



Transit Mask Mandate Summary

CDC Order

The Centers for Disease Control and Prevention (CDC) issued an Order on January 29, 2021, requiring the public to wear face masks while on conveyances and in transportation hubs. The Order emphasizes that the virus that causes COVID-19 spreads easily via respiratory droplets and that wearing masks prevent infected individuals from spreading the disease. The CDC's Order focuses on transit because it brings people in close contact with one another. Furthermore, the CDC believes that any state or territory without sufficient mask wearing requirements for transportation systems within its jurisdiction has not taken adequate measures to prevent the spread of COVID-19. To that end, the CDC is exercising its statutory and regulatory authority to require wearing masks on transit.

Further, the Transportation Security Administration (TSA) issued a Security Directive (SD) January 31, 2021, that is effective February 1, 2021 at 11:59 p.m. The SD was issued to enforce the requirements of the CDC Order mandating masks, as well as implement the Executive Order issued on January 21, 2021.

Specific Provisions of the CDC Order

A conveyance operator (transit system) must require all persons on board the conveyance to wear a mask for the duration of their travel. A transit system must use their "best efforts" to ensure all persons wear a mask. Best efforts are described as:

- (1) Boarding only those persons who wear masks;
- (2) Instructing persons that Federal law requires wearing a mask on the conveyance and failure to comply constitutes a violation of Federal law;
- (3) Monitoring persons onboard the conveyance for anyone who is not wearing a mask and seek compliance from such persons;
- (4) At the earliest opportunity, disembarking any person who refuses to comply; and
- (5) Providing persons with prominent and adequate notice to facilitate awareness and compliance of the requires of this Order to wear a mask; best practices may include, if feasible, advance notifications on digital platforms, such as on apps, websites, or email; posted signage in multiple languages with illustrations; printing the requirement on transit tickets; or other methods as appropriate.

Transit facilities must use best efforts to ensure that any person entering or on the premises wears a mask. Best efforts include:

- (1) Allowing entry only to those persons who wear masks;

- (2) Instructing person that Federal law requires wearing a mask in the transportation hub and failure to comply constitutes a violation of Federal law;
- (3) Monitoring persons on the premises of the transportation hub for anyone who is not wearing a mask and seek compliance from such persons;
- (4) At the earliest opportunity, removing any person who refuses to comply from the premises of the transportation hub; and
- (5) Providing persons with prominent and adequate notice to facilitate awareness and compliance of the requires of this Order to wear a mask; best practices may include, if feasible, advance notifications on digital platforms, such as on apps, websites, or email; posted signage in multiple languages with illustrations; printing the requirement on transit tickets; or other methods as appropriate.

The Order defines a mask as material covering the nose and mouth of the wearer and excludes face shields. Transportation hub means any airport, bus terminal, marina, seaport or other port, subway station, terminal (including any fixed facility at which passengers are picked-up or discharged), train station and transportation hub operator means an individual operating a transportation hub and an individual or organization causing or authorizing the operation of a transportation hub.

Conveyance operator means an individual operating a conveyance and an individual or organization causing or authorizing the operation of a conveyance and conveyance means a train, road vehicle, vessel . . . or other means of transport.

The Order does not apply to any state, locality, territory, or area under the jurisdiction of a Tribe that:

- (1) requires a person to wear a mask on conveyances;
- (2) requires a person to wear a mask at the transportation hubs; and
- (3) requires conveyances to transport only persons wearing masks. Such requirements must provide the same level of public health protections—or greater protection than—the requirements listed herein.

The requirement to wear a mask does not apply in the following circumstances:

- (1) While eating, drinking, or taking medication for brief periods;
- (2) While communicating with a person who is hearing impaired when the ability to see the mouth is essential for communication;
- (3) if unconscious (for reasons other than sleeping), incapacitated, unable to be awakened, or otherwise unable to remove the mask without assistance (this includes (1) the ability to remove the mask if a person is having difficulty breathing until they can resume normal breathing; (2) remove the mask if a person is vomiting until the vomiting ceases; and (3) if the mask interferes with receiving medical assistance such as supplemental oxygen administered through an oxygen mask.); or
- (4) When necessary to temporarily remove the masks to verify one's identity such as during air travel screening or when asked to do by a ticket gate agent or any law enforcement official.

The following individuals are exempt from the Order:

- (1) A child under the age of 2;

- (2) A person with a disability who cannot wear a mask or cannot safely wear a mask because of a disability as defined by the ADA; and
- (3) A person for whom wearing a mask would create a risk to the workplace health, safety, or job duty as determined by the relevant workplace safety guideline or Federal regulations.

Transit systems may impose requirements or conditions for carriage on persons requesting an exemption from the requirement to wear a mask including:

- (1) Medical consultation by a third party, medical documentation by a licensed medical provider, and/or other information as determined by the operator;
- (2) Require evidence that the person does not have COVID-19 such as a negative result from a SARS-CoV-2 viral test or documentation of recovery from COVID-19; and
- (3) Operators may also impose additional protective measures that improve the ability of a person eligible for exemption to maintain social distance (separation from others by 6 feet), such as scheduling travel at a less crowded times or on less crowded conveyances, or seating or otherwise situation the individual in a less crowded section of the conveyance or transportation hub. Operator may further require that person seeking exemption from the requirement to wear a mask request an accommodation in advance.

Authority

The CDC issues this Order under 42 U.S.C. 264(a) and 42 C.F.R. 70.2, 71.31(b) and 71.32(b), which applies to emergency actions. The Order also directs the TSA to enforce the Order under TSA's authority under 49 U.S.C. 106, 114, 44902, 44903, and 46301.

The Order is effective February 1, 2021 at 11:59 p.m.

The American Public Transportation Association (APTA)

The American Public Transportation Association is a nonprofit international association of 1,500 public and private sector organizations that represents a \$74 billion industry that directly employs 435,000 people and supports millions of private sector jobs. APTA members are engaged in the areas of bus, paratransit, light rail, commuter rail, subways, waterborne services, and intercity and high-speed passenger rail. This includes transit systems; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA is the only association in North America that represents all modes of public transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products.

APTA Vision Statement

APTA leads public transportation in a new mobility era,
advocating to connect and build thriving communities
