



EMERGENCY AMENDMENT

<u>NUMBER</u>	EA 1546-21-01C
<u>SUBJECT</u>	Security Measures – Mask Requirements
<u>EFFECTIVE DATE</u>	January 19, 2022
<u>EXPIRATION DATE</u>	March 18, 2022
<u>CANCELS AND SUPERSEDES</u>	EA 1546-21-01B
<u>APPLICABILITY</u>	Foreign air carriers regulated under 49 CFR 1546.101(a) and (b)
<u>AUTHORITY</u>	49 U.S.C. 114, 44902, and 44903; 49 CFR 1546.105(d)
<u>LOCATION(S)</u>	All flights to, from, or within the United States

PURPOSE AND GENERAL INFORMATION

Due to the ongoing COVID-19 pandemic and to reduce the spread of the virus, the President issued an Executive Order, *Promoting COVID-19 Safety in Domestic and International Travel*, on January 21, 2021, requiring masks to be worn in and on airports, on commercial aircraft, and in various modes of surface transportation.¹ On January 27, 2021, the Acting Secretary of Homeland Security determined a national emergency existed² requiring the Transportation Security Administration (TSA) to issue this Emergency Amendment (EA) to implement the Executive Order and enforce the related Order³ issued by the Centers for Disease Control and Prevention (CDC), pursuant to the authority of 49 U.S.C. sections 114, 44902, and 44903. Consistent with these mandates and the TSA's authority, TSA is issuing this EA requiring masks to be worn to mitigate the spread of COVID-19 during air travel. The requirements in this EA must be applied to all persons onboard a commercial aircraft operated by a foreign air carrier,

¹ 86 FR 7205 (published Jan. 26, 2021).

² Acting Secretary David P. Pekoske, Determination of a National Emergency Requiring Actions to Protect the Safety of Americans Using and Employed by the Transportation System (Jan. 27, 2021), *available at* <https://www.dhs.gov/publication/determination-national-emergency-requiring-actions-protect-safety-americans-using-and> (accessed Feb. 22, 2021). The Acting Secretary's determination directs TSA to take actions consistent with its statutory authorities "to implement the Executive Order to promote safety in and secure the transportation system." In particular, the determination directs TSA to support "the CDC in the enforcement of any orders or other requirements necessary to protect the transportation system, including passengers and employees, from COVID-19 and to mitigate the spread of COVID-19 through the transportation system."

³ See Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 Code of Federal Regulations (CFR) §§ 70.2, 71.31(B), 71.32(B); Requirement for Persons to Wear Masks While on Conveyances and at Stations, Ports, or Similar Transportation Hubs (January 29, 2021)

including passengers and crewmembers, and those already vaccinated. TSA developed these requirements in consultation with the Federal Aviation Administration and CDC.

DEFINITIONS

For the purposes of this EA, the following definitions apply:

Conveyance has the same definition as under 42 CFR 70.1, meaning “an aircraft, train, road vehicle, vessel...or other means of transport, including military.”

Mask means a material covering the nose and mouth of the wearer, excluding face shields.⁴

ACTIONS REQUIRED

- A. The foreign air carrier must provide passengers with prominent and adequate notice of the mask requirements to facilitate awareness and compliance.⁵ At a minimum, this notice must inform passengers, at or before check-in and as a pre-flight announcement, of the following:
1. Federal law requires each person to wear a mask at all times throughout the flight, including during boarding and deplaning.
 2. Refusing to wear a mask is a violation of federal law and may result in denial of boarding, removal from the aircraft, and/or penalties under federal law.
 3. If wearing oxygen masks is needed because of loss of cabin pressure or other event affecting aircraft ventilation, masks should be removed to accommodate oxygen masks.
- B. The foreign air carrier must not board any person who is not wearing a mask, except as described in Sections D., E., and F.
- C. The foreign air carrier must ensure that direct employees and authorized representatives wear a mask at all times while on an aircraft or in a U.S.⁶ airport location under the control of the foreign air carrier, except as described in Sections D., E., and F.
- D. The requirement to wear a mask does not apply under the following circumstances:
1. When necessary to temporarily remove the mask for identity verification purposes.

⁴ A properly worn mask completely covers the nose and mouth of the wearer. A mask should be secured to the head, including with ties or ear loops. A mask should fit snugly but comfortably against the side of the face. Masks do not include face shields. Masks can be either manufactured or homemade and should be a solid piece of material without slits, exhalation valves, or punctures. Medical masks and N-95 respirators fulfill the requirements of this EA. CDC guidance for attributes of acceptable masks in the context of this EA is available at <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>.

⁵ Notice 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 boarding passes; or other methods as appropriate.

⁶ Including U.S. territories: American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

2. While eating, drinking, or taking oral medications for brief periods.⁷ Prolonged periods of mask removal are not permitted for eating or drinking; the mask must be worn between bites and sips.
3. While communicating with a person who is deaf or hard of hearing, when the ability to see the mouth is essential for communication.
4. If wearing oxygen masks is needed because of loss of cabin pressure or other event affecting aircraft ventilation.
5. If unconscious (for reasons other than sleeping), incapacitated, unable to be awakened, or otherwise unable to remove the mask without assistance.⁸

E. The following conveyances are exempted from this EA:

1. Persons in private conveyances operated solely for personal, non-commercial use.
2. A driver, when operating a commercial motor vehicle as this term is defined in 49 CFR 390.5, if the driver is the sole occupant of the vehicle.

F. This EA exempts the following categories of persons from wearing masks:⁹

1. Children under the age of 2.
2. People with disabilities who cannot wear a mask, or cannot safely wear a mask, because of the disability as defined by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).¹⁰

⁷ The CDC has stated that brief periods of close contact without a mask should not exceed 15 minutes. *See* <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

⁸ Persons who are experiencing difficulty breathing or shortness of breath or are feeling winded may remove the mask temporarily until able to resume normal breathing with the mask. Persons who are vomiting should remove the mask until vomiting ceases. Persons with acute illness may remove the mask if it interferes with necessary medical care such as supplemental oxygen administered via an oxygen mask.

⁹ Foreign air carriers may impose requirements, or conditions of carriage, on persons requesting an exemption from the requirement to wear a mask, including medical consultation by a third party, medical documentation by a licensed medical provider, and/or other information as determined by the foreign air carrier, as well as require evidence that the person does not have COVID-19 such as a negative result from a SAR-CoV-2 viral test or documentation of recovery from COVID-19. CDC definitions for SAR-CoV-2 viral test and documentation of recovery are available in Frequently Asked Questions at: <https://www.cdc.gov/coronavirus/2019-ncov/travelers/testing-international-air-travelers.html>. Foreign air carriers 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 less crowded times or on less crowded conveyances, or seating or otherwise situating the individual in a less crowded section of the conveyance or airport. Foreign air carriers may further require that persons seeking exemption from the requirement to wear a mask request an accommodation in advance.

¹⁰ This is a narrow exception that includes a person with a disability who cannot wear a mask for reasons related to the disability; who, e.g., do not understand how to remove their mask due to cognitive impairment, cannot remove a mask on their own due to dexterity/mobility impairments, or cannot communicate promptly to ask someone else to remove their mask due to speech impairments or language disorders, or cannot wear a mask because doing so would impede the function of assistive devices/technology. It is not meant to cover persons for whom mask-wearing may

3. People for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by the relevant workplace safety guidelines or federal regulations.
- G. If a passenger refuses to comply with an instruction given by a crew member with respect to wearing a mask, the foreign air carrier must:
1. Make best efforts to disembark the person who refuses to comply as soon as practicable; and
 2. Follow incident reporting procedures in accordance with its TSA-accepted security program or any applicable EAs and provide the following information, if available:
 - a. Date and flight number;
 - b. Passenger's full name and contact information;
 - c. Passenger's seat number on the flight;
 - d. Name and contact information for any crew members involved in the incident; and
 - e. The circumstances related to the refusal to comply.

PREEMPTION

The requirements in this EA do not preempt any host government, State, local, Tribal, or territorial rule, regulation, order, or standard necessary to eliminate or reduce a local safety hazard, which includes public health measures that are the same or more protective of public health than those required in this EA, if that provision is not incompatible with this EA.

ACKNOWLEDGMENT OF RECEIPT

The foreign air carrier must immediately provide written confirmation of receipt of this EA to its International Industry Representative (IIR).

DISSEMINATION REQUIRED

The foreign air carrier must immediately pass the information and measures set forth in this EA to any personnel having responsibilities in implementing the provisions of this directive. The foreign air carrier may share this EA with anyone subject to the provisions of this directive to include but not limited to: host government, federal, state, and local government personnel; authorized representatives; catering personnel; vendors; airline club staff; contractors; etc.

only be difficult. The CDC issued additional guidance on disability exemptions on March 23, 2021, which is available at <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>.

APPROVAL OF ALTERNATIVE MEASURES

The foreign air carrier must immediately notify its IIR if unable to implement any of the measures in this EA, or in any TSA-approved alternative measure. In accordance with 49 CFR 1546.105, the foreign air carrier may submit proposed alternative measures and the basis for submitting those measures to its IIR.

Thomas L. Bush
Acting Executive Assistant Administrator
Operations Support