

**CENTERS FOR DISEASE CONTROL AND PREVENTION
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**ORDER UNDER SECTION 361
OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. 264)
AND 42 CODE OF FEDERAL REGULATIONS 71.20, 71.31(b)**

**RESCINDING REQUIREMENT FOR NEGATIVE PRE-DEPARTURE COVID-19 TEST
RESULT OR DOCUMENTATION OF RECOVERY FROM COVID-19 FOR ALL
AIRLINE OR OTHER AIRCRAFT PASSENGERS ARRIVING INTO THE UNITED
STATES FROM ANY FOREIGN COUNTRY**

SUMMARY AND ACTION:

On January 26, 2021, the Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), issued an Order titled, “Requirement for Negative Pre-Departure COVID-19 Test Result or Documentation of Recovery from COVID-19 for All Airline or Other Aircraft Passengers Arriving into the United States from any Foreign Country.” 86 Fed. Reg. 7387 (Jan. 28, 2021). As subsequently amended, the Order currently requires all air passengers, 2 years or older, traveling to the United States from a foreign country to present a negative COVID-19 test result from a sample taken no more than one day before departure, or documentation of recovery from COVID-19 in the past 90 days, before boarding a flight. 86 Fed. Reg. 69256 (Dec. 7, 2021).¹

The Order was one of several actions taken by the federal government during earlier phases of the COVID-19 pandemic to help mitigate the further transmission and spread of SARS-CoV-2 variants into and within the United States. At that time, CDC concluded that it was a reasonable and necessary measure in light of the increased risk of transmission and spread of SARS-CoV-2 variants by international air travel into the United States, as well as the low rate of vaccination and infection-induced immunity in the United States, and emergence of new variants of concern. Indeed, when the Order was last amended, it identified the Omicron variant as a variant of concern, noting uncertainty about how easily that variant might spread, the severity of disease it might cause, and the level of protection against it that vaccines might afford. 86 Fed. Reg. at 69259–60.

Since then, many circumstances have changed, including the widespread uptake of effective COVID-19 vaccines and accompanying vaccine- and infection-induced immunity, as well as the availability of effective therapeutics. However, CDC remains focused on preventing medically significant disease, hospitalizations, and deaths from COVID-19. CDC has determined that it is not currently necessary to leave the Order in place to prevent introduction of currently circulating SARS-CoV-2 variants into the United States. In its place, CDC has determined that travelers

¹ The Order stems from previous testing requirements, which varied in scope and applicability. For example, on December 27, 2020, the CDC implemented the Order, Requirement for Negative Pre-Departure COVID-19 Test Result for All Airline Passengers Arriving Into the United States From the United Kingdom, in response to the Alpha variant and rising number of COVID-19 cases.

have access to tools (e.g., vaccines, therapeutics, and recommended prevention measures) and guidance that allow travelers to make informed choices about the use of pre-departure testing and other prevention measures. CDC continues to recommend that all travelers remain up to date with vaccination against COVID-19 and get tested for current infection with a viral test before and after they travel, and after any known exposure to a person with COVID-19, so they can take appropriate precautions to reduce the risk of exposing others while infectious.

CDC monitors circulating SARS-CoV-2 variants around the world and can enhance prevention measures, including reinstituting testing requirements, as warranted, including if a variant emerges that may present increased risk of severe illness and death. Removing this requirement is consistent with the framework CDC released in February 2022, “COVID-19 Community Levels,” reflecting public health’s focus on reducing medically significant disease, hospitalization, and deaths.²

Vaccines, including boosters, continue to be the most important public health tool for fighting COVID-19, and CDC recommends that all people get vaccinated against COVID-19 as soon as they are eligible and stay up to date with their vaccinations.³ When the Order was first issued in January 2021, the United States and countries around the world were just embarking on efforts to vaccinate their populations and learn about emerging variants. Now, as of June 9, 2022, 70.9% of the U.S. population five years of age and older has received a primary series.⁴ Additionally, booster shots are recommended for and available to individuals five years of age and older;⁵ second booster shots are now recommended for adults ages 50 years or older and people ages 12 years and older who are moderately or severely immunocompromised.⁶ The increased percentage of individuals who are not only fully vaccinated with a primary series but have also received one or more booster doses strengthens community and individual protection against serious illness from SARS-CoV-2 and reduces the associated strain on healthcare infrastructure.

² This new framework examines three currently relevant metrics for each U.S. county: new COVID-19 hospital admissions per 100,000 population in the past seven days, the percent of staffed inpatient beds occupied by patients with COVID-19, and total new COVID-19 cases per 100,000 population in the past seven days. *Indicators for Monitoring COVID-19 Community Levels and Implementing Prevention Strategies*, Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/downloads/science/Scientific-Rationale-summary_COVID-19-Community-Levels_2022.02.23.pptx (Feb. 25, 2022).

³ *COVID-19 Vaccines Work*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/work.html> (updated Dec. 23, 2021). See also Thompson MG, Natarajan K, Irving SA, et al. Effectiveness of a Third Dose of mRNA Vaccines Against COVID-19–Associated Emergency Department and Urgent Care Encounters and Hospitalizations Among Adults During Periods of Delta and Omicron Variant Predominance — VISION Network, 10 States, August 2021–January 2022. *MMWR Morb Mortal Wkly Rep* 2022;71:139–145 (Jan. 28, 2022). DOI: <http://dx.doi.org/10.15585/mmwr.mm7104e3> (attributing decline of vaccine effectiveness to waning vaccine-induced immunity over time, possible increased immune evasion by SARS-CoV-2 variants, or a combination of these and other factors and finding that receiving a booster shot was highly effective at preventing COVID-19-associated emergency department and urgent care encounters and preventing COVID-19-associated hospitalizations).

⁴ *COVID Data Tracker*, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-people-onedose-pop-5yr (last visited June 10, 2022).

⁵ *COVID Data Tracker Weekly Review: The Time Is Now—Interpretive Summary for June 3, 2022*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html> (June 3, 2022).

⁶ *COVID-19 Vaccine Boosters*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/booster-shot.html#second-booster> (updated May 24, 2022).

We know that the now-dominant Omicron variant, though more transmissible than prior variants, has generally caused less severe disease among those who are infected. COVID-19 vaccination still remains an effective measure to prevent medically significant disease, hospitalizations, and deaths.

Similarly, the availability of efficacious and accessible treatments adds a powerful layer of protection against severe COVID-19 that was not available in January 2021.⁷ The U.S. government's commitment to making such medications available and the ability to produce variant-specific treatments are critical components of the next phase of the fight against COVID-19. The observed reduction in severity of COVID-19 cases and ongoing effective use of pharmaceutical interventions contribute greatly to minimize medically significant disease and largely prevent excessive strain on the healthcare sector at this stage in the pandemic.⁸

Therefore, based on these considerations, I have concluded that continuation of the Order is not currently necessary.⁹ There being no operational need to delay implementation of this rescission for more than a short period of time, it shall take effect for all aircraft departing from their point of origin on or after Sunday, June 12, 2022, at 12:01 a.m. Eastern Daylight Time (EDT). Importantly, CDC continues to recommend that all travelers remain up to date with vaccination against COVID-19 and get tested for current infection with a viral test before and after they travel, and after any known exposure to a person with COVID-19, so they can take appropriate precautions to reduce the risk of transmission while infectious. Furthermore, CDC continues to recommend that people wear masks in indoor public transportation settings.

⁷ *National COVID-19 Preparedness Plan—March 2022*, <https://www.whitehouse.gov/wp-content/uploads/2022/03/NAT-COVID-19-PREPAREDNESS-PLAN.pdf> (last visited Mar. 30, 2022). Antiviral pills will also be added to the stockpile for the first time. *See also Information About COVID-19 EUAs for Medical Devices*, U.S. Food and Drug Administration, <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#coviddrugs> (updated June 3, 2022); *FDA News Release: Coronavirus (COVID-19) Update: FDA Authorizes First Oral Antiviral for Treatment of COVID-19*, U.S. Food and Drug Administration, <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-first-oral-antiviral-treatment-covid-19> (Dec. 22, 2021).

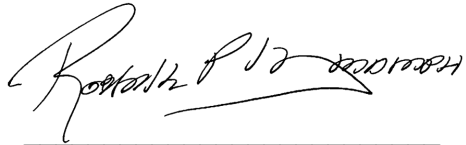
⁸ *Science Brief: Indicators for Monitoring COVID-19 Community Levels and Making Public Health Recommendations*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/indicators-monitoring-community-levels.html> (updated Mar. 4, 2022); *Nationwide COVID-19 Infection- and Vaccination-Induced Antibody Seroprevalence (Blood donations)*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#nationwide-blood-donor-seroprevalence> (last updated Feb. 18, 2022).

⁹ This Order is not a legislative rule within the meaning of the Administrative Procedure Act (“APA”) but rather a rescission of a previous Order undertaken as an emergency action under the existing authority of 42 U.S.C. 264(a) and 42 CFR 71.20, 71.31(b), which was taken without notice and comment. In the event that a court determines this rescission qualifies as a legislative rule under the APA, notice and comment and a delay in effective date are not required because the prior Order was established without notice and comment and there is good cause to lift that restriction immediately, given the current judgment that it is unnecessary to prevent the introduction of COVID-19 into the United States and to seek comment prior to the effective date of this notice would be impracticable and contrary to the public interest. 5 U.S.C. 553(b)(3)(B). Further, while this Order is major under the Congressional Review Act “CRA”, it is not necessary to delay the effective date for similar reasons of good cause. 5 U.S.C. 808(2).

EFFECTIVE DATE:

This rescission shall be effective for all aircraft departing their point of origin on or after June 12, 2022, at 12:01 a.m. EDT.

In testimony whereof, the Director of the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, has hereunto set her hand at Atlanta, GA, this 10th day of June 2022.

A handwritten signature in black ink, appearing to read 'Rochelle P. Walensky', written over a horizontal line.

Rochelle P. Walensky, MD, MPH
Director
Centers for Disease Control and Prevention