

1                   **ORDER OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION,**  
2                   **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

3  
4                   **REQUIREMENT FOR AIRLINES AND OPERATORS TO COLLECT AND TRANSMIT**  
5                   **DESIGNATED INFORMATION FOR PASSENGERS AND CREW ARRIVING INTO**  
6                   **THE UNITED STATES; REQUIREMENT FOR PASSENGERS TO PROVIDE**  
7                   **DESIGNATED INFORMATION**

8  
9                   **UNDER 42 CFR 71.4, 71.20, 71.31, AND 71.32 AS AUTHORIZED BY 42 U.S.C. 264 AND**  
10                   **268**

11  
12                   Attention:

- 13  
14                   • All airlines and operators conducting any passenger-carrying operations into the United  
15                   States from a foreign last point of departure.  
16                   • All passengers and crewmembers flying into, or transiting through, the United States  
17                   from a foreign last point of departure.  
18

19                   **Introduction**

20  
21                   The Director of the Centers for Disease Control and Prevention (CDC) (Director) is issuing this  
22                   Order (Order) to require all airlines and operators of flights arriving into the United States from a  
23                   foreign last point of departure to collect and/or maintain passenger and crewmember contact  
24                   information (“designated information”). These requirements also apply to flights with  
25                   intermediate stops in the United States between the flight’s foreign point of origin and the final  
26                   destination.  
27

28                   Airlines and operators are required to collect the five data elements from the interim final rule  
29                   (IFR)<sup>1</sup> published on February 12, 2020, from passengers, to the extent they exist, and to maintain  
30                   additional data elements outlined in 42 CFR 71.4(b)<sup>2</sup>—to the extent that such data are already  
31                   available and maintained by the airline. The data elements from the IFR and the additional data  
32                   elements outlined in 42 CFR 71.4(b) make up the designated information referred to in this  
33                   Order. The designated information consists of full name, address while in the United States,  
34                   primary contact phone number, secondary or emergency contact phone number, email address,  
35                   date of birth, airline name, flight number, city of departure, departure date and time, city of  
36                   arrival, arrival date and time, and seat number. Airlines and operators are required to maintain  
37                   the designated information for crewmembers.  
38

39                   These data elements are necessary for identifying and locating passengers and crewmembers  
40                   who may have coronavirus disease 2019 (COVID-19) or may have been exposed to a person  
41                   with COVID-19 or another communicable disease of concern. Unless otherwise transmitted to  
42                   the U.S. Government via established U.S. Department of Homeland Security (DHS) data

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<sup>1</sup> <https://www.federalregister.gov/documents/2020/02/12/2020-02731/control-of-communicable-diseases-foreign-quarantine>

<sup>2</sup> [https://www.ecfr.gov/current/title-42/chapter-I/subchapter-F/part-71#p-71.4\(b\)](https://www.ecfr.gov/current/title-42/chapter-I/subchapter-F/part-71#p-71.4(b))

43 systems, airlines and operators are required to retain the designated information for 30 days and  
44 transmit it within 24 hours of a request from CDC. The methods of transmission to the U.S.  
45 Government, whether transmitted per the CDC technical instructions or whether via an  
46 established DHS data system, must be made through approved secure electronic means.

47  
48 Flights contracted by the U.S. Military services are exempt from this Order. Flights contracted  
49 by other federal agencies may also be exempted by CDC on a case-by-case basis. Flights  
50 designated as state aircraft under international law (1) by an appropriate United States federal  
51 government department or agency, or (2) by a foreign government and granted diplomatic  
52 clearance to enter U.S. airspace, are exempt from this Order. All exempt aircraft and persons  
53 may voluntarily comply to aid the public health response.

54  
55 CDC will issue additional operational guidance and technical instructions to airlines and  
56 operators regarding the collection, retention, and transmission of the designated information.  
57 CDC will maintain and use the designated information called for in this Order in accordance  
58 with the Privacy Act of 1974 (5 U.S.C. 552a) and its applicable System of Records Notice.<sup>3</sup>

## 60 **Background**

61  
62 The current COVID-19 pandemic has spread globally, including cases reported in all 50 States  
63 within the United States, the District of Columbia, and U.S. territories. As of October 22, 2021,  
64 there have been over 242,000,000 confirmed cases of COVID-19 globally resulting in over  
65 4,900,000 deaths;<sup>4</sup> more than 45,000,000 COVID-19 cases have been confirmed in the United  
66 States as well as over 733,000 COVID-19 related deaths, with new cases being reported daily.<sup>5</sup>

67  
68 In addition, genetic variants of SARS-CoV-2, the virus that causes COVID-19, have been  
69 emerging and circulating around the world throughout the COVID-19 pandemic.<sup>6</sup> There is  
70 currently one variant of concern (Delta) circulating in the United States and ten other variants  
71 being monitored.<sup>7</sup> As of October 22, 2021, the Delta variant made up over 99.0% of new  
72 COVID-19 cases in the United States.<sup>8</sup> CDC is closely tracking and reporting variants of SARS-  
73 CoV-2 around the world<sup>9</sup> and is working with state and local health departments to establish and  
74 expand sequencing capacity to identify, characterize, and report variants.

75  
76 Some of the potential features and consequences of emerging variants are their ability to spread  
77 more quickly in people, cause more severe effects in people, evade detection by specific viral  
78 diagnostic tests, diminish the efficacy of therapeutic agents such as monoclonal antibodies, and  
79 evade natural or vaccine-induced immunity.<sup>10</sup> The Delta variant spreads faster than other variants

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<sup>3</sup> <https://www.cdc.gov/sornnotice/09-20-0171.htm>

<sup>4</sup> <https://covid19.who.int/>

<sup>5</sup> <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>

<sup>6</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/index.html>

<sup>7</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-info.html>

<sup>8</sup> <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>

<sup>9</sup> <https://covid.cdc.gov/covid-data-tracker/#global-variant-report-map>

<sup>10</sup> <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/scientific-brief-emerging-variants.html>

80 and may cause more severe illness in unvaccinated people than previous strains.<sup>11</sup> COVID-19  
81 vaccines protect people against severe illness, including disease caused by the Delta variant and  
82 other variants circulating in the United States, decreasing the likelihood of hospitalization or  
83 death due to COVID-19. Fully vaccinated people get COVID-19 less often than unvaccinated  
84 people; however, people who are infected after being fully vaccinated can be contagious.<sup>12</sup>  
85 Preventing the further importation and spread of SARS-CoV-2 variants of concern will require  
86 rapid identification and notification of potentially infected or exposed travelers (passengers and  
87 crew) so that they and their respective jurisdictional public health officials may take steps to  
88 minimize exposure to others.

89  
90 While vaccination is the most important tool for controlling the pandemic, public health  
91 mitigation efforts, including isolation of infected persons and contact tracing and management,  
92 remain key to slowing transmission and spread of SARS-CoV-2, even as vaccines are  
93 increasingly available in the United States and around the world. Air travel may contribute to the  
94 spread of SARS-CoV-2 and other communicable diseases around the globe if people who are  
95 infected or incubating infection travel by aircraft, particularly if they fail to use mitigation  
96 measures such as masks to prevent COVID-19. Air travel can also increase a person's risk of  
97 getting and spreading communicable diseases by bringing people in close contact with others,  
98 often for prolonged periods, and exposing them to frequently touched surfaces. While fully  
99 vaccinated travelers are less likely to get and transmit SARS-CoV-2, international travel poses  
100 additional risks, and even fully vaccinated travelers might be at increased risk for getting and  
101 possibly spreading some SARS-CoV-2 variants.<sup>13</sup>  
102

103 Public health officials may need to follow up with travelers after arrival, either because these  
104 travelers may have been exposed before they traveled or because during travel they were  
105 possibly exposed to a person known to have a communicable disease that poses a public health  
106 threat, such as COVID-19. Other communicable diseases for which CDC conducts contact  
107 investigations of exposure while traveling on aircraft are infectious tuberculosis (including  
108 multidrug-resistant and extensively drug-resistant infections), measles, pertussis (whooping  
109 cough), meningococcal disease, and Middle East Respiratory Syndrome (MERS).<sup>14,15,16,17</sup>  
110 Similarly, preventing the further importation and spread of SARS-CoV-2, including variants of  
111 concern, requires rapid identification and notification of potentially infected or exposed travelers  
112 so that they and their respective jurisdictional public health officials can take steps to minimize  
113 exposure to others.

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<sup>11</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>

<sup>12</sup> <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/why-measure-effectiveness/breakthrough-cases.html>

<sup>13</sup> <https://www.cdc.gov/coronavirus/2019-ncov/travelers/international-travel-during-covid19.html>

<sup>14</sup> <https://www.cdc.gov/quarantine/contact-investigation.html>

<sup>15</sup> Nelson K, Marienau K, Schembri C, Redd S. Measles transmission during air travel, United States, December 1, 2008-December 31, 2011. *Travel Med Infect Dis*. 2013 Mar-Apr;11(2):81-9. doi: 10.1016/j.tmaid.2013.03.007.

<sup>16</sup> Marienau KJ, Cramer EH, Coleman MS, Marano N, Cetron MS. Flight related tuberculosis contact investigations in the United States: comparative risk and economic analysis of alternate protocols. *Travel Med Infect Dis*. 2014 Jan-Feb;12(1):54-62. doi: 10.1016/j.tmaid.2013.09.007.

<sup>17</sup> Lippold SA, Objio T, Vonnahme L, et al. Conveyance Contact Investigation for Imported Middle East Respiratory Syndrome Cases, United States, May 2014. *Emerg Infect Dis*. 2017 Sep;23(9):1585-1589. doi: 10.3201/eid2309.170365.

114  
115 In the past, public health efforts to follow up with travelers arriving into the United States have  
116 been hampered by incomplete or inaccurate contact information, causing delays in conducting  
117 contact investigations and requiring resource-intensive entry screening operations to facilitate  
118 post-arrival management of travelers.<sup>18,19,20</sup> These challenges occurred during the 2014 response  
119 to MERS, the 2014-2016 response to the Ebola epidemic in West Africa, and in the early stage  
120 of the current COVID-19 public health emergency. Timely public health follow-up requires  
121 health officials to have prompt access to accurate and complete contact information for travelers  
122 traveling into, or transiting through, the United States. Inaccurate or incomplete contact  
123 information decreases the ability of public health authorities to protect the health of travelers and  
124 the public. The best way to ensure airline passengers' contact information is available in real  
125 time is to collect the information before they board a flight. Given that it is impossible to predict  
126 which passengers' or crewmembers' information will be needed for public health purposes, it is  
127 necessary to collect information for all passengers and crewmembers originating abroad who  
128 intend to travel to, or transit through, the United States. Additionally, many passengers transiting  
129 through the United States will likely transit back through the United States on their return trip. If  
130 they were exposed during travel, they may return at a time when they are infectious. Facilitating  
131 notification to public health authorities at their final destination would prevent potential  
132 exposures during such return travel.

133  
134 CDC identified that the following information is needed for reliable public health management  
135 of travelers disembarking in, or transiting through, the United States: full name, address while in  
136 the United States, primary contact phone number, secondary or emergency contact phone  
137 number, email address, date of birth, airline name, flight number, city of departure, departure  
138 date and time, city of arrival, arrival date and time, and seat number.

139  
140 CDC's authority for collecting these data elements is contained in 42 CFR 71.4.<sup>21</sup> The first five  
141 data elements were added to section 71.4 on February 12, 2020, in response to the current  
142 COVID pandemic.<sup>22</sup> Airlines with flights arriving into the United States must collect and, within  
143 24 hours of an order issued by the CDC Director, transmit these five data elements to CDC. The  
144 remaining data elements, listed in 42 CFR 71.4(b), are part of CDC's previously existing  
145 regulatory scheme. Airlines must also transmit these data elements to CDC within 24 hours of an  
146 order, to the extent such data elements are already available and maintained by the airline.

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<sup>18</sup> Regan JJ, Jungerman MR, Lippold SA, et al. Tracing Airline Travelers for a Public Health Investigation: Middle East Respiratory Syndrome Coronavirus (MERS-CoV) Infection in the United States, 2014. *Public Health Rep.* 2016 Jul-Aug;131(4):552-9. doi: 0.1177/0033354916662213.

<sup>19</sup> Cohen NJ, Brown CM, Alvarado-Ramy F, et al. Travel and Border Health Measures to Prevent the International Spread of Ebola. *MMWR Suppl.* 2016 Jul 8;65(3):57-67. doi: 10.15585/mmwr.su6503a9.

<sup>20</sup> Dollard P, Griffin I, Berro A, et al. Risk Assessment and Management of COVID-19 Among Travelers Arriving at Designated U.S. Airports, January 17–September 13, 2020. *MMWR Morb Mortal Wkly Rep.* 2020 Nov 13;69(45):1681-1685. doi: 10.15585/mmwr.mm6945a4.

<sup>21</sup> <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-F/part-71#71.4>

<sup>22</sup> <https://www.federalregister.gov/documents/2020/02/12/2020-02731/control-of-communicable-diseases-foreign-quarantine>.

148 Identifying individual COVID-19 cases and conducting contact tracing continue to be an  
149 important strategy in preventing opportunities for the virus to spread and mutate, particularly to  
150 prevent the spread of variants of COVID-19 that are not already prevalent in the United States.  
151 Even as more people become fully vaccinated, sub-populations of unvaccinated people and  
152 others vulnerable to infection will remain, including people who elect not to be vaccinated, those  
153 ineligible for vaccination (currently young children), people with contraindications to  
154 vaccination, and people at increased risk for severe illness (including some who may be fully  
155 vaccinated, such as those with certain immunocompromising conditions). In areas where spread  
156 of the virus has been controlled, rapid identification of imported cases and containment of further  
157 transmission through nonpharmaceutical interventions, including isolation of infected people and  
158 quarantine of susceptible close contacts, will be essential to prevent resurgence of local  
159 epidemics and ultimately end the pandemic.

160  
161 CDC has taken a variety of additional steps to mitigate the risk that travel poses to the further  
162 spread of SARS-CoV-2 and the introduction of its variants into the United States. On October  
163 25, 2021, CDC amended an Order requiring all air passengers two years of age and older  
164 traveling to the United States from any foreign country to be tested for SARS-CoV-2 either no  
165 more than three days prior to their flight, for those who are fully vaccinated, or no more than one  
166 day prior to their flight, for those who are not fully vaccinated. Air passengers may alternatively  
167 present documentation of having recovered from COVID-19 in the previous 3 months.<sup>23</sup> On  
168 October 25, 2021, CDC also issued an Order implementing a Presidential Proclamation requiring  
169 all noncitizens who are nonimmigrants, with limited exceptions, to be fully vaccinated in order to  
170 fly into the United States from any foreign country. On January 29, 2021, CDC issued an Order  
171 requiring the wearing of masks by persons on any conveyance entering, traveling within, or  
172 departing the United States and at U.S. transportation hubs to prevent further spread of SARS-  
173 CoV-2.<sup>24</sup> In addition, CDC has posted Level 4 Travel Notices recommending travelers avoid all  
174 non-essential travel to more than 150 countries worldwide because of very high rates of COVID-  
175 19 in these countries.<sup>25</sup> This Order aligns with these new and existing public health mitigation  
176 actions.

### 177 178 **Scope of the Order**

179  
180 This Order applies to all passengers and passenger-carrying operations arriving into the United  
181 States from a foreign last point of departure (including flights with intermediate stops in the  
182 United States between the flight's foreign point of origin and the final destination). Where  
183 appropriate, CDC has used Federal Aviation Administration or Department of Transportation  
184 regulatory references for ease of reference for the affected industry. As used in the Order, the  
185 terms described below have their given meanings.

186  
187 This Order imposes obligations on “airlines”, “operators,” “passengers,” and “crewmembers.”  
188 “Airlines” has the same meaning as in 42 CFR 71.1(b), which includes “air carriers” and  
189 “foreign air carriers” providing “air transportation” as those terms are defined in 49 U.S.C.

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<sup>23</sup>86 FR 7387 and <https://www.cdc.gov/quarantine/fr-proof-negative-test.html>

<sup>24</sup> 86 FR 8025 and <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>

<sup>25</sup> <https://wwwnc.cdc.gov/travel/noticescovid19>

190 40102(a)(2), (a)(5), and (a)(21). An “operator” is any person<sup>26</sup> that operates an aircraft. To  
191 “operate” an aircraft means to use, cause to use, or authorize to use aircraft for the purpose of air  
192 navigation. “Operate” includes piloting an aircraft, with or without the right of legal control (as  
193 owner, lessee, or otherwise). An operator can be any person such as an air carrier, a commercial  
194 operator (as defined in 14 CFR 1.1), or a non-certificated party. “Passenger” means any person  
195 who is not a crewmember on any aircraft operation carrying any person (“passenger-carrying  
196 operation”). “Crewmember” means a person assigned to perform duty in an aircraft during flight  
197 time.

198  
199 Passengers must provide the designated information, to the extent it exists, to airlines and  
200 operators. Airlines and operators must collect the designated information from passengers and  
201 retain it for 30 days from the flight’s departure unless it is otherwise transmitted to the U.S.  
202 Government. CDC is requiring a retention period of 30 days because it can take up to 30 days for  
203 CDC to receive genetic sequencing information identifying a SARS-CoV-2 variant of concern  
204 for which contact tracing beyond the 14-day incubation period of COVID-19 may be warranted.  
205 The incubation periods for measles, whooping cough, meningococcal disease, Ebola, and MERS  
206 — other communicable diseases for which CDC conducts contact investigations — are all less  
207 than 30 days.

208  
209 Airlines or operators that enter into a contract with U.S. Military services to provide  
210 transportation to persons designated by U.S. Military services are exempt from the Order. CDC  
211 is exempting these operations because U.S. Military service’s standard practice is to collect and  
212 retain the designated information and conduct any necessary public health follow-up for  
213 passengers on the aircraft that operate in accordance with the U.S. Military service contract with  
214 the airline or operator. Airlines and operators that contract with other U.S. Government agencies  
215 may be eligible for an exemption on a case-by-case basis if the U.S. Government agency submits  
216 a request to CDC and agrees to CDC’s required public health conditions, including conducting  
217 necessary public health follow-up for passengers. But, in these instances, the U.S. Government  
218 agency that is a party to such a contract shall conduct any necessary public health follow-up for  
219 passengers and crew. Flights designated as state aircraft under international law (1) by an  
220 appropriate United States federal government department or agency, or (2) by a foreign  
221 government and granted diplomatic clearance to enter U.S. airspace, are exempt from this Order.  
222

223 This Order does not alter or affect the requirements under 42 CFR 71.21 that airlines and  
224 operators, including Air Medical Transport services, report to CDC any deaths or illnesses  
225 onboard flights destined for a U.S. airport.<sup>27</sup> As part of the reporting of any death or illness  
226 onboard, passenger contact information must be collected and reported in real time to CDC, in  
227 addition to any data transmission required under this Order.<sup>28</sup>

## 228 229 **Determinations and Immediate Action**

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<sup>26</sup> A “person” is “an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity. It includes a trustee, receiver, assignee, or similar representative of any of them.” 14 CFR 1.1.

<sup>27</sup> <https://www.cdc.gov/quarantine/air/reporting-deaths-illness/guidance-reporting-onboard-deaths-illnesses.html>

<sup>28</sup> <https://www.cdc.gov/quarantine/air/reporting-deaths-illness/>

231 Accordingly, and consistent with 42 CFR 71.4, 71.20, 71.31, and 71.32, I hereby find that  
232 international travel into the United States has the potential to exacerbate and accelerate the  
233 introduction of SARS-CoV-2 variants not already present (along with other communicable  
234 diseases) and that the scope of this pandemic is inherently and necessarily a problem that is  
235 global in nature. The collection and transmission of information required by this Order is  
236 therefore necessary to prevent the further introduction, transmission, or spread of COVID-19 via  
237 air travel into and throughout the United States. The requirements of this Order will enable  
238 prompt public health follow-up by public health jurisdictions, allowing them to quickly  
239 implement public health mitigation efforts such as isolation of infected persons and contact  
240 tracing and management of people exposed to a communicable disease of concern.

241  
242 In addition, I hereby determine that passengers and crewmembers on flights covered by this  
243 Order are or may be at risk of exposure to SARS-CoV-2 and may further the introduction and  
244 spread of SARS-CoV-2 variants and other communicable diseases into the United States. Their  
245 accurate and complete contact information as provided for in this Order is needed to protect the  
246 health of other travelers and U.S. communities.

247  
248 The CDC has determined that this Order is not a rule within the meaning of the Administrative  
249 Procedure Act (APA) but rather an emergency action taken under the existing regulatory  
250 authority of 42 CFR 71.4, 71.20, 71.31, and 71.32. The purpose of these sections is to enable  
251 CDC to swiftly take targeted actions within the scope of these authorities to prevent the  
252 introduction and spread of communicable diseases. Indeed, in response to the current pandemic,  
253 CDC published an interim final rule (IFR)<sup>29</sup> for public comment on February 12, 2020,  
254 establishing the requirements in 42 CFR 71.4<sup>30</sup> to collect and transmit designated information  
255 upon an order issued by the CDC Director.

256  
257 GOOD CAUSE

258  
259 In the event that a court finds this Order qualifies as a rule under the APA, there is good cause to  
260 dispense with prior notice and comment and a delay in effective date. See 5 U.S.C. 553(b)(B),  
261 (d)(3). As more fully explained below, I have determined that good cause exists because the  
262 public health emergency caused by COVID-19 and the unpredictability of virus mutations and  
263 the recent course of the pandemic make notice-and-comment rulemaking impracticable and  
264 contrary to the public health, and by extension the public interest.

265  
266 The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also  
267 deftly, to ensure that its actions are commensurate with the threat. Given the current case rates  
268 and other disease mitigation measures that federal, state, and local jurisdictions are taking across  
269 the country, identifying individual cases and conducting contact tracing are critical public health  
270 actions urgently needed to prevent opportunities for the virus to spread and further mutate.

271

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<sup>29</sup> <https://www.federalregister.gov/documents/2020/02/12/2020-02731/control-of-communicable-diseases-foreign-quarantine>

<sup>30</sup> <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-F/part-71#71.4>

272 The emergence of variants, particularly the Delta variant, has demonstrated the unpredictability  
273 of the SARS-CoV-2 virus and the COVID-19 pandemic and has shown how COVID-19 case  
274 rates, hospitalizations, and deaths can increase rapidly when a new variant emerges. For  
275 example, the Delta variant is more than two times as contagious as previous variants and has  
276 spread faster than earlier variants of the SARS-CoV-2 virus.<sup>31</sup> The share of infections from the  
277 Delta variant in the United States on May 29, 2021, was under 7%, at a point when the trajectory  
278 of the pandemic seemed for the better, but by July 31, 2021, the share of infections with the  
279 Delta variant surpassed 94%.<sup>32</sup> In late June, the 7-day moving average of reported cases was  
280 only around 12,000. By July 27, just 4 weeks later, the 7-day moving average of cases had  
281 increased fivefold and reached over 60,000, a rate similar to the rate before COVID-19 vaccines  
282 were widely available. Between July and September, the spread of the Delta variant caused a  
283 rapid increase in hospitalizations and deaths, especially in areas with higher levels of community  
284 transmission and lower vaccination coverage.<sup>33,34</sup> The 7-day average for August 4-August 10 for  
285 new hospital admissions was a 29.6% increase from the prior 7-day average. The 7-day average  
286 for new deaths increased 21% compared to the previous 7-day average. As of October 24, 2021,  
287 COVID-19 cases were declining; however, a majority of the United States is still experiencing  
288 high community transmission. There have been multiple points throughout the COVID-19  
289 pandemic when cases have swiftly and unexpectedly surged and then declined; therefore, the  
290 rapidly changing, unpredictable nature of the COVID-19 pandemic compels CDC to act quickly.

291  
292 With high transmission rates and low vaccination rates in areas of the United States and around  
293 the world, new SARS-CoV-2 variants are expected to occur. New variants may be more  
294 transmissible or cause more severe disease, and vaccines and therapeutics may be less effective  
295 against these strains. The best way to slow the emergence of new variants is to act quickly to  
296 reduce the spread of infection through vaccination layered with additional mitigation measures,  
297 including timely and effective case detection and contact tracing and public health follow-up of  
298 international travelers.

299  
300 For these reasons, I hereby conclude that notice-and-comment rulemaking and a delay in the  
301 effective date or the Order would defeat the purpose of the Order and endanger the public health,  
302 and is, therefore, impracticable and contrary to the public interest. CDC may exercise its  
303 enforcement discretion with respect to airlines and operators who are unable to come into  
304 compliance on November 8, 2021 despite demonstrated good faith efforts to do so.

305  
306 MISCELLANEOUS  
307

308 Similarly, if this Order qualifies as a rule under the APA, the Office of Information and  
309 Regulatory Affairs (OIRA) has determined that it would be a major rule under Subtitle E of the  
310 Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act or  
311 CRA), 5 U.S.C. 804(2). Regardless of whether this Order qualifies as a rule under the APA,  
312 OIRA has determined that it is an economically significant regulatory action under the

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<sup>31</sup> <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>

<sup>32</sup> <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>

<sup>33</sup> [https://gis.cdc.gov/grasp/covidnet/COVID19\\_5.html](https://gis.cdc.gov/grasp/covidnet/COVID19_5.html)

<sup>34</sup> [https://covid.cdc.gov/covid-data-tracker/#trends\\_dailydeaths](https://covid.cdc.gov/covid-data-tracker/#trends_dailydeaths)



313 definitions provided for those terms in Executive Order 12866. Thus, this action has been  
314 reviewed by OIRA. CDC has determined that for the same reasons given above, there would be  
315 good cause under the CRA to make the requirements herein effective immediately. 5 U.S.C.  
316 808(2). This Order will cease to be in effect on the earlier of (1) the date that is two incubation  
317 periods after the last known case of COVID-19, or (2) when the Secretary determines there is no  
318 longer a need for the interim final rule (IFR)<sup>35</sup> published in the Federal Register on February 7,  
319 2020. As appropriate, the Secretary will publish a document in the Federal Register announcing  
320 the expiration date of the IFR.

321  
322 CDC will separately comply with the requirements of the Paperwork Reduction Act (44 U.S.C.  
323 3501 *et seq.*).

324  
325 If any provision of this Order, or the application of any provision to any persons, entities, or  
326 circumstances, shall be held invalid, the remainder of the provisions, or the application of such  
327 provisions to any persons, entities, or circumstances other than those to which it is held invalid,  
328 shall remain valid and in effect.

329  
330 **Directive**

331  
332 In accordance with 42 CFR 71.4, 71.20, 71.31, and 71.32 as authorized by 42 U.S.C. 264 and  
333 268, it is hereby ORDERED:

334  
335 1. Definitions.

336  
337 As used in this Order, the term:  
338

339 ‘*Airline*’ has the same meaning as in 42 CFR 71.1(b);

340 ‘*Communicable disease*’ has the same meaning as in 42 CFR 71.1(b);

341 ‘*Crewmember*’ means a person assigned to perform duty in an aircraft during flight time;

342 ‘*Designated information*’ means the data elements listed below, to the extent that they exist.<sup>36</sup>  
343 Data elements listed in subsections (a) through (e) must be provided by the passenger and  
344 maintained by the airline or operator for crewmembers and (f) through (m) must be provided to  
345 the extent such data elements are already available and maintained by the airline or operator.

346 (a) Full name (last, first, and, if available, middle or suffix (e.g., Jr.);

347 (b) Address while in the United States (number and street, city, state or territory,  
348 and zip code);

349 (c) Primary contact phone number to include country and area code, at which the  
350 passenger or crewmember can be contacted while in the United States;

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<sup>35</sup> <https://www.federalregister.gov/documents/2020/02/12/2020-02731/control-of-communicable-diseases-foreign-quarantine>

<sup>36</sup> An individual may not, for example, have an email address or phone number, in which case the individual would not be required to provide one.

- 351 (d) Secondary contact phone number to include country and area code, which  
352 may be an emergency contact number, a work number, or a home number;
- 353 (e) Email address that the passenger or crewmember will routinely check while in  
354 the United States;
- 355 (f) Date of birth;
- 356 (g) Airline name;
- 357 (h) Flight number;
- 358 (i) City of departure;
- 359 (j) Departure date and time;
- 360 (k) City of arrival;
- 361 (l) Arrival date and time; and
- 362 (m) Seat number.

363 ‘Operator’ means any person that operates an aircraft. To “operate” an aircraft means to use,  
364 cause to use or authorize to use aircraft for the purpose of air navigation. “Operate” includes  
365 piloting an aircraft, with or without the right of legal control (as owner, lessee, or otherwise). An  
366 operator can be any person such as an air carrier, a commercial operator (as defined in 14  
367 CFR 1.1) or a non-certificated party.

368 ‘Passenger’ means any person who is not a crewmember on any aircraft operation carrying any  
369 person;

370 ‘United States’ has the same meaning as in 42 CFR 71.1(b).

371

## 372 2. Requirements for Airlines and Operators

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374 (a) This section applies to all passenger-carrying operations conducted on aircraft arriving into  
375 the United States from a foreign last point of departure (including flights with intermediate stops  
376 in the United States between the flight’s foreign point of origin and the final destination).  
377 Airlines and operators are required to collect data as soon as practicable but CDC will use  
378 enforcement discretion after the Order effective date to allow airlines to come into compliance.

379 (b) Beginning on flights departing for the United States from a foreign last point of departure  
380 after 12:01 a.m. Eastern Standard Time on November 8, 2021 (including flights with  
381 intermediate stops in the United States between the flight’s foreign origin and the final  
382 destination), all airlines and operators of any passenger-carrying operations shall:

383 (i) Collect the “designated information” for all passengers before boarding, but not more  
384 than 72 hours before departing from the flight’s foreign last point of departure;

385 (ii) Maintain the “designated information” for all crewmembers;

386 (iii) When collecting the “designated information,” notify passengers of the purpose and  
387 intent of the information collection, that the obligation to provide complete and accurate  
388 information is a United States Government requirement, and that failure to provide

389 complete and accurate information may result in criminal penalties, as set forth herein.  
390 The airline or operator must also obtain confirmation from each passenger that the  
391 information provided is complete and accurate; and

392 (iv) Retain the “designated information” under subparagraphs 2(b)(i) and 2(b)(ii) for each  
393 flight for a minimum of 30 days from the flight’s departure and, within 24 hours of a  
394 request from the CDC Director, transmit it to CDC through secure, electronic means  
395 approved by CDC.<sup>37</sup> Data retention is not required for those airlines and operators who  
396 choose to otherwise securely transmit data using established DHS data systems.

397 Any entities covered under section 2 that fail to comply with section 2 may be subject to criminal  
398 penalties under, *inter alia*, 42 U.S.C. 271 and 42 CFR 71.2, in conjunction with 18 U.S.C. 3559  
399 and 3571. Willfully giving false or misleading information to the government may result in  
400 criminal penalties under, *inter alia*, 18 U.S.C. 1001.

401

### 402 3. Requirements for Passengers

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404 This section applies to any passenger on a flight covered under this Order, including passengers  
405 with intermediate stops in the United States between the flight’s foreign point of origin and the  
406 final destination. Beginning on flights departing for the United States from a foreign last point of  
407 departure after 12:01 a.m. Eastern Standard Time on November 8, 2021, the passenger or the  
408 passenger’s authorized representative shall –

409 (i) Accurately provide the “designated information” as instructed by the airline or  
410 operator before boarding a flight to the United States insofar as the information exists  
411 for the passenger;

412 (ii) Acknowledge the airline’s or operator’s notification of the purpose and intent of this  
413 information collection, that the obligation to provide complete and accurate  
414 information is a United States Government requirement, and that failure to provide  
415 complete and accurate information may result in criminal penalties; and,

416 (iii) Confirm that the provided “designated information” is complete and accurate.

417 An authorized representative (for example, immediate family member, legal guardian, or travel  
418 agent) may provide the “designated information” and acknowledge the airline’s or operator’s  
419 notification on behalf of the passenger, including on behalf of a minor or other passenger who is  
420 unable to do so on his or her own behalf, but the information provided must be specific to the  
421 individual passenger (e.g., agents may not list contact information for the travel agency or  
422 provide one telephone number or email address for an entire group of unrelated persons).

423 Any passenger or authorized representative who fails to comply with the requirements of section  
424 3 may be subject to criminal penalties under, *inter alia*, 42 U.S.C. 271 and 42 CFR 71.2, in  
425 conjunction with 18 U.S.C. 3559 and 3571. Willfully giving false or misleading information to  
426 the government may result in criminal penalties under, *inter alia*, 18 U.S.C. 1001.

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<sup>37</sup> [Insert url to technical instructions](#)

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428 4. Exemptions. This Order does not apply to the following:

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430 (a) Any airline or operator that enters into a contract with the U.S. Military services to  
431 provide transportation to persons designated by the U.S. Military service is exempt from this  
432 Order for flights covered under the contract. The U.S. Military service typically collects and  
433 retains the “designated information” and conducts any necessary public health follow-up for  
434 passengers on the aircraft that operate in accordance with the U.S. Military service contract with  
435 the airline or operator.

436

437 (b) Any airline or operator that enters into a contract with another U.S. Government  
438 agency may be eligible for an exemption on a case-by-case basis with approval from the CDC  
439 Director. Any request for this exemption must be made to CDC and is subject to any requirement  
440 or limitation established by the CDC Director, including that the U.S. Government agency that is  
441 a party to such a contract shall conduct any necessary public health follow-up for passengers and  
442 crew.

443

444 (c) Any airline or operator designated as state aircraft under international law (1) by an  
445 appropriate United States federal government department or agency, or (2) by a foreign  
446 government and granted diplomatic clearance to enter U.S. airspace.

447

448 5. Privacy

449

450 CDC intends to use the “designated information” only for public health follow-up, such as  
451 education, treatment, prophylaxis, or other appropriate public health interventions, including  
452 travel restrictions. CDC will maintain and use the “designated information” called for in this  
453 Order in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and its applicable System of  
454 Record Notice.<sup>38</sup> As noted in the System of Records Notice, CDC retains contact tracing  
455 information until the contact tracing investigation is complete or no longer than 12 months.  
456 Personally identifiable information may be used and shared only for lawful purposes, including  
457 with authorized personnel of the U.S. Department of Health and Human Services, state and local  
458 public health departments, and other cooperating authorities, as authorized by law. CDC will  
459 retain, use, delete, or otherwise destroy the “designated information” in accordance with the  
460 Federal Records Act, applicable Privacy Act System of Records notice, and other applicable law.

461 However, if “designated information” is transmitted by airlines via an established DHS data  
462 system, DHS will integrate the data into the DHS Automated Targeting System (ATS)<sup>39</sup> and use  
463 it for passenger screening. DHS may use the data for any use permitted by the ATS System of  
464 Records Notice (SORN)<sup>40</sup> and will retain it for a minimum of fifteen years, in accordance with  
465 the SORN. Permitted uses of established data systems, including ATS, include but are not

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<sup>38</sup> <https://www.cdc.gov/sornnotice/09-20-0171.htm>

<sup>39</sup> <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp006-ats-may2021.pdf>

<sup>40</sup> <https://www.gpo.gov/fdsys/pkg/FR-2015-03-13/html/2015-05798.htm>

466 limited to immigration enforcement, law enforcement, anti-terrorism, national security, and  
467 border security. DHS shares passenger data with other law enforcement and national security  
468 partners pursuant to agreements with those partners for use throughout a period of time specified  
469 by the relevant agreement, or according to the recipient agency's SORN or Attorney General-  
470 approved intelligence oversight guidelines.

471

472 CDC may modify this Order by an updated publication in the Federal Register.

473

474 In testimony whereof, the Director, Centers for Disease Control and Prevention, U.S.  
475 Department of Health and Human Services, has hereunto set her hand at Atlanta, Georgia, this  
476 25<sup>th</sup> day of October 2021.

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A handwritten signature in blue ink, appearing to read "Rochelle P. Walensky", with a horizontal line underneath it.

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481

482 Rochelle P. Walensky, M.D., M.P.H.

483 Director

484 Centers for Disease Control and Prevention

485