes of these rules.

(4) Filing Defined.

(A) Paper Form. A document in paper form is filed when it is received and marked filed by the clerk, not when mailed.

(B) Electronic Form. A document in electronic form is filed on the date stated in the "Notice of Electronic Filing."

(c) Date. Each filing must bear on the signature page the date on which it is signed.

(d) Number of Copies. Except for electronic filings under the Supplement to the Vaccine Rules, for every filing, a party must file one copy that includes an original signature.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 15, 2011, July 1, 2019, July 31, 2023.)

Rule 18. Availability of Filings

(a) **In General.** All filings with the clerk pursuant to the Vaccine Rules are to be made available only to the special master, the judge, and the parties, with the exception of certain court-produced documents as set forth in subdivision (b) of this rule. A transcript prepared pursuant to Vaccine Rule 8(c) constitutes a filing for purposes of this rule.

(b) **Decision of the Special Master or Judge.** A decision of the special master or judge will be held for 14 days to afford each party an opportunity to object to the public disclosure of any information furnished by that party:

- (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or
- (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.

(c) **Motion to Redact.** A party objecting to the public disclosure of information contained in a decision must file a motion to redact within 14 days after service of the decision. The motion must be accompanied by a proposed redated version of the decision.

(1) **Evidence in Support of a Motion to Redact.** A motion to redact must be supported by evidence demonstrating that the decision contains information meeting the criteria set forth in subdivision (b) of this rule. Evidence meeting these criteria includes, but is not limited to, the following:

- (A) documentation that the objecting party's career and/or employment would be adversely affected by the release of medical information contained within the decision; and/or
- (B) documentation that the objecting party's personal safety or well-being would be adversely affected by the release of medical information contained within the decision.

(2) **Ruling on the Motion.** A motion to redact will be denied if the motion:

- (A) is untimely filed; or
- (B) is not supported by evidence, does not meet the criteria set forth in subdivision (b) of this rule, and/or

contains a general objection to the disclosure of a party's name or the amount of an award.

(d) **Absence of a Motion to Redact.** In the absence of a motion to redact, the entire decision will be made public within a reasonable time after the 14-day redaction period has expired.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 29, 2024.)

Rule 19. Computing and Extending Time

(a) **Computing Time.** The following criteria apply in computing any time period specified in these rules, in an order of the special master or the court, or in any applicable statute that does not specify a method of computing time.

(1) **Period Stated in Days or a Longer Unit.**

When the period is stated in days or a longer unit of time:

- (A) exclude the day of the event that triggers the period;
- (B) count every day, including intermediate Saturdays, Sundays, and legal holidays (for legal holidays, see RCFC 6(a)(6)); and
- (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) **Period Stated in Hours.** When the period is stated in hours:

- (A) begin counting immediately on the occurrence of the event that triggers the period;
- (B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and
- (C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) **Inaccessibility of the Clerk's Office.**

Unless the court orders otherwise, if the clerk's office is inaccessible:

- (A) on the last day for filing under Vaccine Rule 19(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or
 - (B) during the last hour for filing under Vaccine Rule 19(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.
- (4) **“Last Day” Defined.** Unless a different time is set by a statute or court order, the last day ends:
- (A) for electronic filing, at midnight in the Eastern Time Zone; and
 - (B) for filing by other means, when the clerk’s office is scheduled to close, subject to the provision for after-hours filing permitted under RCFC 77.1(a).
- (5) **“Next Day” Defined.** The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.
- (b) **Extending Time.**
- (1) **In General.** The special master or the court may grant a motion for an enlargement of time for good cause shown except when such an extension is prohibited by these rules.
 - (2) **Contents of a Motion for Enlargement.** A motion for an enlargement of time must set forth:
 - (A) the specific number of additional days requested;
 - (B) the date to which the enlargement is to run;
 - (C) the total number of days granted in any previously filed motions for enlargement; and
 - (D) the reason for the enlargement.
- (c) **Additional Time After Service By Mail.** When a party may or must act within a specified time after service and service is made by mail, 3 days are added to the prescribed period, unless the special master or the court orders otherwise.

(As revised and reissued May 1, 2002; as amended Jan. 11, 2010, July 31, 2023.)

Rule 20. Motions and Other Papers; Time for Filing; Oral Argument

- (a) **In General.** All motions must:
- (1) state with particularity the grounds for the motion;
 - (2) set forth the relief or order sought; and
 - (3) be in writing and filed with the clerk, unless made orally during a hearing. Any motion may be accompanied by a proposed order and any motion, objection, or response may be accompanied by a memorandum and, if necessary, by supporting affidavits or exhibits.
- (b) **Time for Filing.**
- (1) **Responses and Objections.** Unless otherwise provided in these rules or by order of the special master or the court, a response or an objection to a written motion must be filed within 14 days after service of the motion.
 - (2) **Replies.** A reply to a response or an objection may be filed within 7 days after service of the response or objection.
- (c) **Oral Argument.** A party desiring oral argument on a motion must so request in the motion or response.
- (d) **Duty to Confer on Nondispositive Motions.**
- (1) **In General.** Before filing any nondispositive motion, counsel for the moving party must make a reasonable and good faith effort to discuss the anticipated motion with opposing counsel to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement. The duty to confer also applies to nonincarcerated parties appearing *pro se*.
 - (2) **Contents.** The motion must:
 - (A) include a certification that the movant has in good faith conferred or attempted to confer with opposing counsel; and
 - (B) state whether the motion is opposed or, if opposing counsel cannot be consulted, include an explanation of the efforts that were made to do so.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 31, 2023.)

Rule 21. Dismissal of Petitions

(a) Voluntary Dismissal without Entry of Judgment.

(1) In General. Petitioner may dismiss the petition without order of the special master or the court by filing:

(A) a notice of dismissal at any time before service of respondent’s report; or

(B) a stipulation of dismissal signed by all parties who have appeared in the action.

(2) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice, except that a notice of dismissal may, in the discretion of the special master or the court, be deemed to operate as an adjudication on the merits if filed by a petitioner who has previously dismissed the same claim.

(3) Concluding Proceedings. A petition dismissed under this subdivision (a) will not result in a judgment pursuant to Vaccine Rule 11 for purposes of 42 U.S.C. § 300aa-21(a). For the court’s administrative purposes, the special master will instead issue an order concluding proceedings.

(b) Voluntary Dismissal with Entry of Judgment.

(1) In General. The special master or the court may dismiss a petition or any claim therein at the petitioner’s request on terms that the special master or the court considers proper by issuance of a decision pursuant to 42 U.S.C. § 300aa-12(d)(3).

(2) Effect. Unless the decision states otherwise, a dismissal under this subdivision (b) is with prejudice. A petition dismissed under this subdivision (b) will result in a judgment pursuant to Vaccine Rule 11 for purposes of 42 U.S.C. § 300aa-21(a).

(c) Involuntary Dismissal.

(1) In General. The special master or the court may dismiss a petition or any claim therein for failure of the petitioner to

prosecute or comply with these rules or any order of the special master or the court.

(2) Effect. Unless the decision states otherwise, a dismissal under this subdivision (c) is with prejudice. A petition dismissed under this subdivision (c) will result in a judgment pursuant to Vaccine Rule 11 for purposes of 42 U.S.C. § 300aa-21(a).

(As revised and reissued May 1, 2002; as amended Aug. 2, 2005, June 20, 2006, July 13, 2009, July 29, 2024.)

TITLE V. REVIEW OF A DECISION OF THE SPECIAL MASTER

Rule 22. General [Abrogated (eff. Jan. 2, 2001); abrogation published as part of revisions dated May 1, 2002.]

Rule 23. Motion for Review

(a) In General. To obtain review of the special master’s decision, a party must file a motion for review with the clerk within 30 days after the date the decision is filed. The filing of a motion for reconsideration will not toll this 30-day period. *See* Vaccine Rule 10(e)(3)(B).

(b) Time Extensions. No extensions of time will be permitted under this rule and the failure of a party to file a motion for review in a timely manner will constitute a waiver of the right to obtain review.

(As revised and reissued May 1, 2002; as amended July 13, 2009, Aug. 1, 2017.)

Rule 24. Memorandum of Objections

(a) In General. A motion for review must be accompanied by a memorandum of numbered objections to the decision.

(b) Contents of the Memorandum. The memorandum must:

(1) fully and specifically state and support each objection to the decision, including specific citations to the record created by the special master (e.g., to specific page numbers of the transcript, exhibits, or other papers);

- (2) set forth any legal argument the party desires to present to the reviewing judge; and
- (3) absent leave of the court, be limited to 20 pages and conform to the provisions of RCFC 5.4.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 25. Response

(a) **In General.** A party may file a response to a motion for review within 30 days after the filing of the motion. If both parties file motions for review, each party may file a response to the other party’s motion. The response must:

- (1) be in memorandum form and fully respond to each numbered objection, including specific citations to the record created by the special master (e.g., to specific page numbers of the transcript, exhibits, or other papers);
- (2) set forth any legal argument the party desires to present to the reviewing judge; and
- (3) absent leave of the court, be limited to 20 pages and conform to the provisions of RCFC 5.4.

(b) **Time Extensions.** No extensions of time will be permitted under this rule and the failure of a party to file a response in a timely manner will constitute a waiver of the right to respond.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 26. Assigning a Case for Review

After a motion for review has been filed with the clerk, the case will be assigned to a judge of the Court of Federal Claims pursuant to RCFC 40.1.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 27. Reviewing a Decision of the Special Master

After reviewing a decision of the special master, the assigned judge may:

- (a) uphold the findings of fact and conclusions of law and sustain the special master’s decision;

- (b) set aside any findings of fact or conclusions of law found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and issue a separate decision; or
- (c) remand the case to the special master for further action as directed.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 28. Time for Review

(a) **In General.** The assigned judge must complete the review within 120 days after the filing of a response under Vaccine Rule 25, excluding any days the case is before a special master on remand. If no response is filed, the review must be completed within 120 days after the last date the response could have been filed.

(b) **Period of Remand.** If the judge remands the case to the special master, the total period of remand must not exceed 90 days.

(As revised and reissued May 1, 2002; as amended July 13, 2009, Aug. 2, 2021.)

Rule 28.1 Decision on Remand

(a) **In General.** If the assigned judge remands the case to the special master, the special master, after completing the remand assignment, must file a decision on remand resolving the case, unless the remand order directs otherwise. The clerk must promptly notify the assigned judge of the filing of the decision on remand.

(b) **Effect.** Unless otherwise specified in the remand order, the decision on remand constitutes a separate decision for purposes of Vaccine Rules 11, 18, and 23, i.e., judgment automatically will be entered in conformance with the special master’s decision on remand unless a new motion for review is filed pursuant to Vaccine Rule 23.

(c) **Motion for Review.** If a party seeks review of the decision on remand, the clerk will assign the case to the same judge who remanded the case.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 29. Withdrawing a Petition

(a) Notice to Petitioner. The assigned judge must file a notice to petitioner pursuant to 42 U.S.C. § 300aa-12(g)(2) if:

- (1)** no notice was issued pursuant to 42 U.S.C. § 300aa-12(g)(1); and
- (2)** the assigned judge fails to enter judgment within 420 days after the date the petition was filed, exclusive of any periods of:
 - (A)** remand; or
 - (B)** suspension pursuant to Vaccine Rule 9.

(b) Notice to Continue or to Withdraw the Petition. Within 30 days after the date of filing of the assigned judge's notice, the petitioner may file a notice to continue or to withdraw the petition pursuant to 42 U.S.C. § 300aa-21(b).

(c) Concluding Proceedings. If the petitioner elects to withdraw the petition, the assigned judge must issue an order concluding proceedings. The judge's order, upon entry, will be deemed a judgment for purposes of 42 U.S.C. § 300aa-15(e)(1).

(As revised and reissued May 1, 2002; as amended Aug. 2, 2005, July 13, 2009, Aug. 3, 2020.)

Rule 30. Judgment

(a) In General. Upon issuance of the assigned judge's decision on review, the clerk will enter judgment in accordance with the decision.

(b) Stipulation for Judgment. Any stipulation for a money judgment must be signed by authorized representatives of the Secretary of Health and Human Services and the Attorney General.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 31. Motion for Reconsideration

Within 30 days after entry of judgment, either party may file a motion for reconsideration of the assigned judge's decision in accordance with RCFC 59.

(As revised and reissued May 1, 2002; as amended Jan. 11, 2010.)

Rule 32. Notice of Appeal

To appeal a decision of the Court of Federal Claims, a party must file a petition pursuant to 42 U.S.C. § 300aa-12(f) with the clerk of the United States Court of Appeals for the Federal Circuit within 60 days after the date of the entry of judgment.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 1, 2019.)

Rule 33. Election

(a) In General. Within 90 days after the entry of judgment under Vaccine Rule 30, petitioner must file with the clerk an election as described in Vaccine Rule 12.

(b) Exception. If an appeal is filed with the United States Court of Appeals for the Federal Circuit pursuant to Vaccine Rule 32, the 90-day period for filing an election will run not from the original date of judgment but from the date of the appellate court's mandate or any subsequent judgment of the Court of Federal Claims on remand, whichever occurs later.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rule 34. Attorney's Fees and Costs Following Review

(a) In General. Except as provided in subdivision (b) of this rule, any request for attorney's fees and costs following review by an assigned judge must be filed in accordance with Vaccine Rule 13.

(b) Additional Fees and Costs. Following review by an assigned judge of a special master's decision on attorney's fees and costs under Vaccine Rule 13, a request for any additional fees and costs relating to such review will be decided either by:

- (1)** the special master if the case is on remand; or
- (2)** the assigned judge if the case is not on remand, although the assigned judge may remand the case to the special master for consideration of such motion.

(As revised and reissued May 1, 2002; as amended July 13, 2009, Aug. 3, 2020.)

Rule 35. Availability of Filings [Abrogated (eff. Jan. 2, 2001); abrogation published as part of revisions dated May 1, 2002.]

TITLE VI. RELIEF FROM A JUDGMENT

Rule 36. Relief from a Judgment

(a) **In General.** If, after the entry of judgment or the issuance of an order concluding proceedings pursuant to Vaccine Rule 10, 21, or 29, a party files a motion for reconsideration pursuant to RCFC 59 or otherwise seeks relief from a judgment or order pursuant to RCFC 60, the clerk will refer the motion as follows:

(1) If the petition had previously been assigned to a judge for review pursuant to Vaccine Rule 26, the clerk will refer the motion to the assigned judge.

(2) If the petition had not previously been assigned to a judge for review pursuant to Vaccine Rule 26, the clerk will refer the motion to the assigned special master.

(b) **Ruling by the Special Master.**

(1) **In General.** If a motion pursuant to RCFC 59 or 60 is referred to the special master pursuant to subdivision (a) of this rule, the special master must file a written ruling on the motion.

(2) **Effect.** The ruling of the special master will be the final ruling of the court on the motion, unless a party files with the clerk a motion for review of that ruling.

(3) **Motion for Review.** A party may file a motion for review of the special master's ruling, accompanied by a memorandum of objections to the ruling, within 30 days after the date of the ruling. *See* Vaccine Rules 23 and 24.

(4) **Response.** The nonmoving party may file a response to a motion for review within 30 days after the filing of the motion. *See* Vaccine Rule 25.

(5) **Length.** The motion and response of each party must, absent leave of the court, be limited to 20 pages and must conform to the provisions of RCFC 5.4. *See* Vaccine Rules 24 and 25.

(6) **Assigning the Case for Review.** If a motion for review is filed with the clerk, the case will be assigned to a judge of the Court of Federal Claims pursuant to RCFC 40.1. *See* Vaccine Rule 26.

(7) **Reviewing the Ruling of the Special Master.** After reviewing the ruling of the special master, the assigned judge may set aside the ruling only if it is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. *See* Vaccine Rule 27.

(c) **If Judgment is Altered.** If the original judgment is modified pursuant to RCFC 59 or 60 or otherwise, and the petitioner is to receive any award for damages calculated with respect to the date of judgment, such damages must be calculated based on the date of the original judgment, unless the ruling of the special master or the court directs otherwise.

(As revised and reissued May 1, 2002; as amended July 13, 2009.)

Rules Committee Notes 2002 Revision

Appendix B sets forth rules applicable to proceedings involving claims for compensation under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-1 to -34. These rules originally became effective on January 25, 1989, and were revised on March 15, 1991, and May 1, 2002. The text of these rules as originally promulgated may be found at 16 Cl. Ct. XXI-LXI (1989) and, as initially revised, at 22 Cl. Ct. CXLVIII-CLX (1991).

2003 Amendment

Vaccine Rule 2(c)(1) has been amended to require that service upon the respondent be directed to the Director, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, in lieu of the Director, Bureau of Health Professionals.

2005 Amendment

Both stylistic and substantive changes have been made to the Vaccine Rules. The substantive changes are identified below.

Rule 2. Subdivision (b) previously listed the amount of the filing fee that was required to accompany a petition. The listing of the fee amount has been eliminated in favor of referring petitioners to the fee schedule posted on the court's website. This change is administrative only and is intended to permit future changes in fee amount to be implemented without the necessity for publication of a corresponding change in rule. Subdivision (c)(1) has been amended to show the current address for service upon respondent.

Rule 4. Subdivision (b), titled "Early Status Conference," has been added to acknowledge the authority of a special master, exercisable at the special master's discretion, to convene an early status conference as an aid in the identification and scheduling of further proceedings.

Rule 10. The text of subdivision (a) has been amended to identify the alternative procedures a petitioner may elect to adopt—withdrawal of the petition or continuance of proceedings—following the special master's issuance of a notice under 42 U.S.C. § 300aa-12(g)(1) advising that a decision on the petition will not be entered within the prescribed statutory period (240 days, exclusive of periods of suspension and remand). Subdivision (a) further provides that in instances where the petitioner elects to withdraw the petition in lieu of continuing proceedings, the conclusion of proceedings will be identified by the special master's issuance of an order so indicating. Finally, the subdivision specifies that upon entry of the special master's order, such order shall be deemed a judgment for purposes of 42 U.S.C. § 300aa-15(e)(1). Subdivision (b), which dealt with vaccines administered prior to October 1, 1988, has been abrogated as being no longer necessary. Subdivision (c), titled "Reconsideration," has been amended to indicate that where the special master elects to grant a motion for reconsideration, the special master shall not issue a superseding decision reaching a different result from the original decision without affording the non-moving party an opportunity to respond to the arguments raised in the motion for reconsideration.

Rule 13. This rule has been amended to recognize that the right to seek recovery of attorneys' fees and costs under 42 U.S.C. § 300aa-15(e) extends not only to cases in which a judgment has been entered but also to cases in which a petitioner exercises the statutory right to withdraw a petition following the issuance of an order concluding proceedings under Vaccine Rule 10(a) or 29.

Rule 21. Under the Vaccine Act, the court enters judgment pursuant to a "decision of the special master," i.e., a determination "with respect to whether compensation is to be provided under the Program and the amount of such compensation." 42 U.S.C. § 300aa-12(d)(3)(A). A special master's decision, in other words, contemplates an adjudication. With this in mind, subdivision (a) of this rule has been amended to clarify that where a petition is voluntarily dismissed without order of the special master or the court (either by the filing of a notice of dismissal before service of respondent's report or pursuant to a stipulation of the parties) then, for administrative purposes, the conclusion of proceedings will be identified by an order of the special master rather than by a decision. Correspondingly, language has also been added to subdivisions (b) and (c) to clarify that an involuntary dismissal operates as an adjudication on the merits with respect to which a judgment will be entered.

Rule 29. The opening sentence of this rule has been amended to identify the procedural requirement that applies in cases where a judge fails to direct entry of judgment within 420 days after the date of filing of the petition ("the judge shall file the notice required by 42 U.S.C. § 300aa-12(g)(2)"). Additionally, a final sentence has been added to clarify that where a petitioner elects to withdraw a petition following the receipt of the notice required by 42 U.S.C. § 300aa-12(g)(2), the conclusion of proceedings will be identified by the judge's issuance of an order rather than by a judgment. The same sentence further notes that upon entry, such order shall be deemed a judgment for purposes of 42 U.S.C. § 300aa-15(e)(1).

2006 Amendment

Rule 21. Former subdivision (b) ("Failure to Prosecute or Participate") has been stricken as its

provisions were either redundant or unnecessary. The substance of the first and second sentences of that former subdivision is set forth in the text of former subdivision (c) (“Involuntary Dismissal; Effect Thereof”), now renumbered as subdivision (b). The third sentence of former subdivision (b) was unnecessary; to obtain compensation, the statute provides that a petitioner must supply evidence establishing his or her entitlement to same, regardless of whether the respondent participates. The renumbering of subdivision (c) is also reflected in corresponding changes to the text of Vaccine Rules 11(a) and 12(a).

2009 Amendment

The language of the Vaccine Rules has been amended to conform to the general restyling of the RCFC.

Rule 13. Subdivision (b) has been modified in two respects. First, the introductory phrase “Except for a request for fees and costs arising under Vaccine Rule 34(b)” was added to reflect the corresponding procedural change in Vaccine Rule 34(b) regarding a request for additional fees and costs. Second, the phrase “including a request for interim fees” was added to the second sentence to reflect the result in *Avera v. Secretary of Health and Human Services*, 515 F.3d 1343 (Fed. Cir. 2008).

Rule 17. Paragraph (b)(2) (“Filing Defined”) has been expanded to include electronic filings.

Rule 34. Subdivision (b) has been added to this rule to clarify that a request for additional attorney’s fees and costs incurred on a petition for review of a special master’s decision addressing attorney’s fees and costs may be decided either by the assigned judge or by the special master on remand.

Rule 36. The phrase “or the issuance of an order concluding proceedings pursuant to Vaccine Rule 20, 21, or 29” has been added to the opening sentence of subdivision (a) to extend the remedies available under RCFC 59 (“New Trial; Reconsideration; Altering or Amending a Judgment”) and RCFC 60 (“Relief From a Judgment or Order”) to cases concluded by means other than a judgment.

2010 Amendment

Rule 5. Subdivision (c) (“Imposing Fees and Costs”) has been added to reinforce the special

master’s case management authority. The rule permits a special master to order, as authorized by RCFC 16(f)(2), the payment of “reasonable expenses—including attorney’s fees—incurred because of any noncompliance with a scheduling or any other pretrial order.” The exercise of this authority is subject to the requirement that the order describe the noncompliant conduct and explain the basis for the imposition of fees and costs.

Rule 19. Subdivision (a) (“Computing Time”) has been amended in accordance with the corresponding changes to RCFC 6.

Rule 31. The time period for filing a motion for reconsideration has been changed from 10 to 30 days in accordance with the corresponding change to RCFC 59.

2011 Amendment

Rule 2. Subdivision (b) has been amended to adopt the revised filing requirements of RCFC 5.5(d)(1) specifying that a plaintiff must file 2 copies of the complaint and, except a plaintiff appearing pro se, an additional copy of the complaint in electronic form using a disc in CD-ROM format when the complaint exceeds 20 pages.

Rule 16. Subdivision (b) has been added to provide privacy protection in the caption of all petitions filed on behalf of a minor, consistent with the requirement of RCFC 5.2(a).

Rule 17. Subdivision (b) (“Filing a Document”) has been amended to reflect the court’s requirement of filing by electronic means in Vaccine Act cases, subject to reasonable exceptions.

2013 Amendment

Rule 8. Paragraph (c)(3) (“Transcript”) has been amended to reflect the changes adopted in RCFC 80.1.

2015 Amendment

Rule 2. Subdivision (b) has been amended to allow a petitioner not appearing pro se to file a petition electronically.

In addition, subdivision (d) has been amended to clarify that all documents accompanying a petition filed in paper form must also comply with the requirements of RCFC 5.5(c).

Rule 11. Subdivision (a) has been amended to more closely conform to the wording of 42 U.S.C. § 300aa-12(e)(3).

2016 Amendment

Rule 2. Subdivision (e) has been amended to reflect the current mailing address for the Secretary of Health and Human Services.

2017 Amendment

Rule 2. Paragraph (e)(1) has been amended to require proof of service of the petition and accompanying documents on the Secretary of Health and Human Services.

Rule 23. Subdivision (a) has been amended to clarify that a motion for reconsideration does not toll the 30-day period for filing a motion for review as provided in Vaccine Rule 10(e)(3)(B).

2019 Amendment

Rule 2. Subdivision (b) has been amended to remove the requirement that when a petition exceeds 20 pages, a copy must also be filed in electronic form using a disc in CD-ROM format.

Rule 14. Paragraph (b)(2) has been amended to eliminate the reference to facsimile number.

Rule 17. Rule 17 has been amended to reflect the changes adopted in RCFC 5.

Rule 32. Rule 32 has been amended to parallel the language of the statute and reflect that to appeal a decision of this court, a party must file a petition—not a notice of appeal—with the United States Court of Appeals for the Federal Circuit.

2020 Amendment

Rule 10. Subdivision (b) has been amended to exclude all periods of remand, as well as all periods of suspension, from the 240-day calculation.

Rule 29. Subdivision (a) has been amended to clarify that if the assigned judge fails to enter judgment within 420 days after the date the petition was filed, the assigned judge must issue a notice to petitioner only if a 240-day notice pursuant to 42 U.S.C. § 300aa-12(g)(1) was not issued by the special master.

Rule 34. Subdivision (b) has been amended to clarify that the assigned judge will decide a motion for additional fees under this rule unless the case is on remand or is specifically remanded

to the special master for purposes of entertaining the additional fees and costs.

2021 Amendment

Rule 2. Subparagraph (c)(2)(A) has been amended to require petitioner to certify all medical records.

In addition, new subdivision (f) has been added to direct petitioner to file a Statement of Completion as soon as possible after the petition is filed.

Rule 7. Subdivision (c) has been amended to clarify that the special master's approval is required before the clerk or counsel may issue a subpoena that is otherwise in compliance with RCFC 45.

Rule 28. Subdivision (a) has been amended to more closely conform to the wording of 42 U.S.C. § 300aa-12(e)(2)(C).

2023 Amendment

Rule 2. Paragraph (b)(1) has been amended to eliminate the 2-copy requirement for the filing of a petition in paper form, and paragraph (b)(2) has been amended to clarify that petitions filed electronically must include a cover sheet.

Subdivision (e) has been amended to permit electronic service of petitions on the Secretary of Health and Human Services.

Rule 13. Subdivision (a) has been amended to explicitly permit the filing of a timely motion for enlargement of time to file a request for attorney's fees and costs.

New paragraph (a)(1) has been added to require that the contents of the request include complete documentation, and to put petitioner on notice that failure to provide complete documentation may result in the denial of an attorney's fees and costs motion or a reduction in the amount awarded.

New paragraph (a)(2) has been added to put petitioner on notice that an untimely attorney's fees and costs request may be denied in full or result in a reduction in the amount awarded.

New paragraph (a)(3) has been added to explicitly permit the filing of a response and reply to a request for attorney's fees and costs, and to put respondent on notice that a failure to identify any objection with particularity may be considered by the special master in the decision.

Rule 17. Paragraph (a)(2) has been amended to permit the filing of a certificate of service within a reasonable time after service, as described in RCFC 5.3(b).

Paragraph (b)(3) has been amended to clarify that a person represented by an attorney must file electronically in the court's electronic-filing system, and a person not represented by an attorney may file electronically via e-mail consistent with the Supplement to the Vaccine Rules.

Subdivision (d) has been amended to eliminate the 2-copy requirement for filings that follow a petition.

Rule 19. Paragraph (b)(3), requiring counsel for the moving party to communicate with opposing counsel before filing a motion for enlargement, has been deleted in light of the addition of subdivision (d) to Vaccine Rule 20.

Rule 20. Subdivision (d) has been added to require that in every case initiated by a nonincarcerated petitioner, a party seeking to file a nondispositive motion must first meet and confer with the opposing party.

2024 Amendment

Rule 16. Subdivision (b) has been amended to require that case captions involving minors must include only the minor's initials.

Rule 18. Subdivisions (c) and (d) have been added to provide more explicit requirements concerning motions to redact.

Rule 21. Subdivision (a) has been amended to clarify that dismissals under this provision do not result in entry of judgment.

New subdivision (b) has been added to allow petitioners an explicit avenue to choose to exit the vaccine program, while preserving their right to file a civil action, aside from the 240-day opt-out period provided in Vaccine Rule 10.

Paragraph (c)(2) has been amended to clarify that unless otherwise ordered, a dismissal under subdivision (c) is with prejudice.

**SUPPLEMENT TO APPENDIX B
ELECTRONIC FILING PROCEDURES
IN VACCINE ACT CASES**

I. INTRODUCTION

1. In General. This Supplement sets forth the procedures governing electronic filings in Vaccine Act cases.

2. Definitions. For purposes of this Supplement, the following definitions apply:

- (a) “ECF System” means the court’s online system for electronic case filing;
- (b) “ECF case” means a Vaccine Act case designated by the clerk as an electronic case in which all filings in the case are made via the ECF System;
- (c) “Non-ECF case” means a Vaccine Act case designated by the clerk as a *pro se* case in which the *pro se* litigant cannot be granted access to file documents electronically via the ECF System;
- (d) “Filing User” means an individual to whom the court has granted access to file documents electronically via the ECF System;
- (e) “filing” means any document that is filed electronically via the ECF System or via e-mail by a *pro se* litigant; and
- (f) “court” means the assigned judge or the assigned special master.

II. CASE DESIGNATION AND NOTICE

3. Scope.

(a) **In General.** All newly filed Vaccine Act cases will be designated ECF cases except for cases involving *pro se* litigants.

(b) **Pro Se Cases.** All newly filed *pro se* Vaccine Act cases will be designated non-ECF cases.

4. Notice. The clerk will notify counsel and *pro se* litigants that a Vaccine Act case has been designated an ECF case or a non-ECF case by filing a “Notice of Designation.”

III. ACCESS TO FILE DOCUMENTS VIA THE ECF SYSTEM; RESPONSIBILITY OF FILING USERS; EXEMPTION FROM USE

5. Access.

(a) **Applications.** Applications for access to file documents electronically via the ECF System are submitted through PACER (Public Access to Court Electronic Records) at www.pacer.gov, and will be granted to an attorney who is admitted to the bar of this court. Because of the restricted nature of Vaccine Act cases, *pro se* litigants cannot be granted access to file documents electronically via the ECF System.

(b) **Notification.** The clerk will notify a Filing User when access to file via the ECF System has been granted.

6. Use of ECF Account. No Filing User or other person may knowingly permit or cause a Filing User’s login and password to be used by anyone other than an authorized agent of the Filing User. Any Filing User or other person may be subject to sanctions for failure to comply with this provision.

7. Exemption From Filing Electronically in an ECF Case. By filing an appropriate motion, a Filing User or an attorney not yet registered as a Filing User may, for good cause, seek to be exempted from filing documents electronically into an ECF case and to convert the case into a non-ECF case.

IV. FILING REQUIREMENTS IN NON-ECF CASES

8. Case Initiating Documents.

(a) **In General.** Vaccine Act petitions, along with the required filing fee or an application to proceed *in forma pauperis*, and any attachments required under Vaccine Rule 2(c)(2), must be submitted in paper form in compliance with RCFC 5.5 by mail or other delivery to:

Clerk
United States Court of Federal
Claims
717 Madison Place, NW
Washington, DC 20439

A copy of the applicable schedule of fees may be found on the court’s website at

www.uscfc.uscourts.gov or may be obtained from the clerk's office.

(b) Service. Vaccine Act petitions must include a certificate of service indicating that one copy of the petition and accompanying documents has been served on the Secretary of Health and Human Services pursuant to Vaccine Rule 2(e)(1). For electronic service, visit the court's website at www.uscfc.uscourts.gov.

9. Filings in Pending Non-ECF Cases.

(a) ECF Filings. The court, the clerk, and counsel of record for the United States must file via the ECF System in Non-ECF cases.

(b) Filings by *Pro Se* Litigants.

(i) In General. *Pro se* litigants may submit case filings in paper form or via e-mail to ProSe_case_filings@cfc.uscourts.gov. All filings must conform to the format requirements of RCFC 5.5.

(ii) Format of Filings via E-Mail.

(A) All documents submitted via e-mail must be attached to the e-mail in Portable Document Format ("PDF"). The e-mail subject line must include the case name and docket number for which the submission is intended.

(B) Each e-mail submission must be limited to a document that is clearly identified as a filing pursuant to a court rule or in response to a court order.

(C) Only the contents of the attached PDF file will be considered part of the submission and processed by the clerk. Any content in the body of the e-mail will not be reviewed by the clerk or considered for inclusion in the case record.

(D) If a document, including exhibits and attachments, exceeds 50 pages when printed, the *pro se* litigant must supply a courtesy copy of the document in paper form in accordance with RCFC

5.5(c), unless otherwise ordered by the court.

(iii) Signatures on Filings via E-Mail.

(A) To satisfy the signature requirements of RCFC 11, e-mailed submissions must include either a written or an electronic signature (s/[name of *pro se* litigant]).

(B) *Pro se* litigants may not file documents via e-mail on behalf of any other person.

(iv) Revocation of E-Mail Filing Privileges. E-mail filing privileges may be revoked by the court at any time.

V. FILING REQUIREMENTS IN ECF CASES

10. Filings.

(a) Initial Filings.

(i) The Petition. The filing of a Vaccine Act petition and the payment of the initial filing fee may be accomplished in accordance with Vaccine Rule 2.

(ii) Required Attachments. The petition must be accompanied by the medical records and other documents (including affidavits) pertaining to the petition as set forth in Vaccine Rule 2(c)(2). (*See* paragraph 13 of this Supplement, discussing the alternative method of filing voluminous medical records via a portable storage disc or drive.)

(b) Subsequent Filings. Once a case has been designated an ECF case, all subsequent filings must be made via the ECF System, except as provided in this Supplement or by leave of the court in exceptional circumstances that prevent a Filing User from filing via the ECF System.

(c) Exhibits and Attachments. Unless otherwise ordered by the court, when filing an exhibit or attachment, a Filing User:

(i) must file the exhibit or attachment via the ECF System along with the

- main document under one entry number;
- (ii) must include the exhibit or attachment in its entirety; and
- (iii) may seek leave to file a memorandum or brief, generally in advance of the evidentiary hearing, to direct the court's attention to the most relevant portion of the exhibit or attachment.

11. Technical Requirements.

(a) Format.

- (i) **In General.** Documents filed via the ECF System must be:

- (A) converted into PDF; and
- (B) text searchable.

The ECF System will not accept PDF files containing tracking tags, embedded system commands, password protections, access restrictions, or other security features, special tags, or dynamic features.

(ii) Scanned Documents.

- (A) Documents filed via the ECF System must not be scanned prior to filing unless the original documents are unavailable in electronic form.

- (B) A Filing User is responsible for ensuring the accuracy and readability of a scanned document.

(b) Size Limitations.

- (i) **In General.** A single filing may be divided into multiple PDF files.

- (ii) **Number of Files.** Counsel must endeavor to limit the total number of PDF files that constitute a single filing. All files, however, must comply with the requirements of paragraph 12(a) below.

(iii) Size of Files.

- (A) Unless otherwise ordered by the court, each PDF file must not exceed the size limitation established by the court.

- (B) The current size limitation is posted on the court's website or may be obtained by calling the clerk's office.

- (iv) **Exceeding the Size Limitation.** For files that exceed the size limitation and cannot be divided into multiple PDF files, the Filing User may:

- (A) use a portable storage disc or drive; or

- (B) seek leave of the court to file in some other electronic format.

- (c) **Events.** Events are used in the ECF System for filing documents and creating docket entries on the docket sheet. A Filing User:

- (i) must select an event or events for each filed document based on the purpose of the document or relief requested; and

- (ii) should use the most specific event available rather than a more generic event.

- (d) **Linking Filings.** A document filed via the ECF System—such as a response or reply—that pertains to a motion or other filing must be linked properly in the ECF System to the filing to which it pertains.

12. Dividing Medical Records into Multiple PDF Files.

- (a) **Contents and Pagination of Files.** Each file should contain one exhibit and each exhibit should be independently paginated (hand-written pagination prior to scanning is sufficient).

- (b) **Labeling and Identifying Files.** Each file should:

- (i) be consecutively numbered or lettered as an exhibit;

- (ii) be labeled according to its source or subject matter; and

- (iii) include a brief written description of the records it contains.

For example, the first PDF file might contain prenatal records and be labeled "Petitioner's Exhibit 1—Prenatal Records, Dr. Smith"; the second PDF file might contain birth records and be labeled "Petitioner's Exhibit 2—Birth Records, Smalltown Hospital"; the third and fourth PDF files might contain pediatric records of different physicians and be labeled "Petitioner's Exhibit 3—Pediatric Records, Dr. John" and

“Petitioner’s Exhibit 4–Pediatric Records, Dr. Jack.”

VI. FILING PROCEDURES

13. Filings Via Portable Storage Discs and Drives.

- (a) **In General.** Filing documents on a portable storage disc or drive is accomplished by:
- (i) filing a “Notice of Intent to File” containing:
 - (A) an index of the exhibits included on the disc or drive;
 - (B) a statement certifying that the contents of the disc or drive have been scanned using anti-virus software with up-to-date anti-virus definitions; and
 - (C) a certificate stating when a copy of the disc or drive was mailed or delivered to the clerk’s office;
 - (ii) providing the clerk’s office with one copy of the disc or drive along with a printed copy of the “Notice of Intent to File”; and
 - (iii) serving one copy of the disc or drive on opposing counsel.
- (b) **Date of Filing.** The disc or drive is deemed filed on the date it is received in the clerk’s office.
- (c) **Striking a Notice of Intent to File.** If the disc or drive is not received in the clerk’s office within 5 days after the “Notice of Intent to File” is docketed via the ECF System, the court may enter an order striking the “Notice of Intent to File” from the docket.
- (d) **Designation of Files.** The name of each file on the disc or drive should:
- (i) begin with the letters “Ex” followed by the exhibit letter or number (e.g., 01, 02, . . . 09, 10);
 - (ii) include a brief description of the content of the exhibit and the six-digit docket number (e.g., 98-0000);
 - (iii) represent spaces with an underscore; and
 - (iv) contain “.pdf” as the file extension. For example, the first PDF file on the disc or drive might be labeled

“EX01_University_Hospital_98-0000.pdf.”

- (e) **Format.** Before filing a disc or drive, the filing party should:
- (i) “close” or finalize the disc or drive so that additional material cannot be written onto the disc or drive; and
 - (ii) scan the disc or drive using appropriate anti-virus software after its creation and closure.
- (f) **Packaging and Labeling.** The disc or drive should be packaged in a paper, plastic, or waxed paper envelope and labeled with:
- (i) the case caption, including the case number;
 - (ii) the date of filing; and
 - (iii) the range of exhibits the disc or drive contains (e.g., Exhibits 01-20).

14. Notice of Filing; Service.

- (a) **ECF Cases.**
- (i) **Notifying the Parties.** At the time a document is filed, the ECF System automatically generates a “Notice of Electronic Filing” and automatically e-mails the notice to all parties.
 - (ii) **Service.** The transmission of the “Notice of Electronic Filing” satisfies the service requirement of RCFC 5 and the proof of service requirement of RCFC 5.3.
- (b) **Non-ECF Cases.**
- (i) **Notification of Filings.** A *pro se* litigant may consent to receive notice of all filings via e-mail by filing an E-Notification Consent Form in each active Vaccine Act case before the court (*see* Appendix of Forms, Form 15B).
 - (ii) **Service.**
 - (A) **Service by *Pro Se* Litigants.** A *pro se* litigant filing in paper form or via e-mail need not separately serve his or her filings on opposing counsel. Opposing counsel will be served when a filing is entered by the clerk in the ECF System.
 - (B) **Service by E-Mail on *Pro Se* Litigants.** If a *pro se* litigant has

filed an E-Notification Consent Form:

- (I) the *pro se* litigant consents to having his or her e-mail address entered into the ECF System to receive notice of electronic filings;
 - (II) because of the restricted nature of Vaccine Act cases, to satisfy the service requirement of RCFC 5, the clerk and opposing counsel must serve the *pro se* litigant via separate e-mail with a PDF copy of each filing;
 - (III) to satisfy the proof of service requirement of RCFC 5.3, opposing counsel must attach to each filing, or file within a reasonable time after service, a certificate of service pursuant to RCFC 5(d)(1)(B) and Vaccine Rule 17(a)(2); and
 - (IV) the *pro se* litigant waives service by first class mail.
- (C) **Service by First Class Mail on Pro Se Litigants.** If a *pro se* litigant has not consented to electronic service by filing an E-Notification Consent Form:
- (I) the clerk will serve the litigant with all court-issued filings by first class mail; and
 - (II) opposing counsel must serve the litigant with all of opposing counsel's filings in a manner listed in RCFC 5(b) and attach to each filing, or file within a reasonable time after service, a certificate of service pursuant to RCFC 5(d)(1)(B) and Vaccine Rule 17(a)(2).

15. Effect of Filing.

- (a) **ECF Cases.** A filing by a party via the ECF System, together with the transmission of the "Notice of Electronic

Filing," constitutes a filing under RCFC 5 and an entry on the docket kept by the clerk under RCFC 58 and 79.

- (b) **Non-ECF Cases.** A document submitted by a *pro se* litigant via e-mail or in paper form constitutes a filing under RCFC 5 once entered by the clerk in the ECF System.

16. Official Court Record. The official court record is the electronic recording of the document in the ECF System as stored by the court and the filing party is bound by the document as filed.

17. Date of Filing.

- (a) **ECF Cases.** A document filed in an ECF case is deemed filed on the date and time stated in the "Notice of Electronic Filing."
- (b) **Non-ECF Cases.** A document submitted by a *pro se* litigant via e-mail or in paper form is deemed filed on the date and time received by the clerk or, if not in compliance with the court's rules, on the date and time filed by leave of the judge or special master.

18. Timeliness of Filing. Unless otherwise ordered by the court, an electronic filing under this Supplement must be submitted before midnight local time in Washington, DC, to be considered timely filed on that date.

19. Date Stamp. The filing date of each filing in the ECF System will appear at the top of the first page in an automatically generated banner stating the case number, the document number, and the date filed.

VII. SIGNATURES AND RELATED MATTERS IN ECF CASES

20. Signature Defined. A Filing User's login and password will serve as his or her signature on a filing for all purposes, including those under RCFC 11.

21. Signature Requirements.

- (a) **Electronic Signature.** Filings must include a signature block, in compliance with RCFC 11(a), with the name of the Filing User under whose login and password the document is submitted along with an "s/[name of Filing User]" typed in the space where the signature would otherwise appear.

- (b) **Written Signature.** A Filing User may also satisfy the signature requirement by scanning a document containing his or her written signature.
- (c) **Noncompliance.** A filing that does not comply with this provision will be deemed in violation of RCFC 11 and may be stricken from the record.

22. Signatures of Multiple Parties. Documents requiring signatures of more than one party may be filed via the ECF System:

- (a) by submitting a scanned document containing all necessary written signatures; or
- (b) by submitting a document containing an electronic signature for each party (“s/[name of party]”) and the filing attorney’s representation that the other parties have reviewed the document and consent to its filing.

VIII. COURT ORDERS AND JUDGMENTS

23. Filings by the Court. Any order, opinion, judgment, or other proceeding of the court will be filed in accordance with this Supplement.

24. Effect of Filing. A filing by the court under this Supplement:

- (a) is an entry on the docket kept by the clerk under RCFC 58 and 79; and
- (b) has the same force and effect as a paper copy entered on the docket in the traditional manner.

25. Notice of Filing; Service.

- (a) **Notifying the Parties.** Notice of a filing by the court will be accomplished in the manner prescribed in paragraph 14 of this Supplement.
- (b) **Service.** Service of a filing by the court will be accomplished in a manner prescribed in paragraph 14 of this Supplement.

26. Court-Ordered Deadlines. If an order or opinion specifies a due date for the filing of a document, that date will control over any other filing deadline listed on the docket for that document.

IX. PRIVACY

27. Filings Protected Against Public Disclosure. Except as provided in Vaccine Rule 18, all filings submitted in a Vaccine Act case are restricted pursuant to the requirement of 42 U.S.C. § 300aa-12(d)(4)(A) and therefore are accessible only to court personnel and the parties to the case.

28. Personal Information. Because all filings submitted by the parties in a Vaccine Act case are restricted, counsel and *pro se* litigants need not redact personal identifiers and other sensitive information. All documents, including medical records, should be filed in their original form.

X. PUBLIC ACCESS; TECHNICAL FAILURE; HYPERLINKS

29. Reviewing Filings. Except as provided in Vaccine Rule 18, all filings in Vaccine Act cases are restricted pursuant to 42 U.S.C. § 300aa-12(d)(4)(A) and therefore are not accessible to the public either in the clerk’s office or via the ECF System.

30. Technical Failure of the ECF System.

- (a) **Relief by Motion.** If a filing via the ECF System is deemed untimely as the result of a technical failure of the ECF System, the Filing User may seek appropriate relief from the court.
- (b) **Deeming the Clerk’s Office Inaccessible.** If the ECF System is inaccessible for any significant period of time, the clerk will deem the clerk’s office inaccessible under RCFC 6.

31. Hyperlinks.

- (a) **Type.** Filings via the ECF System may contain the following types of hyperlinks:
 - (i) hyperlinks to other portions of the same document;
 - (ii) hyperlinks to documents already filed via the court’s ECF System; and
 - (iii) hyperlinks to a location on the Internet that contains a source document for a citation.
- (b) **Cited Authority.** Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document.

- (c) **Limitation.** Neither a hyperlink, nor any site to which it refers, will be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document. If a party wishes to make any hyperlinked material part of the record, the party must include the material as an attachment to the filing.
- (d) **Disclaimer.** The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The court accepts no responsibility for the availability or functionality of any hyperlink.

Rules Committee Notes

2011 Adoption

The Supplement to the Vaccine Rules replaces former Office of Special Master's General Order No. 13 ("Procedure for Electronic Case Filing in Vaccine Act Cases"), issued on January 2, 2008, and amended on October 16, 2008, and establishes electronic case filing as a mandatory procedure applicable to all newly filed Vaccine Act cases except for those cases involving *pro se* litigants.

2015 Amendment

Paragraph 4 has been amended by deleting the statement that all ECF cases will be listed on the court's website.

Paragraph 8(a) has been amended to allow a petitioner not appearing *pro se* to file a petition and the required attachments electronically.

Former paragraph 25 has been deleted as unnecessary.

2016 Amendment

Paragraph 9(b) has been amended to clarify that a single filing may not exceed 11 separate Adobe PDF files.

In addition, Paragraph 12 has been amended by deleting as no longer necessary former paragraph 12(b) which provided that the clerk "will serve the 'Notice of Electronic Filing' (but not the underlying filing) on case participants who are not Filing Users by e-mail, hand

delivery, facsimile, or first-class postage prepaid mail."

Paragraph 17 also has been amended to clarify that the ECF system automatically generates a filing date stamp at the top of the first page of each filing.

Finally, paragraph 23(a) has been amended to delete the reference to former paragraph 12(b).

2017 Amendment

Paragraph 9(b) has been amended to remove the specific limitation on the number of Adobe PDF files that constitute a single filing, while maintaining the requirement of paragraph 10(a) that each PDF file contain only one exhibit.

2019 Amendment

Paragraph 20 has been amended to clarify that a document requiring the signature of more than one party must contain either a scanned written signature of each party or an electronic signature of each party along with the filing attorney's representation that the other parties have reviewed the document and consent to its filing.

2020 Amendment

Paragraph 2(c) has been amended to define a Filing User as an individual, rather than as a member of the court's bar, to whom the court has granted access to file documents electronically in the ECF System.

Paragraph 5 has been amended to reflect that applications for access to file documents electronically in the ECF System are submitted through PACER and that access may be granted to an individual who is not represented by an attorney only if allowed or so required by court order.

Paragraph 9 has been amended to include additional technical requirements related to document format, event selection, and linking filings.

In addition, paragraphs 9(b), 11 and 15 have been amended to substitute the phrase "a portable storage disc or drive" for all references to a CD-ROM.

Finally, new paragraph 29 has been added to address hyperlinks in filings.

2023 Amendment

The Supplement to Appendix B has been amended to require the court, the clerk, and counsel of record for the United States to file via the ECF System in non-ECF cases, and to provide *pro se* litigants with alternative means of submitting filings and receiving notice of filings electronically.

2024 Amendment

Paragraph 13 (“Filings Via Portable Storage Discs and Drives”) has been moved from Section V (“Filing Requirements for ECF Cases”) to Section VI (“Filing Procedures”) because its provisions are applicable to both ECF and non-ECF cases.

**SECOND SUPPLEMENT TO APPENDIX B
ATTORNEY’S FEES AND COSTS**

1. Attorney’s Fees. The following materials are necessary to substantiate a request for attorney’s fees:

(a) Contemporaneous time sheets attorney invoices showing how many hours were billed on a specific task, and at what hourly rate.

(i) Number of Hours.

(A) Whether hours devoted to a matter are “reasonable” is a subjective inquiry involving the nature of the work performed as well as the expertise of the professional performing the work. The special master or the court may reduce or exclude hours that are excessive, redundant, or otherwise unnecessary.

(B) Each individual task should have its own entry indicating the amount of time dedicated to that task. Time should be billed in increments of one-tenth of an hour.

(ii) Hourly Rate.

(A) A newly proposed hourly rate may be found reasonable where it is substantiated by an affidavit of the attorney which includes, but is not limited to, the years and the breadth of experience of the attorney as a member of the bar of any other jurisdictions, experience as an attorney in the Vaccine Program, and local billing rates, if applicable.

(B) Unless requesting a rate for a new calendar year, the attorney must refrain from billing at hourly rates that have not previously been awarded. Once a reasonable rate for a year has been established, it will not be increased during the same year.

(C) The OSM Forum Hourly Rate Fee Schedules can be found on the court’s website. Hourly rates

billed by the attorney, assuming the attorney is entitled to forum rates, should conform to the ranges listed therein.

(b) If petitioner is not awarded compensation, the fees motion must address whether the statutory requirements of good faith and reasonable basis have been met, keeping in mind the following:

(i) whether a claim is brought in good faith is a subjective inquiry to be determined by the special master and the court; and

(ii) whether a claim has reasonable basis is an objective determination, requiring reference to record evidence. Reasonable basis must exist at each stage in a case; a case that once had reasonable basis may lose that designation after further development.

2. Attorney’s Costs. The following materials are required to substantiate a request for attorney’s costs:

(a) an itemized list of all costs incurred in the Vaccine Program proceeding; and

(b) supporting documentation for each cost in the form of invoices, receipts, account statements, or any other document petitioner reasonably believes will fully substantiate the requested cost.

3. Expert Costs. If petitioner retains an individual to provide expertise in the case and seeks reimbursement for this cost, the same requirements pertaining to attorney’s fees in paragraph 1(a)(i) above apply. It is incumbent on petitioner to inform their expert of these requirements. The requirements include:

(a) contemporaneous time sheets showing how many hours were billed on a specific task multiplied by a proposed hourly rate; and

(b) any other information petitioner deems necessary to substantiate the reasonableness of the work for which reimbursement is being sought.

4. Petitioner's Personal Costs. In every case in which fees and costs are sought, petitioner must file:

- (a) a statement signed by petitioner and petitioner's attorney indicating whether petitioner has personally incurred any costs in the pursuit of their claim for compensation; and if petitioner has personally borne costs,
- (b) supporting documentation in the form of invoices, receipts, account statements, or any other document sufficient to substantiate each requested personal cost.

5. Interim Attorney's Fees and Costs. All requirements set forth above in paragraphs 1–3 apply to requests for interim attorney's fees and costs. Interim attorney's fees and costs may be awarded at the discretion of the special master or the court, based on factors including, but not limited to, the duration of the litigation, the stage of the litigation, the fees and costs already incurred by petitioner, and whether non-payment of fees and costs at this stage of litigation would pose an undue hardship to petitioner and their attorney. It is incumbent on a petitioner to include any relevant information necessary for the special master or the court to determine whether an interim award is appropriate under the specific circumstances of the case.

**Rules Committee Notes
2023 Adoption**

The Second Supplement to the Vaccine Rules sets forth the necessary materials to substantiate a request for attorney's fees and costs. This Second Supplement is intended to provide for the expedited review and award of attorney's fees and costs in Vaccine Act cases by setting forth all required documentation and preventing the necessity of multiple filings.