From: Lamary, Mary
To: NRC_ODs_DODs
Subject: Note to OD/RAs on SCTW and RA
Date: Friday, October 1, 2021 6:17:39 PM

Good afternoon,

I am writing to provide some clarification on the distinction between requests for an exception to the vaccine mandate for federal employees and requests for Special Circumstances Telework (SCTW).

We understand some employees may be submitting requests for SCTW based on the fact that they are unvaccinated. A request for, or a grant of, an exception from the vaccine mandate is not, in and of itself, a basis to approve SCTW. OD/RAs do not have authority to grant exceptions to the vaccine mandate, and therefore, should not be approving SCTW on that basis. Further, exceptions to the vaccine mandate are considered as a reasonable accommodation, and OD/RAs do not have the authority to approve such requests.

Employees with medical and religious reasons for not being vaccinated may request a reasonable accommodation as an exception to the vaccine mandate. The process for employees to request such exemptions is the same as our existing process for reasonable accommodation, which can be found at Reasonable Accommodation Program. Employees who wish to do so can, and are encouraged, to submit their requests immediately, although all federal agencies have been instructed to delay making final decisions until additional guidance from the Safer Federal Workforce Task Force for reviewing and processing such requests has been issued.

Please note that employees who have received a RA granting an exception from the vaccine mandate will be subject to the CDC protocols for access to federal properties, e.g., self-screening, masking, and physical distancing unless they have also received a reasonable accommodation pertaining to masking or other protocols.

In accordance with the NRC Management Directive, Collective Bargaining Agreement, and OCHCO guidance, requests for SCTW must include well-documented evidence, and may be subject to review by an independent expert on behalf of the NRC. OD/RAs do not need to have the medical expertise to analyze or evaluate the evidence; in fact, their focus should be on the impact of full-time telework on the efficiency of the office so long as the authoritative documentation articulates a medical reason states that due to this reason, full time telework should be provided to the employee. The documentation, therefore, must provide sufficient detail for the OD/RA to make an informed decision that a basis for medical or personal hardship has been articulated and the OD/RA is not aware of objective contrary facts. An attestation by the employee that they have such evidence is not sufficient. The OD/RA need not retain the evidence, but should maintain a record of the actions taken and materials reviewed in reaching a decision.

Regards,
Mary

From: Roberts, Darrell
To: Lamary, Mary
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)
Date: Wednesday, October 20, 2021 5:33:02 PM

I'm hoping your optimism pans out w/r/t the continued increase.

DJR

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Wednesday, October 20, 2021 5:28 PM
To: Roberts, Darrell <Darrell.Roberts@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

My pleasure; sorry about that.

Good to know our unknown universe 395; notice of intent to request exception jumped to 98; and 9 are temporary

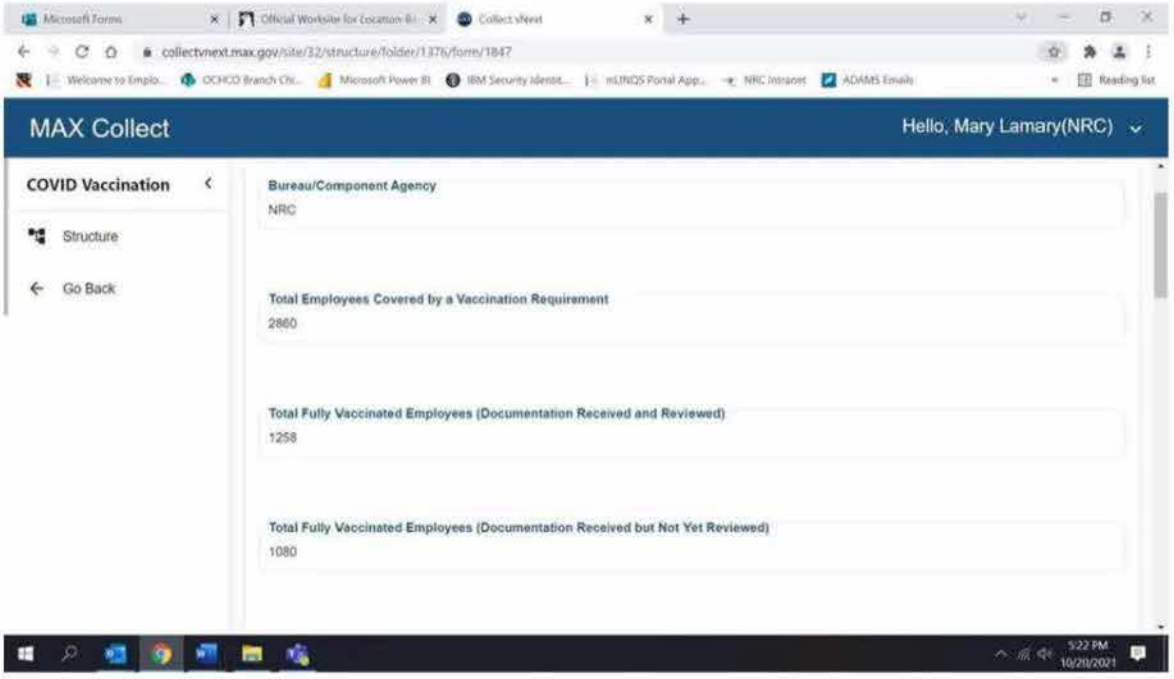
From: Roberts, Darrell <Darrell.Roberts@nrc.gov>
Sent: Wednesday, October 20, 2021 5:26 PM
To: Lamary, Mary <Mary.Lamary@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

Thanks, Mary.

Darrell

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Wednesday, October 20, 2021 5:25 PM
To: Roberts, Darrell <Darrell.Roberts@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

Our data is in; sorry for the delay

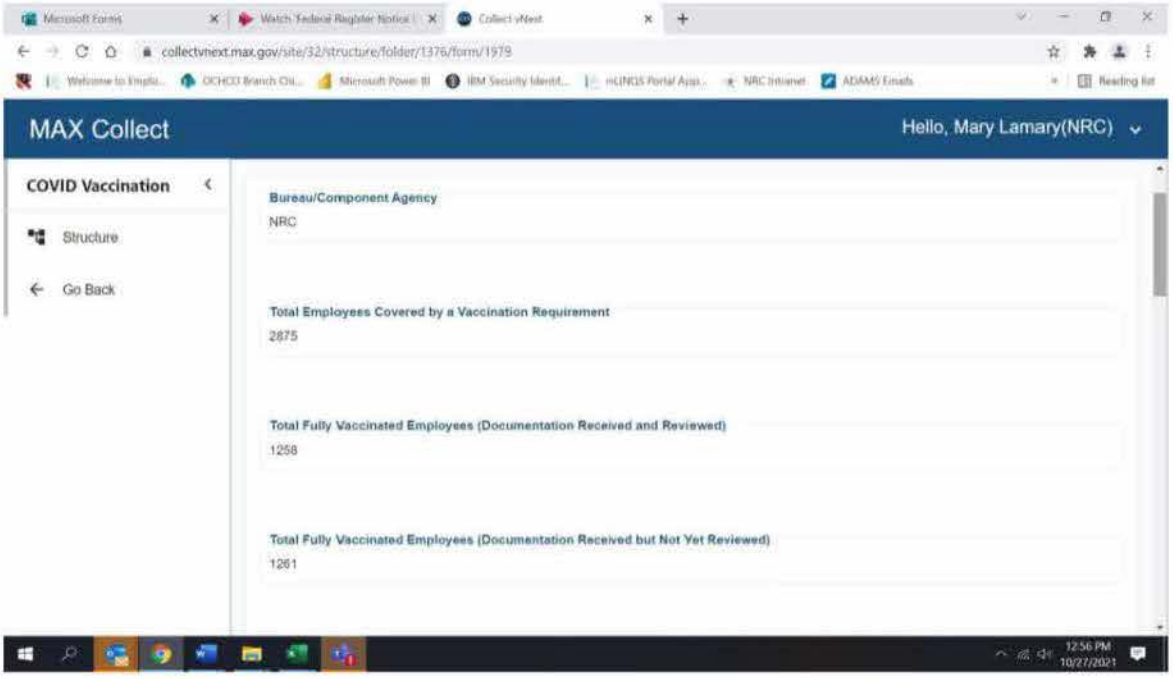


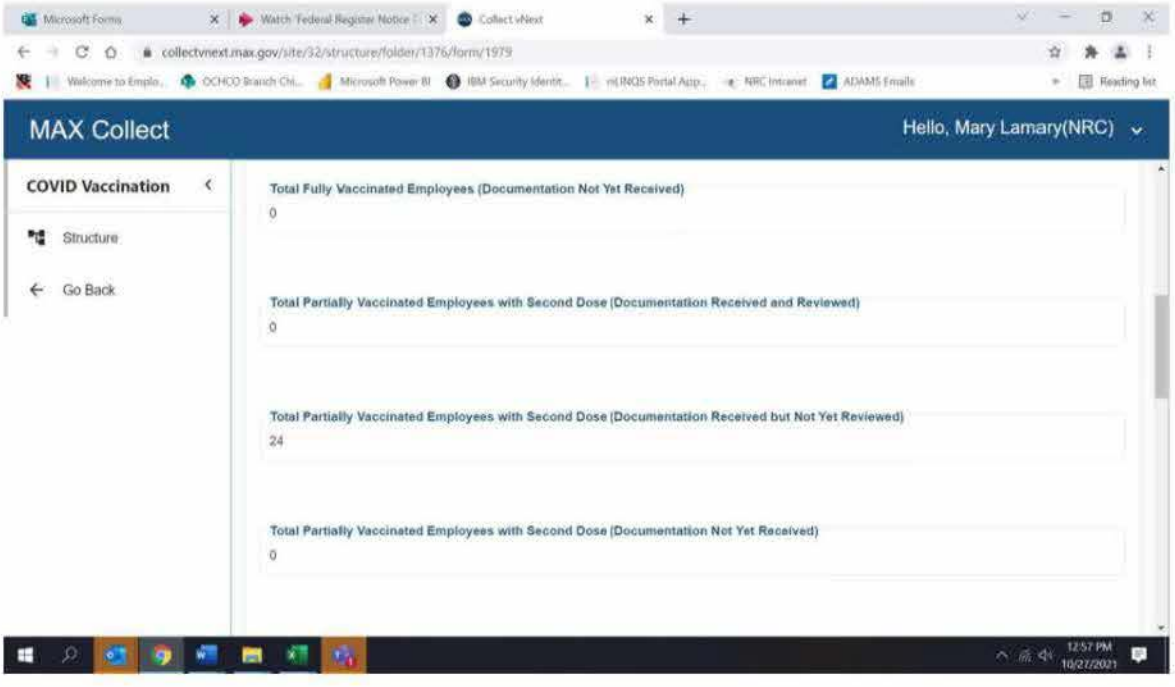
From: Lamary, Mary
To: Roberts, Darrell; Heney, Catherine; Dorman, Dan
Cc: Motta, Sherri
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)
Date: Wednesday, October 27, 2021 1:00:00 PM

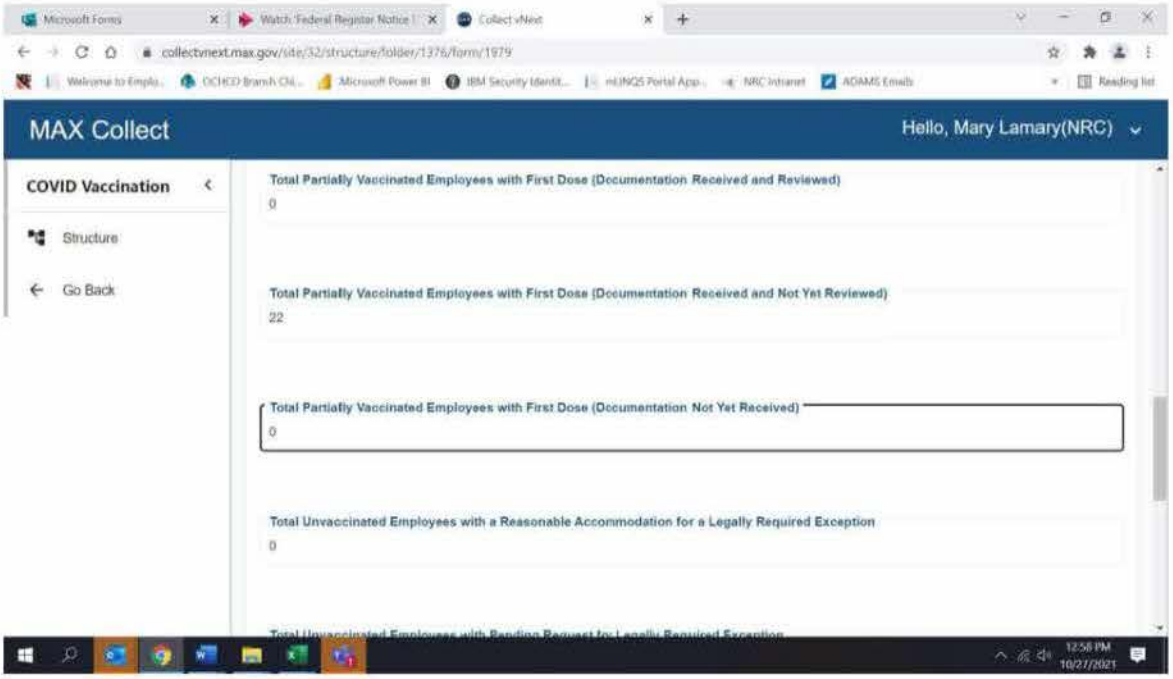
Down unknown status for 192 employees (and that includes an increase of 16 SGEs)

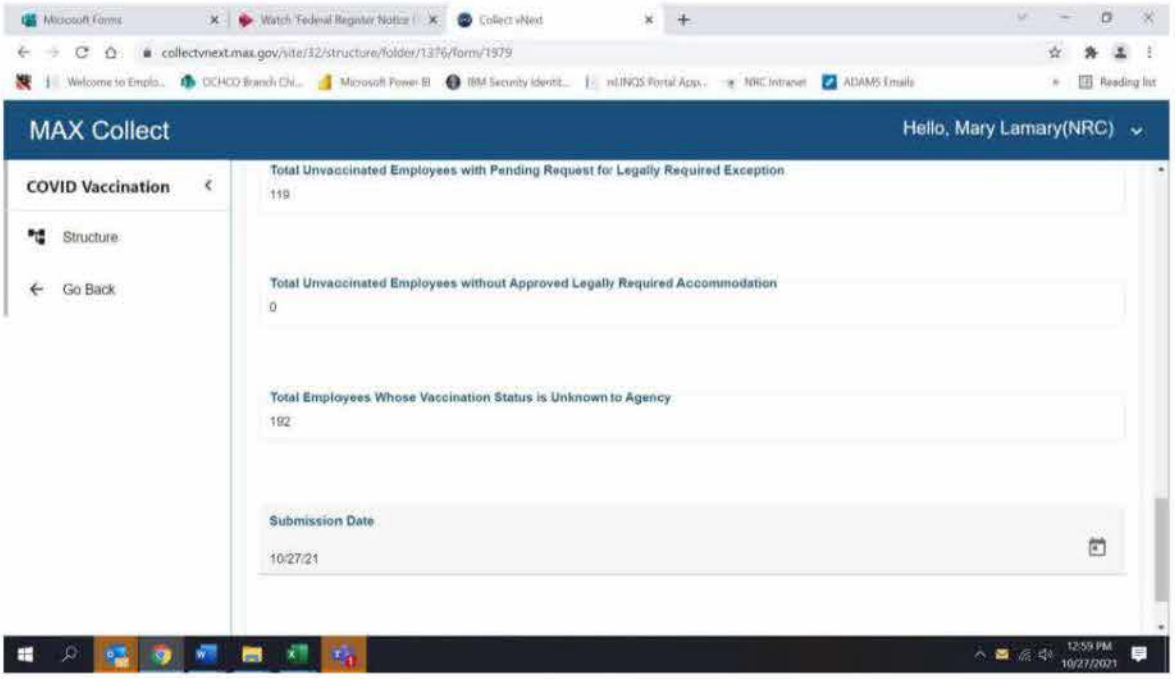
We are up to 119 pending requests for exceptions (10 are temporary), which exceeds the 3-4 percent threshold the SFWTF asked us to monitor.

I will keep you posted. But our information was submitted on time this week.









From: Lamary, Mary
Sent: Wednesday, October 20, 2021 5:28 PM
To: Roberts, Darrell <Darrell.Roberts@nrc.gov>; Dilworth, Eric <eric.dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

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To: Lamary, Mary <Mary.Lamary@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

Thanks, Mary.

Darrell

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Wednesday, October 20, 2021 5:25 PM
To: Roberts, Darrell <Darrell.Roberts@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

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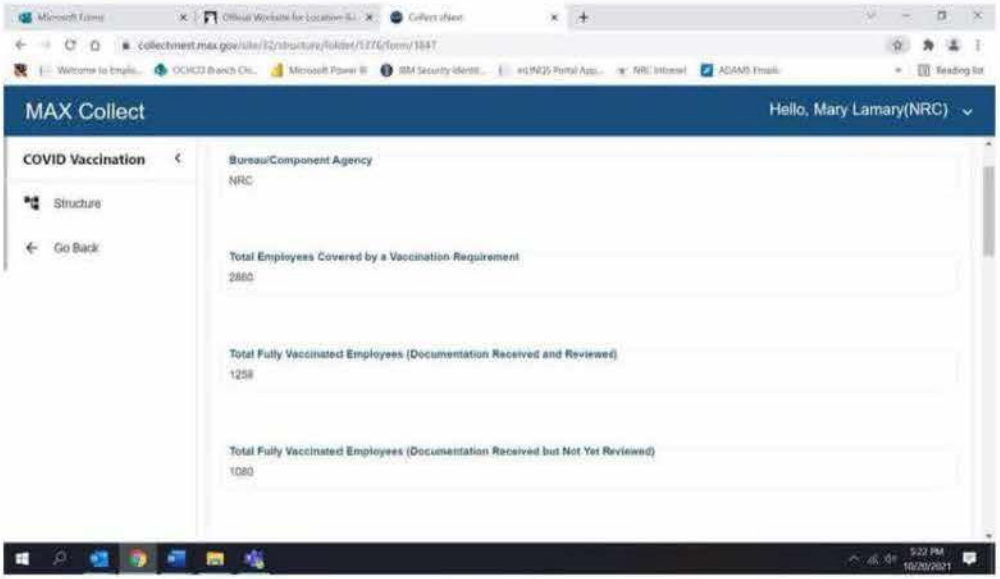
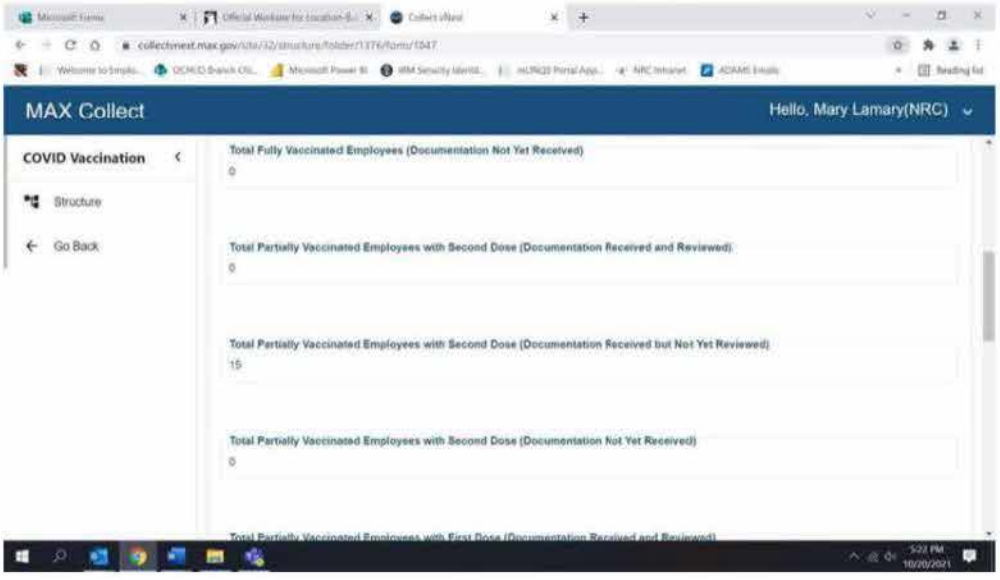
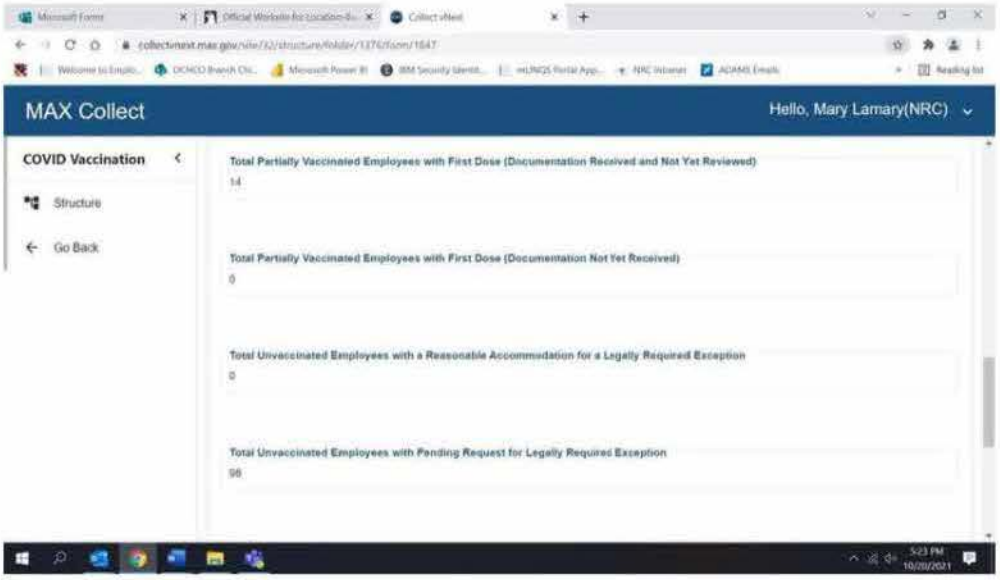
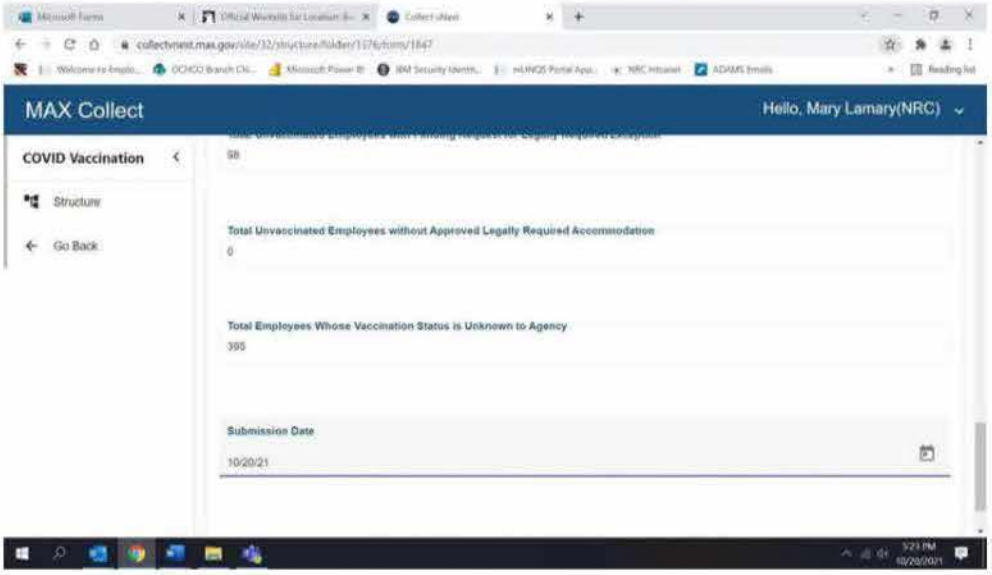








From: Roberts, Darrell <Darrell.Roberts@nrc.gov>
Sent: Wednesday, October 20, 2021 3:39 PM
To: Dilworth, Eric <Eric.Dilworth@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Lamary, Mary <Mary.Lamary@nrc.gov>; Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

Thanks, Eric. I will respond to OMB.

Darrell

From: Dilworth, Eric <Eric.Dilworth@nrc.gov>
Sent: Wednesday, October 20, 2021 3:37 PM
To: Roberts, Darrell <Darrell.Roberts@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Cc: Lamary, Mary <Mary.Lamary@nrc.gov>; Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: RE: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)

Darrell,

We will not have the data today. Mary had this data and as you know is unavailable this afternoon.

Eric L. Dilworth
Deputy Chief Human Capital Officer
Office of the Chief Human Capital Officer
U.S. Nuclear Regulatory Commission
TWFN-3A90
Office Phone: 301-415-5197

Cell Phone: (b)(6)

From: Roberts, Darrell <Darrell.Roberts@nrc.gov>
Sent: Wednesday, October 20, 2021 3:27 PM
To: Smith, Bi <Bi.Smith@nrc.gov>
Cc: Dilworth, Eric <Eric.Dilworth@nrc.gov>; Lamary, Mary <Mary.Lamary@nrc.gov>; Miotla, Sherri <Sherri.Miotla@nrc.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>
Subject: FW: [External_Sender] Status Request (Vaccination Data Call - due at 3pm today)
Importance: High

Hi Bi,

I understand Sherri reached out to you about the below request. Please let me and Sherri know what you find out, as OMB is requesting a response soon.

If we cannot produce the report, I'd like to let them know that due to unforeseen circumstance we cannot get the data to them timely this week, but will update them as soon as possible.

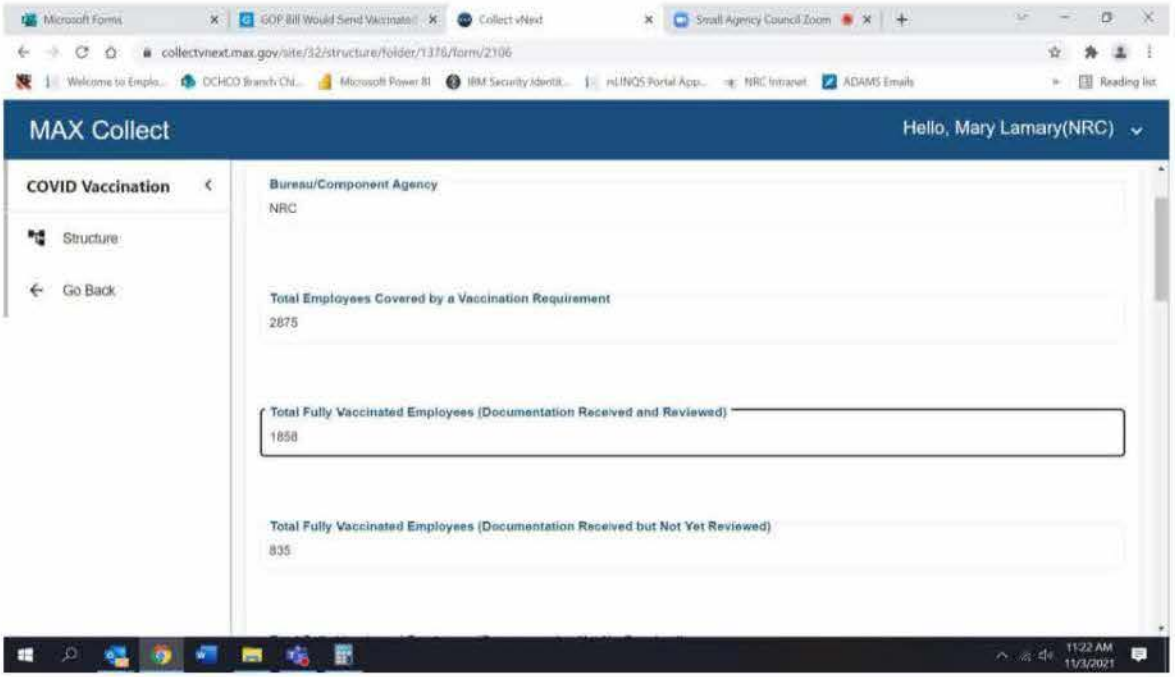
Thanks,
Darrell

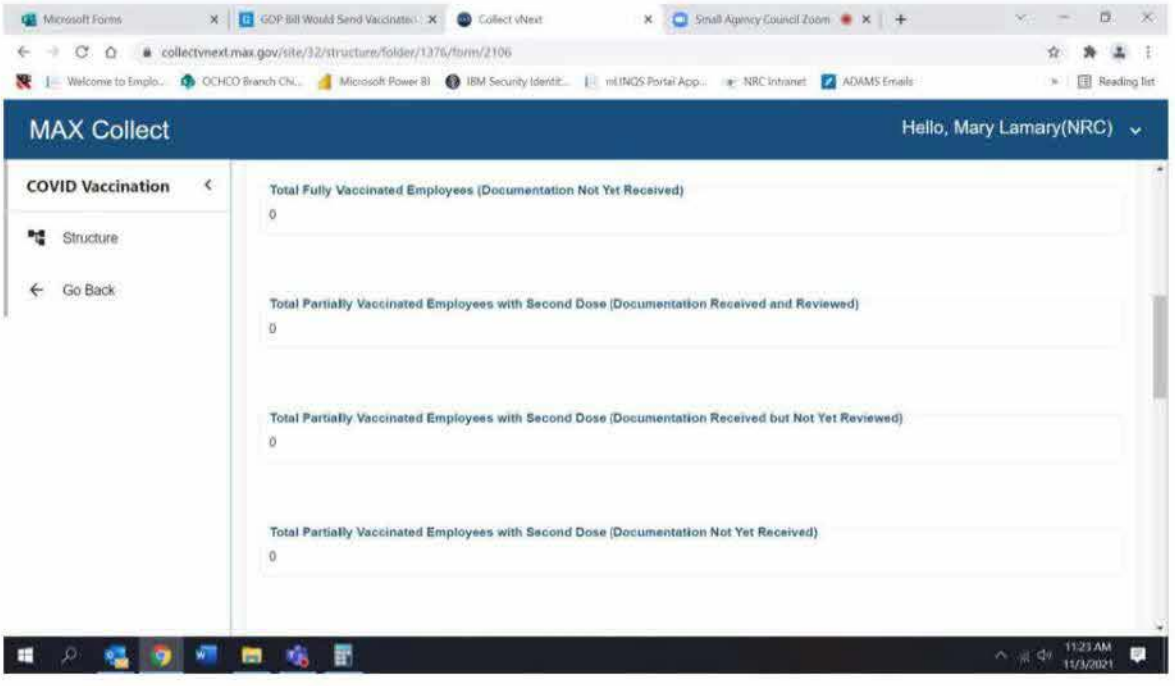
Outside of Scope

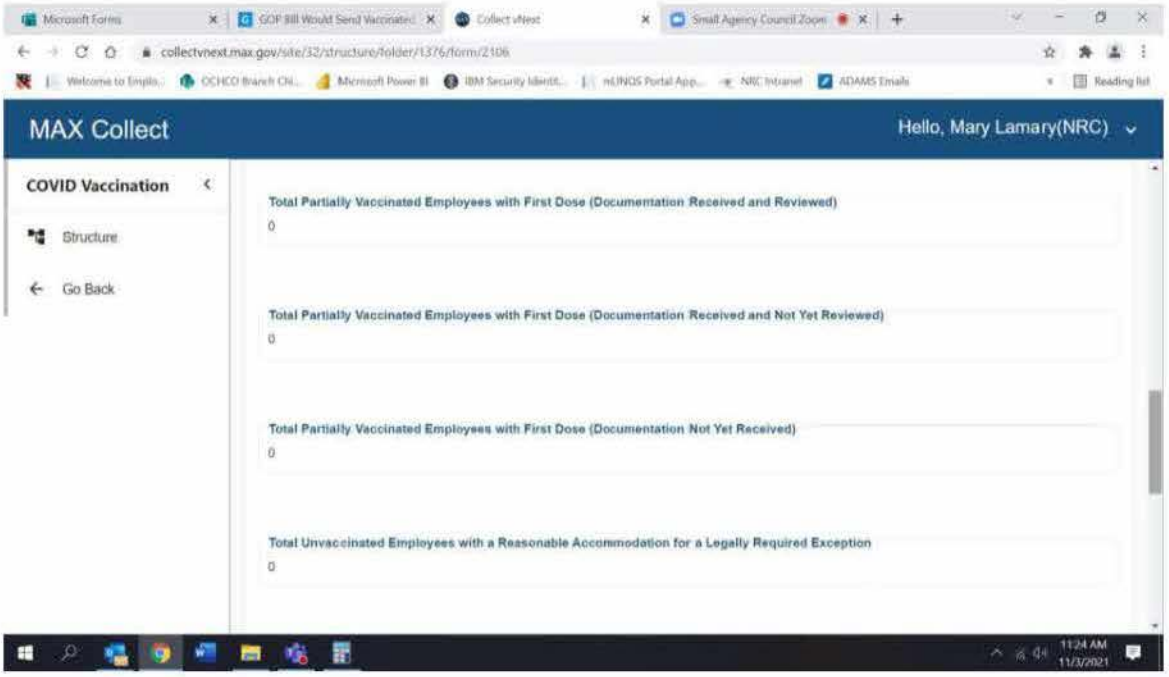
From: Lamary, Mary
To: Mottl, Sherri
Cc: Haney, Catherine; Darrell Roberts (Darrell.Roberts@nrc.gov); Dorman, Dan
Subject: Latest Data
Date: Wednesday, November 3, 2021 11:33:00 AM

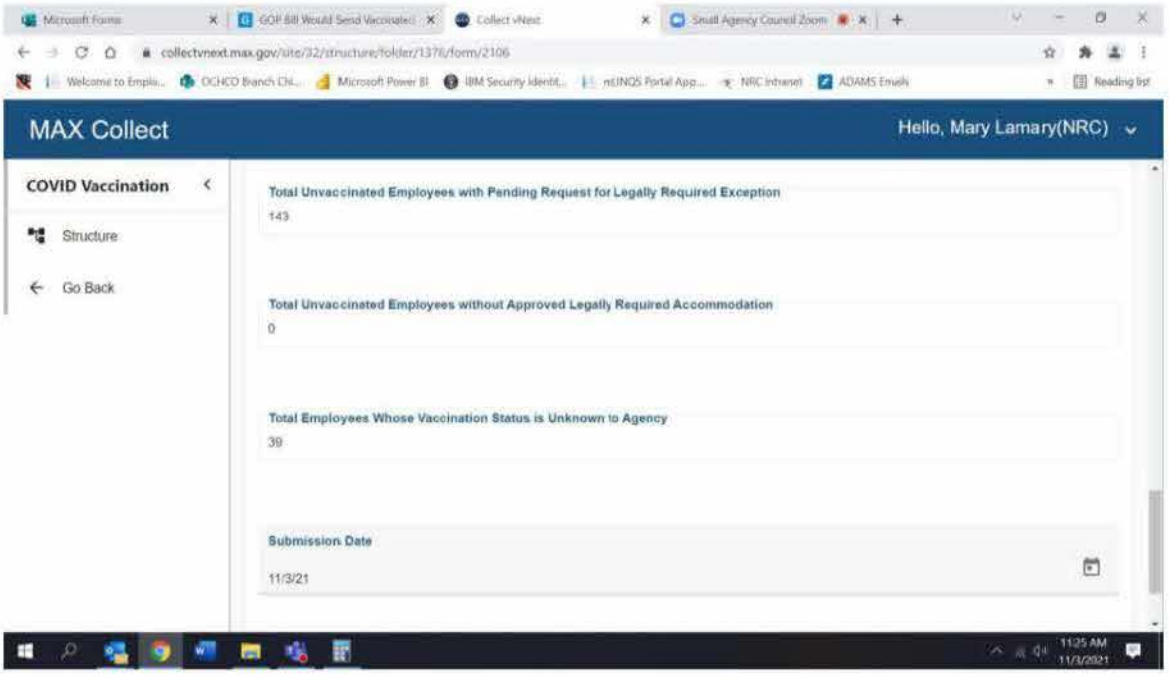
FYI, because our database does not reduce the count of those who are at first or second dose when they hit the fully vaxed point, I did not report that data. Rather, I only submitted data on those who reported fully vaxed status (2693; I have verified 1858, and have 835 left to review), and those who have expressed intent to request exception (143). That leaves an unknown universe of 39 employees.

2875 – 1858 – 835 – 143 = 49






Microsoft Forms
GOP Bill Would Send Vaccinated
Collect vNext
Small Agency Council Zoom
collectvnext.max.gov/site/32/structure/folder/1376/form/2106
MAX Collect
Hello, Mary Lamary(NRC)
COVID Vaccination
Structure
Go Back
Total Partially Vaccinated Employees with First Dose (Documentation Received and Reviewed)
0
Total Partially Vaccinated Employees with First Dose (Documentation Received and Not Yet Reviewed)
0
Total Partially Vaccinated Employees with First Dose (Documentation Not Yet Received)
0
Total Unvaccinated Employees with a Reasonable Accommodation for a Legally Required Exception
0
11:24 AM
11/3/2021


Microsoft Forms
GOP Bill Would Send Vaccinated
Collect vNext
Small Agency Council Zoom
collectvnext.max.gov/site/32/structure/folder/1376/form/2106
MAX Collect
Hello, Mary Lamary(NRC)
COVID Vaccination
Structure
Go Back
Total Unvaccinated Employees with Pending Request for Legally Required Exception
143
Total Unvaccinated Employees without Approved Legally Required Accommodation
0
Total Employees Whose Vaccination Status is Unknown to Agency
39
Submission Date
11/3/21
11:25 AM
11/3/2021

From: Lamary, Mary
To: Miotla, Sherri; DeJesus, Anthony
Cc: Re-entry WG (NRC); Dorman, Dan
Subject: This Week's Submission on Data
Date: Wednesday, November 17, 2021 10:26:00 AM

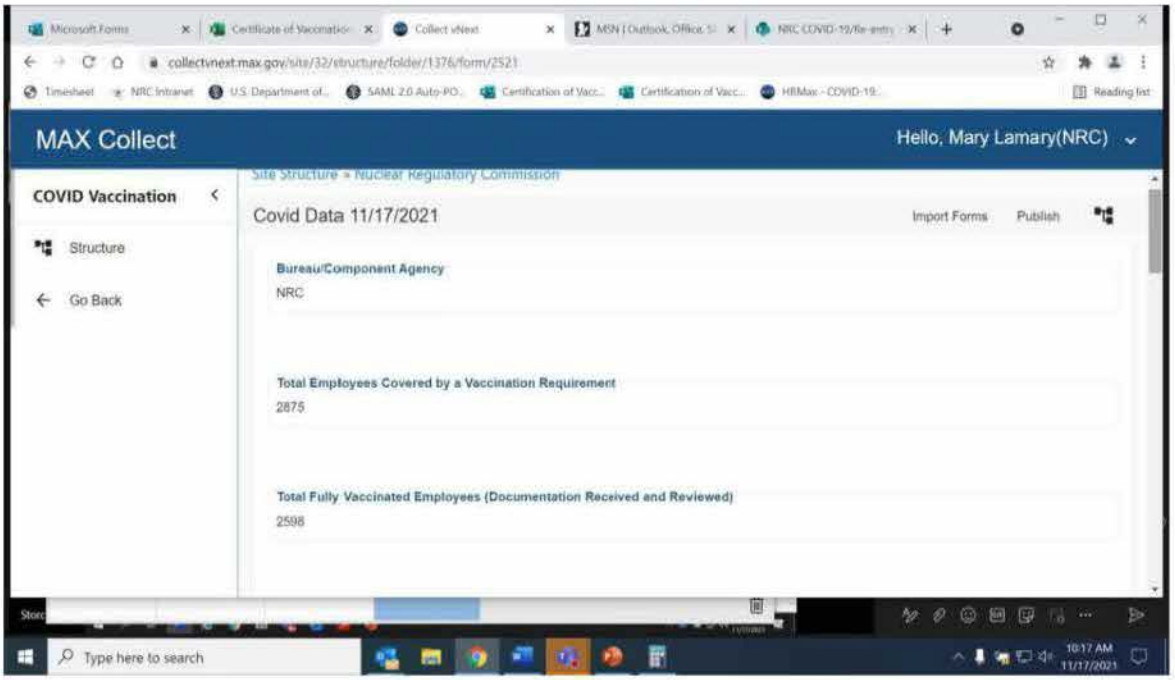
Holding steady at 90.7% Fully Vaxed; when the 55 who in progress (first or second shot) reach fully vaxed status will be at 92.6%

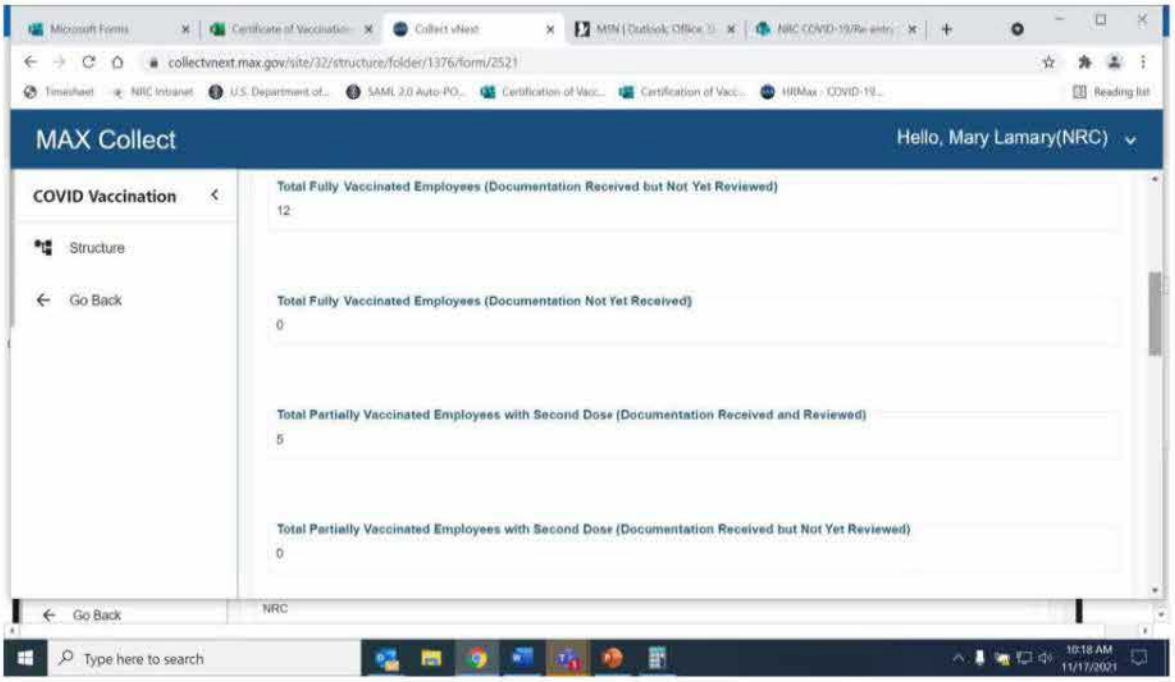
Total known status: 2610 report as Fully Vaxed; 55 report as in progress; 150 pending exceptions = 2815, or 97.9%

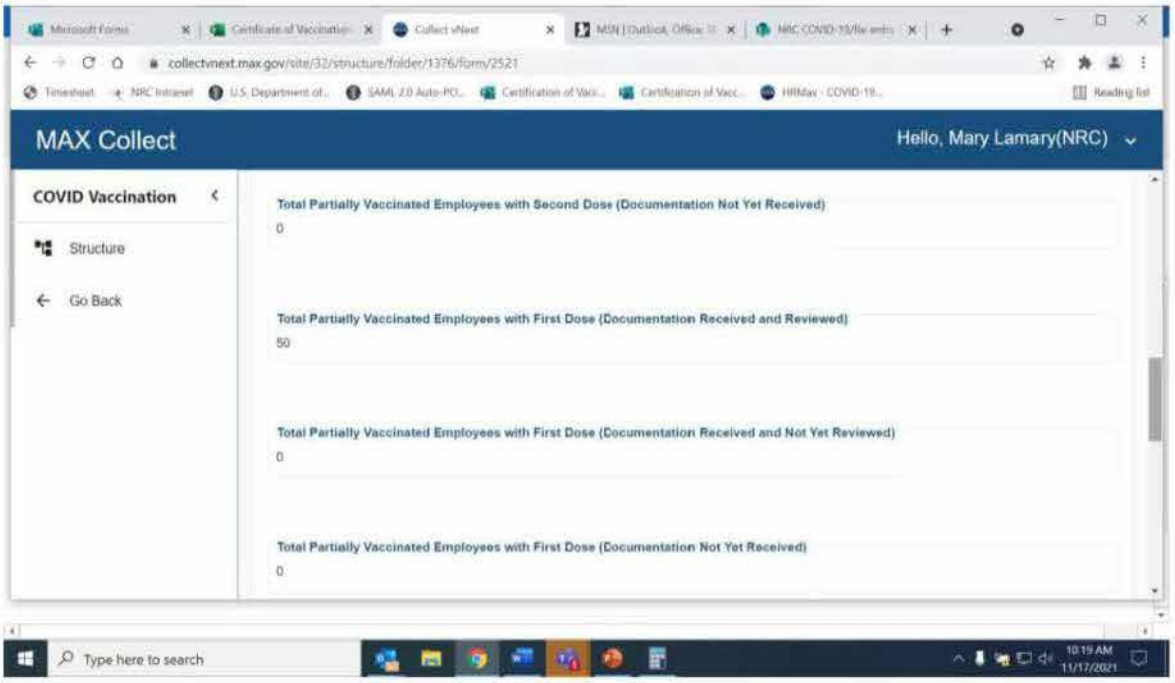
There are a few whose submission could not be validated; uploaded wrong picture, cannot read attachment, etc.

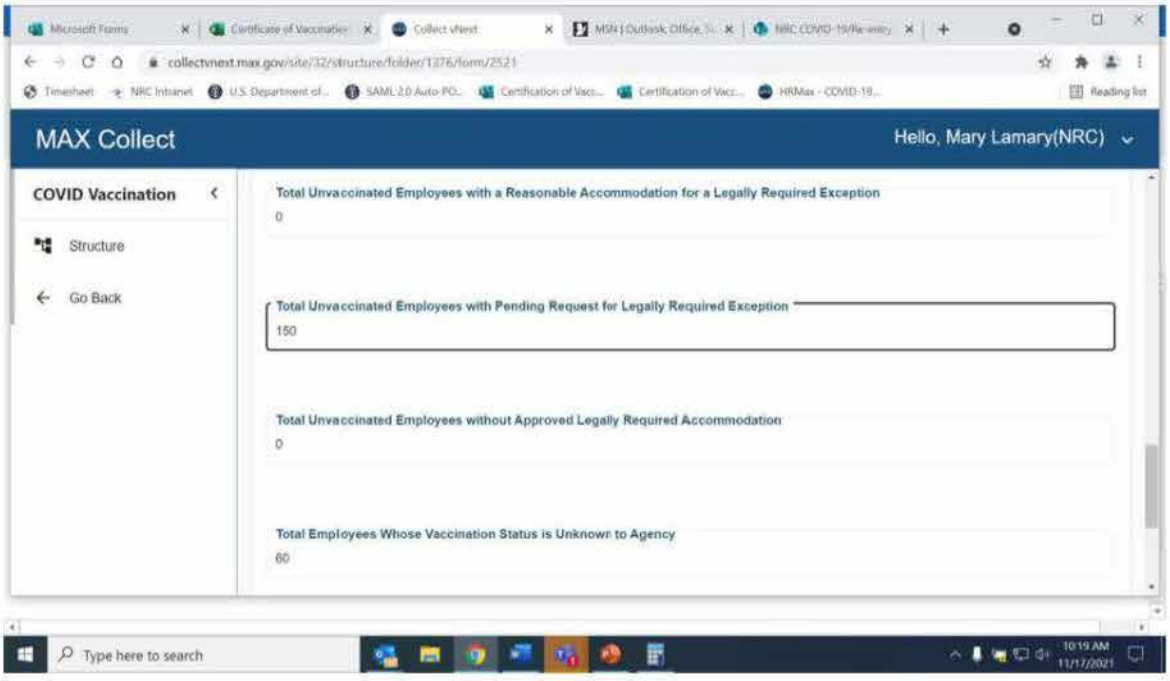
There are 60 employees whose status is unknown, and they may be among the group that is waiting right up to the 11/22 deadline for fully vaxed before they upload documentation.

Mary






collectvnext.max.gov/site/32/structure/folder/1376/form/2521
MAX Collect
Hello, Mary Lamary(NRC)
COVID Vaccination
Structure
Go Back
Total Partially Vaccinated Employees with Second Dose (Documentation Not Yet Received)
0
Total Partially Vaccinated Employees with First Dose (Documentation Received and Reviewed)
50
Total Partially Vaccinated Employees with First Dose (Documentation Received and Not Yet Reviewed)
0
Total Partially Vaccinated Employees with First Dose (Documentation Not Yet Received)
0
Type here to search
10:19 AM
11/17/2021


collectvnext.max.gov/site/32/structure/folder/1376/form/2521
MAX Collect
Hello, Mary Lamary(NRC)
COVID Vaccination
Structure
Go Back
Total Unvaccinated Employees with a Reasonable Accommodation for a Legally Required Exception
0
Total Unvaccinated Employees with Pending Request for Legally Required Exception
150
Total Unvaccinated Employees without Approved Legally Required Accommodation
0
Total Employees Whose Vaccination Status is Unknown to Agency
60
Type here to search
10:19 AM
11/17/2021

From: Lamary, Mary
To: vaccines@omb.eop.gov
Subject: FW: Vaccination reporting for next week, due Tuesday, 11/23 at 2pm
Date: Tuesday, November 23, 2021 10:37:00 AM
Importance: High

Good morning,

The NRC Agency compliance rate is 97.6% (2616+14+27+150)/2875)

The NRC Agency vaccination rate is 92.4% (2616+14+27)/2875)

We have also completed our submitted in the MAX portal.

Thank you and have a wonderful Thanks/Friends-giving.

Mary

Outside of Scope

Outside of Scope

From: Lamary, Mary
To: Re-entry WG (NRC)
Subject: latest numbers
Date: Tuesday, November 30, 2021 1:25:00 PM

All 2836

Fully 2585

Part 40

Lv/Mil 20

Excpt 150

41 Unknown

From: Smith, Bi
To: Lamary, Mary; Dilworth, Eric; Rogers, Shannon
Subject: RE: Certification of Vaccination - Nov 29 v3.xlsx
Date: Tuesday, November 30, 2021 3:46:06 PM

Hi Mary-Shannon went through the lists and removed those who notified us of their intent but never submitted anything or requested an extension. Here are the numbers:

104 religious exceptions
18 medical exceptions
7 requests for postponement

Total exceptions requested or that have been approved for an extension to put in the requisite paperwork: 129

Total people requesting exceptions: 122 (129 – 7 people with multiple requests)

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Tuesday, November 30, 2021 12:19 PM
To: Smith, Bi <Bi.Smith@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Rogers, Shannon <Shannon.Rogers@nrc.gov>
Subject: RE: Certification of Vaccination - Nov 29 v3.xlsx

Yes i will cross reference for the raw numbers; give me the total and i will subtract what is in the database

---

From: Smith, Bi <Bi.Smith@nrc.gov>
Sent: Tuesday, November 30, 2021 12:11 PM
To: Lamary, Mary <Mary.Lamary@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; Rogers, Shannon <Shannon.Rogers@nrc.gov>
Subject: RE: Certification of Vaccination - Nov 29 v3.xlsx

Can I give you numbers of what we have so far without cross referencing this list? We are about to start out CBA training and I am not sure I can get through it by this afternoon.

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Tuesday, November 30, 2021 12:08 PM
To: Dilworth, Eric <Eric.Dilworth@nrc.gov>; Rogers, Shannon <Shannon.Rogers@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>
Subject: Certification of Vaccination - Nov 29 v3.xlsx

Use v3; have removed duplicates and contractors;

There are still some unknowns, some partial, and some exceptions.

Please give me an exact number of pending exceptions, I will need for the OMB submission

Thanks

From: Lamary, Mary
To: Re-entry WG (NRC)
Subject: RE: latest numbers
Date: Tuesday, November 30, 2021 1:30:00 PM

2585 Fully + 40 Partial = 2625/92.56% vaccination

2585 Fully + 40 Partial + 150 Exceptions + 20 Lv/Mil = 2795/98.55% Compliance

41 Status Unknown

From: Lamary, Mary
Sent: Tuesday, November 30, 2021 1:25 PM
To: Re-entry WG (NRC) <Re-entryWGNRC@usnrc.onmicrosoft.com>
Subject: latest numbers

All 2836

Fully 2585

Part 40

Lv/Mil 20

Excpt 150

41 Unknown

From: Lamary, Mary
To: Duseja, Reena EOP/OMB
Subject: RE: Vaccination Reporting due January 5th at 2pm
Date: Wednesday, January 5, 2022 1:26:00 PM

Good Afternoon:

Here are our compliance and vax percentages as of January 5, 2022.

2696 Fully + 4 Partial = 2700/2836 or 95.2%% vaccination rate

2696 Fully + 4 Partial + 124 Exceptions = 2824/2836 or 99.58% Compliance

12 Status Unknown

Outside of Scope

From:	Sanford, Barbara J. EOP/OMB
To:	Lamary, Mary
Cc:	Duseja, Reena EOP/OMB
Subject:	[External_Sender] RE: FW: Missing Vaccination Reporting for NRC, January 12th
Date:	Wednesday, January 12, 2022 4:04:08 PM

Thank you for the clarification. This is helpful.

~Barbara

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Wednesday, January 12, 2022 3:59 PM
To: Sanford, Barbara J. EOP/OMB <Barbara.J.Sanford@omb.eop.gov>
Cc: Duseja, Reena EOP/OMB <Reena.Duseja@omb.eop.gov>
Subject: RE: FW: Missing Vaccination Reporting for NRC, January 12th

Regarding the no change, that is correct, i have already submitted this week's report.

We do not have any workforce changes, although we plan to level set our onboard for the next pay period. (we level set it once already to factor in retirements).

We have not yet processed exceptions at all yet, but are looking to begin this week, as we develop our testing protocols as well

Outside of Scope

From: Lamary, Mary <Mary.Lamary@nrc.gov>
Sent: Wednesday, January 12, 2022 3:45 PM

To: Duseja, Reena EOP/OMB <Reena.Duseja@omb.eop.gov>; Haney, Catherine <Catherine.Haney@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>; Roberts, Darrell <Darrell.Roberts@nrc.gov>
Cc: Sanford, Barbara J. EOP/OMB <Barbara.J.Sanford@omb.eop.gov>
Subject: RE: Missing Vaccination Reporting for NRC, January 12th

I am so sorry

We have no change this week, and i will put it in shortly; but you can use last week's numbers.

Again, my apologies.

Outside of Scope

From: Lamary, Mary
Sent: Thu, 21 Oct 2021 19:47:27 +0000
To: Coffin, Stephanie;Kock, Andrea
Cc: King, Mike;Corbett, James;Ficks, Ben;Flanders, Scott;Lombard, Mark;Munday, Joel;Collins, Daniel;Shuaibi, Mohammed;Lorson, Raymond;Lewis, Robert;Skeen, David;Monninger, John;Martinez Navedo, Tania;Ordaz, Vonna;Erlanger, Craig;Clark, Brooke;Taylor, Robert;Ammon, Bernice;Dilworth, Eric;R1ORACAL RESOURCE;Vietti-Cook, Annette;Dempsey, Jeanne;Clark, Theresa;Bellinger, Alesha;Moore, Scott;Lubinski, John
Subject: RE: weekly check in on telework agreements

We want to affirmatively state that employees who have indicated that they will seek an exception for medical reasons or based on sincerely held religious beliefs will not be subject to enforcement action until after their request has been adjudicated and only if the request is denied. Once a decision has been issued on requests for exceptions, employees whose requests are denied will be afforded a reasonable amount of time to begin and complete the vaccination process. In addition, employees who have begun the vaccination process, but will not be fully vaccinated by November 22, 2021, will be provided a reasonable amount of time to complete the vaccination process before being suspended or removed.

From: Coffin, Stephanie <Stephanie.Coffin@nrc.gov>
Sent: Thursday, October 21, 2021 3:45 PM
To: Kock, Andrea <Andrea.Kock@nrc.gov>; Lamary, Mary <Mary.Lamary@nrc.gov>
Cc: King, Mike <Michael.King2@nrc.gov>; Corbett, James <James.Corbett@nrc.gov>; Ficks, Ben <Ben.Ficks@nrc.gov>; Flanders, Scott <Scott.Flanders@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>; Munday, Joel <Joel.Munday@nrc.gov>; Collins, Daniel <Daniel.Collins@nrc.gov>; Shuaibi, Mohammed <Mohammed.Shuaibi@nrc.gov>; Lorson, Raymond <Raymond.Lorson@nrc.gov>; Lewis, Robert <Robert.Lewis@nrc.gov>; Skeen, David <David.Skeen@nrc.gov>; Monninger, John <John.Monninger@nrc.gov>; Martinez Navedo, Tania <Tania.MartinezNavedo@nrc.gov>; Ordaz, Vonna <Vonna.Ordaz@nrc.gov>; Erlanger, Craig <Craig.Erlanger@nrc.gov>; Clark, Brooke <Brooke.Clark@nrc.gov>; Taylor, Robert <Robert.Taylor@nrc.gov>; Ammon, Bernice <Bernice.Ammon@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; R1ORACAL RESOURCE <R1ORACAL.RESOURCE@nrc.gov>; Vietti-Cook, Annette <Annette.Vietti-Cook@nrc.gov>; Dempsey, Jeanne <Jeanne.Dempsey@nrc.gov>; Clark, Theresa <Theresa.Clark@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Moore, Scott <Scott.Moore@nrc.gov>; Lubinski, John <John.Lubinski@nrc.gov>
Subject: RE: weekly check in on telework agreements

I would appreciate understanding how to handle RA requests….if these aren't adjudicated by November 7th, what happens?

From: Kock, Andrea <Andrea.Kock@nrc.gov>
Sent: Thursday, October 21, 2021 3:39 PM
To: Lamary, Mary <Mary.Lamary@nrc.gov>

Cc: King, Mike <Michael.King2@nrc.gov>; Corbett, James <James.Corbett@nrc.gov>; Ficks, Ben <Ben.Ficks@nrc.gov>; Flanders, Scott <Scott.Flanders@nrc.gov>; Lombard, Mark <Mark.Lombard@nrc.gov>; Munday, Joel <Joel.Munday@nrc.gov>; Collins, Daniel <Daniel.Collins@nrc.gov>; Shuaibi, Mohammed <Mohammed.Shuaibi@nrc.gov>; Lorson, Raymond <Raymond.Lorson@nrc.gov>; Lewis, Robert <Robert.Lewis@nrc.gov>; Skeen, David <David.Skeen@nrc.gov>; Monninger, John <John.Monninger@nrc.gov>; Martinez Navedo, Tania <Tania.MartinezNavedo@nrc.gov>; Coffin, Stephanie <Stephanie.Coffin@nrc.gov>; Ordaz, Vonna <Vonna.Ordaz@nrc.gov>; Erlanger, Craig <Craig.Erlanger@nrc.gov>; Clark, Brooke <Brooke.Clark@nrc.gov>; Taylor, Robert <Robert.Taylor@nrc.gov>; Ammon, Bernice <Bernice.Ammon@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>; R1ORACAL RESOURCE <R1ORACAL.RESOURCE@nrc.gov>; Vietti-Cook, Annette <Annette.Vietti-Cook@nrc.gov>; Dempsey, Jeanne <Jeanne.Dempsey@nrc.gov>; Clark, Theresa <Theresa.Clark@nrc.gov>; Bellinger, Alesha <Alesha.Bellinger@nrc.gov>; Moore, Scott <Scott.Moore@nrc.gov>; Lubinski, John <John.Lubinski@nrc.gov>
Subject: weekly check in on telework agreements

Any one have any topics that we need Mary for today or any other topics you want to discuss? I don't have anything specific from NRR so if there are no other telework topics we can cancel.

There has been some discussion on denial language so I wanted to share the attached as something we drafted in NRR and got OCHCO to approve

Andrea Kock
Deputy Office Director for Engineering
Office of Nuclear Reactor Regulation
U.S Nuclear Regulatory Commission

From: Vaccine Exceptions
Sent: Mon, 8 Nov 2021 17:53:42 +0000
To: Lamary, Mary;Dilworth, Eric;Rogers, Shannon
Subject: FW: Request for a Medical Exception to the COVID-19 Vaccination Requirement

FYI

From: Vaccine Exceptions <VaccineExceptions.Resource@nrc.gov>
Sent: Monday, November 08, 2021 12:53 PM
To: Vaccine Exceptions <VaccineExceptions.Resource@nrc.gov>
Subject: Request for a Medical Exception to the COVID-19 Vaccination Requirement

Good afternoon -you are receiving this email because you have notified OCHCO that you intend to request an exception to Executive Order (EO) 14043, which requires all Federal employees to be fully vaccinated against COVID-19. This mandate is effective November 22, 2021. EO 14043 provides for limited exceptions to the mandate in cases where an employee cannot be vaccinated against COVID-19 because of an exception required by law.

Determining whether an exception is legally required and how such an exception may be accommodated will include consideration of factors such as the basis for the claim; the nature of the employee's job responsibilities; and the reasonably foreseeable effects on the Agency's operations, including protecting other Agency employees and the public from COVID-19. Assessments of and accommodations for an exception from the mandate will be fact- and context-dependent.

Please use NRC Form 798 from the Forms Library to request an exception based on medical reasons. This form was developed to help the Agency determine whether an employee is entitled to an exception from the mandate. If the form does not provide you with enough space to enter your response, you may put in the appropriate block that additional information is attached. You may then attach any additional documentation when submitting the form.

To ensure that the NRC can fully understand the effect of requests for exception to the mandate on its operations and to seek to ensure timely review of such requests, please return this form by **November 23, 2021**. If we do not receive your documentation by this date, we will consider it as if you are no longer interested in requesting an exception. If you need an extension of time to submit the requested information, please contact vaccineexceptions@nrc.gov and provide an explanation of why an extension is needed and how much additional time is requested.

As mentioned in the October 20, 2021 announcement from Senior Leadership, requests for exceptions to the vaccine are generally not covered by the Agency's existing reasonable accommodation process. We will however, continue to use the existing reasonable accommodation process for any reasonable accommodations requests unrelated to the vaccine requirement.

Please be advised that while your request is under review, you will be treated as an unvaccinated employee and will be subject to the CDC and Safer Federal Workforce Task Force (Task Force) protocols for access to federal properties (e.g., self-screening, masking, and physical distancing unless they have also received a reasonable accommodation pertaining to masking or other protocols). Please also review the current NRC Workplace Safety

Implementation Plan regarding specific NRC guidance and unvaccinated employees. We are awaiting additional guidance from the Task Force regarding testing protocols requirements, if any, for individuals who are excepted from the vaccination requirement.

I would also like to reiterate that employees who have indicated that they will seek an exception based on medical reasons will not be subject to enforcement action until after their request has been adjudicated by the Agency and only if the request is denied. Once a decision has been issued on requests for exceptions, employees whose requests are denied will be afforded a reasonable amount of time to begin and complete the vaccination process. The Task Force has advised that the Agency should require that an employee whose request for an accommodation is denied receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee must receive the second dose within 6 weeks of receiving the first dose.

New E-mail Resource Box

A new mailbox has been set up to collect any requests for vaccine exceptions due to medical and/or religious reasons. Therefore, please do not contact the Reasonable Accommodation Program staff (i.e., Anne Silk, Toni McAllister, or the reasonable_accommodations.resource@nrc.gov e-mail box) for questions related to the vaccination exceptions since other staff will be handling these requests. The Reasonable Accommodations staff is in the process of deleting documents and returning these forms to anyone who requested it since their collection system does not cover exception requests.

Please email vaccineexceptions@nrc.gov with any questions you may have.

We thank you for your patience for this evolving situation.

From: Lamary, Mary
Sent: Tue, 9 Nov 2021 13:54:02 +0000
To: Smith, Bi;Rogers, Shannon;Dilworth, Eric
Subject: Enforcement-Guidance-FAQs.pdf
Attachments: Enforcement-Guidance-FAQs.pdf

Guidance on Enforcement of Coronavirus Disease 2019 Vaccination Requirement for Federal Employees – Executive Order 14043

1) Why is OPM issuing this guidance?

On September 9, 2021, the President signed Executive Order (EO) 14043, titled, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees." As reflected in Section 1 of the EO, the President has determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary to require COVID–19 vaccination for Federal employees, subject to such exceptions as are required by law. The U.S. Office of Personnel Management (OPM) is issuing this guidance to assist agencies in implementing this requirement for Federal employees subject to EO 14043 requirements.

2) What agencies and employees are covered by the EO 14043 vaccination requirement?

Section 3 of EO 14043 defines which agencies and employees are covered by the vaccination requirement. Agencies should consult with their legal offices to determine agency and employee coverage under EO 14043.

3) What is the deadline for federal employees to be fully vaccinated?

Safer Federal Workforce Task Force guidance specifies that agencies should require all of their employees, with exceptions only as required by law, to be fully vaccinated by November 22, 2021. That means employees must complete required vaccination dose(s) by November 8, as they will not become "fully vaccinated" until 2 weeks after their final dose (the second of 2 doses for Pfizer and Moderna, and the first dose for Johnson and Johnson). The only exception is for individuals who receive a legally required exception approved under established agency processes.

4) What should an agency do to inform employees about the requirement to be fully vaccinated?

OPM recommends an agency should not delay in providing employees with information regarding the benefits of vaccination and ways to obtain the vaccine. Such information is available on the Centers for Disease Control and Prevention website. Agencies should consider a variety of methods to educate employees, such as providing information in employee town halls, posting of information on agency intranet sites, email communications directly to employees, and providing information in regular staff meetings.

As part of the education process, agencies should inform employees of the requirement to be fully vaccinated in compliance with EO 14043 and that failure to comply will result in disciplinary action up to and including removal or termination. In addition, it is advisable for agencies to send to their workforce periodic reminders of this requirement and the consequences for non-compliance. To be fully vaccinated by November 22, 2021, employees must receive their final vaccination dose by November 8, 2021.

5) When can an agency initiate the enforcement process for failure to comply with the requirement to be fully vaccinated?

Agencies may initiate the enforcement process as soon as November 9, 2021, for employees who have not received their required vaccination dose by November 8, 2021, unless the employee has received an exception or the agency is considering an exception request from the employee.

6) Is there a recommended approach to enforcement?

Agencies must comply with all statutory, regulatory, and collective bargaining agreement requirements (where applicable). If the employee has not provided proof of vaccination by November 8, 2021, and has not received an exception and the agency is not considering an exception request from the employee, OPM recommends agencies initiate the enforcement process with counseling and education. Agencies should use the counseling period to remind the employee again of the vaccination requirement, emphasize that failure to comply will lead to discipline up to and including removal or termination, address any questions, and inform the employee that they will have a short period of time (e.g., 5 days) to submit documentation establishing either the initiation or completion of vaccination, as applicable, or request an exception.

If, after the recommended counseling and education period ends, the individual continues to refuse to comply, the agency should pursue disciplinary measures, up to and including removal or termination from Federal service. In pursuing any disciplinary action, the agency must provide the required procedural rights to an employee and follow normal processes, including any agency policies or collective bargaining agreement requirements concerning disciplinary matters. Employees generally should not be placed on administrative leave while the agency pursues disciplinary action for refusal to be vaccinated but will be required to follow safety protocols for employees who are not fully vaccinated when reporting to agency worksites. Agencies may wish to consult with counsel as to any other mechanisms that might be available to address the situation.

Agencies are reminded that generally the objective of discipline is to correct deficiencies in employee conduct. Discipline can deter misconduct and correct situations interfering with the efficiency of civil service. While the law and OPM adverse action regulations do not require progressive discipline, this is the preferred approach in the instance of non-compliance with the requirement to be vaccinated. With this in mind, agencies are strongly encouraged to consider whether lesser disciplinary penalties are adequate, as an initial matter, to encourage an employee to be vaccinated, such as a short suspension of 14 days or less under procedures established under 5 CFR 752.203[1] (or procedures for similar matters which arise under other personnel systems). If a short suspension proves inadequate in encouraging an employee to

[1] 5 CFR 752.203 does not apply to actions against Administrative Law Judges (ALJs) or employees in the Senior Executive Service (SES). Please refer to Subchapter III, Chapter 75 of Title 5, United States Code, for adverse action procedures for ALJs and Subpart F of 5 CFR Part 752 for adverse action procedures for SES. Please note that suspensions of 14 days or less are not available for SES.

become vaccinated, agencies should then consider a greater disciplinary penalty, such as removal or termination from the Federal service, under procedures established under 5 CFR 752.404,[2] 5 CFR part 315, subpart H (for probationers), or procedures for similar matters which arise under other personnel systems.

Agencies should strive for similar penalties for similarly situated employees, where appropriate, within the same work unit. To facilitate this for larger organizations where actions may be necessary for multiple employees, an agency should consider designating one management official to be a proposing official and designating another management official to be a deciding official for all actions in the work unit.

7) What should an agency do if, after initiating the disciplinary process by proposing to take an action, the agency is informed by the employee that the employee has received a vaccination?

If, after November 8, 2021, and prior to the issuance of a decision during the disciplinary process, such as suspension or removal, an employee provides an agency with appropriate documentation that the employee is now fully vaccinated, the disciplinary process should end. If an employee provides an agency with appropriate documentation after November 8, 2021, that the employee has received the first dose in a 2-dose series vaccine, an agency may hold any disciplinary action in abeyance pending receipt of appropriate documentation that the employee has received the second dose within the designated 3 or 4-week interval depending on the vaccine received by the employee, even if this means the employee will not be fully vaccinated until after November 22, 2021. In these instances, the employee will be required to follow all appropriate safety protocols if reporting to an agency worksite. The employee should be provided a deadline for receiving the final dose of the vaccine and providing appropriate documentation.

8) What should an agency do if an employee is serving a suspension and provides documentation to the agency that they are now fully vaccinated or have received the first dose in a 2-dose series vaccine?

If, during the time period a suspension is being served by an employee, the employee provides an agency with appropriate documentation that the employee is now fully vaccinated, the agency may end the suspension. If, during the time period a suspension is being served by an employee, the employee provides an agency with appropriate documentation that the employee has received the first dose in a 2-dose series vaccine, an agency may hold the balance of the suspension in abeyance. The employee should be provided a deadline of no more than 5 weeks from the date of receiving the first dose for receiving the final dose of the vaccine and providing appropriate documentation. Additionally, the agency should advise employees that the suspension will continue and they

[2] 5 CFR 752.404 does not apply to actions against Administrative Law Judges (ALJs) or employees in the Senior Executive Service (SES). Please refer to Subchapter III, Chapter 75 of Title 5, United States Code, for adverse action procedures for ALJs and Subpart F of 5 CFR Part 752 for adverse action procedures for SES. Please note that suspensions of 14 days or less are not available for SES.

may be subject to removal or termination if they fail to receive the final dose of the vaccine or fail to provide appropriate documentation by the new deadline.

9) Why can an employee be disciplined for refusing to get vaccinated or refusing to provide documentation of vaccination?

If an employee receives a direct order to receive a vaccine as required under EO 14043 and refuses, this is an act of misconduct. Any adverse actions for misconduct taken under 5 CFR Part 752 are taken for such cause as will promote the efficiency of the service. When taking an action under 5 CFR Part 752, agencies should consider relevant aggravating and mitigating factors when determining the penalty. See *Douglas v. Veterans Administration*, 5 MSPR 280 (1981). Agencies should consult with their human resources and legal offices in making these determinations.

There is precedent for taking an adverse action against a Federal employee for disobeying an order to be vaccinated. In *Mazares v. Department of Navy*, 302 F.3d 1382 (2002), for instance, two civilian Navy employees challenged their removals for refusing to receive an anthrax vaccination. The court found there was a clear and unjustified refusal to obey a lawful order of a superior.

10) What should an agency do if the employee claims they are legally entitled to be excepted from the vaccination requirement?

An agency should not initiate discipline if the employee claims a legally required exception as the reason proffered for not being vaccinated or providing proof of vaccination. If an employee claims a legally required exception, an agency should follow its ordinary process to review and consider what, if any, accommodation it must offer. All agency personnel designated to receive requests for accommodations should know how to handle requests consistent with any Federal employment nondiscrimination laws that may apply.

An employee whose request for an accommodation is denied should receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee should receive the second dose within 6 weeks of receiving the first dose.

If the employee received a first dose of a two-dose series prior to seeking an accommodation, and their request for an accommodation is denied, they should receive their second dose within two weeks of the final determination to deny the accommodation or within a week of the earliest day by which they can receive their second dose, whichever is later.

If the employee does not comply with the requirement to become fully vaccinated, and has not been granted an exception and does not have a request under consideration, the agency may pursue disciplinary action, up to and including removal or termination from Federal service. If the accommodation request is denied, employees should be reminded again of the benefits of getting a COVID-19 vaccine and reminded that failure to comply with the vaccination requirement will result in disciplinary action, up to and including removal or termination from Federal service.

11) How should agencies enforce the vaccination requirement of Executive Order 14043 for employees on extended leave of absence (e.g., due to a serious health condition of themselves or a family member, or due to utilizing paid parental leave)?

Agencies should require employees on extended leave of absence (e.g., utilizing annual leave, sick leave, donated annual leave, military leave, leave without pay, paid parental leave, or unpaid leave under Family and Medical Leave) to submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to the employee returning to duty. Agencies should not require such employees to be vaccinated by a November 22, 2021 deadline, as long as they are on extended leave of absence and will not return to work until a later date.

12) How should agencies enforce the vaccination requirement of Executive Order 14043 for employees on extended leave of absence due to receiving workers compensation as a result of sustaining an on-the-job injury or illness?

Agencies should require employees on extended leave of absence due to receiving workers compensation to submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to the employee returning to duty. Agencies should not require such employees to be vaccinated by a November 22, 2021 deadline, as long as they are on extended leave of absence due to receiving workers compensation and will not return to duty until a later date.

13) How should agencies enforce the vaccination requirement of Executive Order 14043 for seasonal employees who are not currently working for an agency under their seasonal appointment?

Agencies should require seasonal employees to submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to the employee returning to duty. Agencies should not require such employees to be vaccinated by a November 22, 2021 deadline, as long as they will not return to duty until a later date.

14) How should agencies enforce the vaccination requirement of Executive Order 14043 for student volunteers, interns, or other employees who are on an extended break in service (e.g., interns who worked for an agency this past summer, returned to school, and are expected to return to work for the agency after the school year ends)?

Agencies should require student volunteers, interns, and other employees who are on an extended break to submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to returning to Federal service. Agencies should not require such persons to be vaccinated by a November 22, 2021 deadline, as long as they will not be reemployed until a later date.

15) How should agencies enforce the vaccination requirement of Executive Order 14043 for employees who are on detail?

Agencies should require employees who are on detail to another executive branch agency covered by EO 14043 to comply with the vaccination requirement of EO 14043. In accordance with the guidance issued by the Safer Federal Workforce Task Force, agencies should require detailed employees to be fully vaccinated by November 22, 2021. Detailed employees should follow the procedures of their home agency for submitting documentation to demonstrate their compliance with the vaccination requirement.

Agencies should require employees who are detailed to positions outside of an executive branch agency covered by EO 14043 to submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to the employee returning to duty at their home agency.

16) **How should agencies enforce the vaccine requirement of Executive Order 14043 for employees who are running down their leave in advance of departing federal service and do not intend to return to duty before leaving?**

If an employee has provided notice that they are leaving their position in the Executive Branch and are on leave until the date they depart, the agency should not enforce the vaccine requirement of EO 14043.

From: Vaccine Exceptions
Sent: Wed, 10 Nov 2021 12:42:11 +0000
To: Galvin, Dennis;Vaccine Exceptions
Cc: Silk, Anne;Dilworth, Eric
Subject: RE: REQUEST FOR A RELIGIOUS EXCEPTION TO THE COVID-19 VACCINATION REQUIREMENT

Good morning Dennis-
As mentioned in the October 20, 2021 announcement from Senior Leadership, exceptions to the vaccine are not being reviewed using the disability reasonable accommodation process. Therefore, we will not be revising that procedure to incorporate vaccine exception requests. We will however, continue to use the existing reasonable accommodation process for any reasonable accommodations requests to accommodate a disability.

As mentioned below, employees who have indicated that they will seek an exception to the vaccine based on sincerely held religious beliefs will not be subject to enforcement action until after their request has been adjudicated by the Agency and only if the request is denied. This would not include any appeals adjudicated by someone outside of the Agency. Once a decision has been issued on requests for exceptions, employees whose requests are denied will be afforded a reasonable amount of time to begin and complete the vaccination process. The Safer Federal Workforce Task Force has advised that the Agency should require that an employee whose request for an accommodation is denied receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee must receive the second dose within 6 weeks of receiving the first dose.

From: Galvin, Dennis <Dennis.Galvin@nrc.gov>
Sent: Friday, November 05, 2021 4:35 PM
To: Vaccine Exceptions <VaccineExceptions.Resource@nrc.gov>
Cc: Silk, Anne <Anne.Silk@nrc.gov>; Smith, Bi <Bi.Smith@nrc.gov>; Dilworth, Eric <Eric.Dilworth@nrc.gov>
Subject: RE: REQUEST FOR A RELIGIOUS EXCEPTION TO THE COVID-19 VACCINATION REQUIREMENT

Dear Vaccine Exceptions Staff,

The email below does not explcitly address appeals to denials of religious exceptions requests. Also, no revised procedure for processing these requests was made available to the affected staff members.

In section 3 of the Reasonable Accommodation procedure, it states in part:

> If the RAC or designee in OCHCO denies a request for reasonable accommodations, the requester will receive written notification in an accessible format that explains the reason for the denial, identifies available internal appeal or informal dispute resolution processes, provides instructions on how to file a complaint of discrimination under 29 CFR 1614.106, and explains the right, under 29 CFR 1614.105, "Pre-Complaint Processing," to contact an Equal Employment Opportunity (EEO) counselor or the Office

of Small Business and Civil Rights (SBCR), or both, within 45 days of the denial regardless of whether the requester participates in an informal dispute resolution process.

Does the adjudication by the agency include appeals or filing of a complaint of discrimination? Would the enforcement process start with the initial denial decision or with the exhaustion of all appeal processes? I sure all affected staff would be interested in this clarification or any additional details on the processing of the requests.

Thanks,

Dennis Galvin
Project Manager
U.S Nuclear Regulatory Commission
Office of Nuclear Reactor Regulation
Division of Operating Reactor Licensing
Licensing Project Branch 4
301-415-6256

From: Vaccine Exceptions <VaccineExceptions.Resource@nrc.gov>
Sent: Friday, November 05, 2021 2:50 PM
To: Vaccine Exceptions <VaccineExceptions.Resource@nrc.gov>
Subject: REQUEST FOR A RELIGIOUS EXCEPTION TO THE COVID-19 VACCINATION REQUIREMENT

Good afternoon-you are receiving this email because you have notified OCHCO that you intend to request an exception to Executive Order (EO) 14043, which requires all Federal employees to be fully vaccinated against COVID-19. This mandate is effective November 22, 2021. EO 14043 provides for limited exceptions to the mandate in cases where an employee cannot be vaccinated against COVID-19 because of an exception required by law.

Determining whether an exception is legally required and how such an exception may be accommodated will include consideration of factors such as the basis for the claim; the nature of the employee's job responsibilities; and the reasonably foreseeable effects on the Agency's operations, including protecting other Agency employees and the public from COVID-19. Assessments of and accommodations for an exception from the mandate will be fact- and context-dependent.

Attached is an NRC form to request an exception based on religion reasons. This form was developed to help the Agency determine whether an employee is entitled to an exception from the mandate.

To ensure that the NRC can fully understand the effect of requests for exception to the mandate on its operations and to seek to ensure timely review of such requests, please return this form by **November 12, 2021**. If we do not receive your documentation by this date, we will consider it as if you are no longer interested in requesting an exception. If you need an extension of time to submit the requested information, please contact vaccineexceptions@nrc.gov.

Please be advised that while your request is under review, you will be treated as an unvaccinated employee and will be subject to the CDC protocols for access to federal properties (e.g., self-screening, masking, and physical distancing unless they have also received a reasonable accommodation pertaining to masking or other protocols). We are awaiting additional guidance from the Safer Federal Workforce regarding testing protocols requirements, if any, for individuals who are excepted from the vaccination requirement.

I would also like to reiterate that employees who have indicated that they will seek an exception based on sincerely held religious beliefs will not be subject to enforcement action until after their request has been adjudicated by the Agency and only if the request is denied. Once a decision has been issued on requests for exceptions, employees whose requests are denied will be afforded a reasonable amount of time to begin and complete the vaccination process. The Task Force has advised that the Agency should require that an employee whose request for an accommodation is denied receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee must receive the second dose within 6 weeks of receiving the first dose.