

APPENDIX
CONSTITUTIONAL, STATUTORY, AND
REGULATORY PROVISIONS

APPENDIX I

United States Code Annotated
Constitution of the United States
Annotated
Article I. The Congress

U.S.C.A. Const. Art. I § 1

Section 1. Legislative Power Vested in Congress

Currentness

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Notes of Decisions (411)

U.S.C.A. Const. Art. I § 1, USCA CONST Art. I § 1

Current through PL 117-14 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

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APPENDIX J

United States Code Annotated
Title 42. The Public Health and Welfare
Chapter 6A. Public Health Service (Refs & Annos)
Subchapter II. General Powers and Duties
Part G. Quarantine and Inspection (Refs & Annos)

42 U.S.C.A. § 264

§ 264. Regulations to control communicable diseases

Effective: June 12, 2002

Currentness

(a) Promulgation and enforcement by Surgeon General

The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Apprehension, detention, or conditional release of individuals

Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General,¹.

(c) Application of regulations to persons entering from foreign countries

Except as provided in subsection (d), regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) Apprehension and examination of persons reasonably believed to be infected

(1) Regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a qualifying stage and (A) to be moving or about to move from a State to another State; or (B) to be a probable source of infection to individuals who, while infected with such disease in a qualifying stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. For purposes of this subsection, the term "State" includes, in addition to the several States, only the District of Columbia.

(2) For purposes of this subsection, the term “qualifying stage”, with respect to a communicable disease, means that such disease

(A) is in a communicable stage; or

(B) is in a precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other individuals.

(e) Preemption

Nothing in this section or section 266 of this title, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 266 of this title.

CREDIT(S)

(July 1, 1944, c. 373, Title III, § 361, 58 Stat. 703; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub.L. 86-624, § 29(c), July 12, 1960, 74 Stat. 419; Pub.L. 94-317, Title III, § 301(b)(1), June 23, 1976, 90 Stat. 707; Pub.L. 107-188, Title I, § 142(a)(1), (2), (b)(1), (c), June 12, 2002, 116 Stat. 626, 627.)

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 12452

Ex. Ord. No. 12452, Dec. 22, 1983, 48 F.R. 56927, relating to the Revised List of Quarantinable Communicable Diseases, was revoked by Ex. Ord. No. 13295, Apr. 4, 2003, 68 F.R. 17255, set out as a note under this section.

EXECUTIVE ORDER NO. 13295

<Apr. 4, 2003, 68 F.R. 17255, as amended by Ex. Ord. No. 13375, Apr. 1, 2005, 70 F.R. 17299; Ex. Ord. No. 13674, July 31, 2014, 79 F.R. 45671>

Revised List of Quarantinable Communicable Diseases

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 361(b) of the Public Health Service Act (42 U.S.C. 264(b)), it is hereby ordered as follows:

Section 1. Based upon the recommendation of the Secretary of Health and Human Services (the “Secretary”), in consultation with the Surgeon General, and for the purpose of specifying certain communicable diseases for regulations providing for the apprehension, detention, or conditional release of individuals to prevent the introduction, transmission, or spread of suspected communicable diseases, the following communicable diseases are hereby specified pursuant to section 361(b) of the Public Health Service Act [subsec. (b) of this section]:

(a) Cholera; Diphtheria; infectious Tuberculosis; Plague; Smallpox; Yellow Fever; and Viral Hemorrhagic Fevers (Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named).

(b) Severe acute respiratory syndromes, which are diseases that are associated with fever and signs and symptoms of pneumonia or other respiratory illness, are capable of being transmitted from person to person, and that either are causing, or have the potential to cause, a pandemic, or, upon infection, are highly likely to cause mortality or serious morbidity if not properly controlled. This subsection does not apply to influenza.

(c) Influenza caused by novel or reemergent influenza viruses that are causing, or have the potential to cause, a pandemic.

Sec. 2. The Secretary, in the Secretary's discretion, shall determine whether a particular condition constitutes a communicable disease of the type specified in section 1 of this order.

Sec. 3. The functions of the President under sections 362 and 364(a) of the Public Health Service Act (42 U.S.C. 265 and 267(a)) are assigned to the Secretary.

Sec. 4. This order is not intended to, and does not, create any right or benefit enforceable at law or equity by any party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

Sec. 5. Executive Order 12452 of December 22, 1983 [set out as a note under this section], is hereby revoked.

GEORGE W. BUSH

Notes of Decisions (12)

Footnotes

¹ So in original. Comma probably should not appear.

42 U.S.C.A. § 264, 42 USCA § 264

Current through PL 117-14 with the exception of PL 116-283. Incorporation of changes from PL 116-283 are in progress. See credits for details.

APPENDIX K

PL 116-260, December 27, 2020, 134 Stat 1182

UNITED STATES PUBLIC LAWS

116th Congress - Second Session

Convening January 03, 2020

Additions and Deletions are not identified in this database.

Vetoed are indicated by ~~Text~~ ;

stricken material by ~~Text~~ .

PL 116–260 [HR 133]

December 27, 2020

CONSOLIDATED APPROPRIATIONS ACT, 2021

An Act Making consolidated appropriations for the fiscal year ending September 30, 2021, providing coronavirus emergency response and relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consolidated Appropriations Act, 2021”.

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. References.

Sec. 4. Explanatory statement.

Sec. 5. Statement of appropriations.

Sec. 6. Availability of funds.

Sec. 7. Adjustments to compensation.

Sec. 8. Definition.

Sec. 9. Office of Management and Budget Reporting Requirement.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2021

Title I—Agricultural Programs

(5) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(6) UNIT OF LOCAL GOVERNMENT.—The term “unit of local government” has the meaning given such term in paragraph (2) of section 601(g) of the Social Security Act (42 U.S.C. 801(g)), except that, in applying such term for purposes of this section, such paragraph shall be applied by substituting “200,000” for “500,000”.

(l) TERMINATION OF PROGRAM.—The authority of an eligible grantee to make new obligations to provide payments under subsection (c) shall terminate on the date established in subsection (e) for that eligible grantee. Amounts not expended in accordance with this section shall revert to the Department of the Treasury.

<< 42 USCA § 264 NOTE >>

SEC. 502. EXTENSION OF EVICTION MORATORIUM.

The order issued by the Centers for Disease Control and Prevention under section 361 of the Public Health Service Act (42 U.S.C. 264), entitled “Temporary Halt in Residential Evictions To Prevent *2079 the Further Spread of COVID–19” (85 Fed. Reg. 55292 (September 4, 2020)) is extended through January 31, 2021, notwithstanding the effective dates specified in such Order.

SubtitleB—Community Development Investment

<< 12 USCA § 4703a NOTE >>

SEC. 520. PURPOSE.

The purpose of this subtitle is to establish emergency programs to revitalize and provide long-term financial products and service availability for, and provide investments in, low- and moderate-income and minority communities that have disproportionately suffered from the impacts of the COVID–19 pandemic.

<< 12 USCA § 4703a NOTE >>

SEC. 521. CONSIDERATIONS; REQUIREMENTS FOR CREDITORS.

(a) IN GENERAL.—In exercising the authorities under this subtitle and the amendments made by this subtitle, the Secretary of the Treasury shall take into consideration increasing the availability of affordable credit for consumers, small businesses, and nonprofit organizations, including for projects supporting affordable housing, community-serving real estate, and other projects, that provide direct benefits to low- and moderate-income communities, low-income and underserved individuals, and minorities, that have disproportionately suffered from the health and economic impacts of the COVID–19 pandemic.

(b) REQUIREMENT FOR CREDITORS.—Any creditor participating in a program established under this subtitle or the amendments made by this subtitle shall fully comply with all applicable statutory and regulatory requirements relating to fair lending.

SEC. 522. CAPITAL INVESTMENTS FOR NEIGHBORHOODS DISPROPORTIONATELY IMPACTED BY THE COVID–19 PANDEMIC.

Approved December 27, 2020.

LEGISLATIVE HISTORY—H.R. 133:

HOUSE REPORTS:

SENATE REPORTS:

CONGRESSIONAL RECORD, Vol. ():

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS ():

PL 116-260, 2020 HR 133

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APPENDIX L

Code of Federal Regulations

Title 42. Public Health

Chapter I. Public Health Service, Department of Health and Human Services (Refs & Annos)

Subchapter F. Quarantine, Inspection, Licensing

Part 70. Interstate Quarantine (Refs & Annos)

42 C.F.R. § 70.2

§ 70.2 Measures in the event of inadequate local control.

Currentness

Whenever the Director of the Centers for Disease Control and Prevention determines that the measures taken by health authorities of any State or possession (including political subdivisions thereof) are insufficient to prevent the spread of any of the communicable diseases from such State or possession to any other State or possession, he/she may take such measures to prevent such spread of the diseases as he/she deems reasonably necessary, including inspection, fumigation, disinfection, sanitation, pest extermination, and destruction of animals or articles believed to be sources of infection.

SOURCE: 65 FR 49908, Aug. 16, 2000, unless otherwise noted.

AUTHORITY: Secs. 215 and 311 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 216, 243); section 361–369, PHS Act, as amended (42 U.S.C. 264–272); 31 U.S.C. 9701.

Notes of Decisions (2)

Current through May 21, 2021; 86 FR 27796.

End of Document

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APPENDIX M

Exec. Order No. 13945, 85 FR 49935, 2020 WL 4700692(Pres.)
Executive Order 13945

Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners

August 8, 2020

***49935** By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. The 2019 novel coronavirus (COVID-19) pandemic, which originated in the People's Republic of China, continues to pose a significant threat to the health of Americans throughout the United States. As we have since January 2020, with the proactive decision to limit travel from China and the passage of three massive economic relief packages, my Administration will take whatever steps are necessary to reduce the spread of COVID-19 and maintain economic prosperity.

The Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services have concluded that “growing and disproportionate unemployment rates for some racial and ethnic minority groups during the COVID-19 pandemic may lead to greater risk of eviction and homelessness or sharing of housing.”

This trend is concerning for many reasons, including that homeless shelters have proven to be particularly susceptible to outbreaks of COVID-19. CDC has observed that “homelessness poses multiple challenges that can exacerbate and amplify the spread of COVID-19. Homeless shelters are often crowded, making social distancing difficult. Many persons experiencing homelessness are older or have underlying medical conditions, placing them at higher risk for severe COVID-19-associated illness.” Increased shared housing is also potentially problematic to the extent it results in increased in-person interactions between older, higher-risk individuals and their younger relatives or friends.

My Administration has taken bold steps to help renters and homeowners have safe and secure places to call home during the COVID-19 crisis. Prior to passage of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Public Law 116-136), the Secretary of Housing and Urban Development implemented a foreclosure and eviction moratorium for all single-family mortgages insured by the Federal Housing Administration. Furthermore, prior to passage of the CARES Act, the Federal Housing Finance Agency (FHFA) announced that it had instructed the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) to suspend foreclosures for at least 60 days. FHFA has since announced that the Enterprises will extend the foreclosure suspension until at least August 31, 2020.

The CARES Act imposed a temporary moratorium on evictions of certain renters subject to certain conditions. That moratorium has now expired, and there is a significant risk that this will set off an abnormally large wave of evictions. With the failure of the Congress to act, my Administration must do all that it can to help vulnerable populations stay in their homes in the midst of this pandemic. Those who are dislocated from their homes may be unable to shelter in place and may have more difficulty maintaining a routine of social distancing. They will have to find alternative living arrangements, which may include a homeless shelter or a crowded family home and may also require traveling to other States.⁴⁹⁹³⁶

***49936** In addition, evictions tend to disproportionately affect minorities, particularly African Americans and Latinos. Unlike the Congress, I cannot sit idly and refuse to assist vulnerable Americans in need. Under my Administration, minorities achieved the lowest unemployment rates on record, and we will not let COVID-19 erase these gains by causing short-term dislocations that could well have long-term consequences.

Accordingly, my Administration, to the extent reasonably necessary to prevent the further spread of COVID-19, will take all lawful measures to prevent residential evictions and foreclosures resulting from financial hardships caused by COVID-19.

Sec. 2. Policy. It is the policy of the United States to minimize, to the greatest extent possible, residential evictions and foreclosures during the ongoing COVID-19 national emergency.

Sec. 3. Response to Public Health Risks of Evictions and Foreclosures. (a) The Secretary of Health and Human Services and the Director of CDC shall consider whether any measures temporarily halting residential evictions of any tenants for failure to pay rent are reasonably necessary to prevent the further spread of COVID-19 from one State or possession into any other State or possession.

(b) The Secretary of the Treasury and the Secretary of Housing and Urban Development shall identify any and all available Federal funds to provide temporary financial assistance to renters and homeowners who, as a result of the financial hardships caused by COVID-19, are struggling to meet their monthly rental or mortgage obligations.

(c) The Secretary of Housing and Urban Development shall take action, as appropriate and consistent with applicable law, to promote the ability of renters and homeowners to avoid eviction or foreclosure resulting from financial hardships caused by COVID-19. Such action may include encouraging and providing assistance to public housing authorities, affordable housing owners, landlords, and recipients of Federal grant funds in minimizing evictions and foreclosures.

(d) In consultation with the Secretary of the Treasury, the Director of FHFA shall review all existing authorities and resources that may be used to prevent evictions and foreclosures for renters and homeowners resulting from hardships caused by COVID-19.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

***49937** (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE, August 8, 2020.

Exec. Order No. 1394585 FR 499352020 WL 4700692(Pres.)

APPENDIX N

85 FR 55292-01, 2020 WL 5253768(F.R.)

NOTICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Friday, September 4, 2020

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

***55292** ACTION: Agency Order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the issuance of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

DATES: This Order is effective September 4, 2020 through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Nina Witkofsky, Acting Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329; Telephone: 404-639-7000; Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.[FN1]

¹ CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

COVID-19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID-19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.[FN2] During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-

home orders, mask requirements, and eviction moratoria. Despite these best efforts, COVID-19 continues to spread and further action is needed.

- ² Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID-19 and 1918 Influenza Pandemics. *JAMA New Open*. 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID-19.

Applicability

Under this Order, a landlord, owner of a residential property, or other person [FN3] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order. This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. Nor does this order apply to American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

- ³ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Renter's or Homeowner's Declaration

Attachment A is a Declaration form that tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions to prevent the further spread of COVID-19 may use. To invoke the CDC's order these persons must provide an executed copy of the Declaration form (or a similar declaration under penalty of perjury) to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. Each adult listed on the lease, rental agreement, or housing contract should likewise complete and provide a declaration. Unless the CDC order is extended, changed, or ended, the order prevents these persons from being evicted or removed from where they are living through December 31, 2020. These persons are still required to pay rent and follow all the other terms of their lease and rules of the place where they live. These persons may also still be evicted for reasons other than not paying rent or making a housing *55293 payment. Executed declarations should not be returned to the Federal Government.

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 CFR 70.2****Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19*****Summary***

Notice and Order; and subject to the limitations under “Applicability”: Under 42 CFR 70.2, a landlord, owner of a residential property, or other person [FN4] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

- 4 For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person” [FN5] means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

- 5 This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, *Social Science Research* 62 (2017), 366-377, <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Point-in-Time Count & Survey, page 22, available at: https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf.

- (1) The individual has used best efforts to obtain all available government assistance for rent or housing;
- (2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return),[FN6] (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

- 6 According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See National Low-Income Housing Coalition, *Out of Reach: The High Cost*

of Housing 2020, available at: <https://reports.nlihc.org/oor>. As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

(3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary [FN7] out-of-pocket medical expenses;

⁷ An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

(4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. This does not include foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the State, territorial, tribal, or local jurisdiction.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within congregate or shared living settings, or through unsheltered homelessness;
- mitigating the further spread of COVID-19 from one U.S. State or U.S. territory into any other U.S. State or U.S. territory; and
- supporting response efforts to COVID-19 at the Federal, State, local, territorial, and tribal levels.

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an *55294 immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.[FN8]

- 8 CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

COVID-19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID-19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.[FN9] During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these significant efforts, COVID-19 continues to spread and further action is needed.

- 9 Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID-19 and 1918 Influenza Pandemics. *JAMA New Open*. 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19.

Applicability

This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

Additionally, this Order shall not apply to American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; [FN10] (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health

and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

- 10 Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See What to Do if You are Sick, available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

Eviction and Risk of COVID-19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding.[FN11] Studies show that COVID-19 transmission occurs readily within households; household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.[FN12]

- 11 United States Census Bureau. American Housing Survey, 2017. <https://www.census.gov/programs-surveys/ahs.html>.
- 12 Bi Q, Wu Y, Mei S, et al. Epidemiology and transmission of COVID-19 in 391 cases and 1286 of their close contacts in Shenzhen, China: a retrospective cohort study. *Lancet Infect Dis* 2020, [https://doi.org/10.1016/S1473-3099\(20\)30287-5](https://doi.org/10.1016/S1473-3099(20)30287-5).

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing, and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, cognitive decline, or no access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms.[FN13] Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

- 13 See CDC COVID-19 Guidance for Shared or Congregate Housing, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020.[FN14] The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and local officials using emergency powers.

- 14 Because evictions generally require 30-days' notice, the effects of housing displacement due to the expiration of the CARES act are not expected to manifest until August 27, 2020.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.[FN15] *55295 Approximately 12.3 million rental units have federally backed financing, representing 28% of renters. Other data show more than 2 million housing vouchers along with approximately 2 million other federally assisted rental units.[FN16]

15 See Congressional Research Service, CARES Act Eviction Moratorium, (April 7, 2020) available at: <https://crsreports.congress.gov/product/pdf/IN/IN11320>.

16 See HUD, A Picture of Subsidized Households General Description of the Data and Bibliography, available at: <https://www.huduser.gov/portal/datasets/assthsg/statedata98/descript.html>.

The Federal moratorium, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were protected under State and local moratoria. In the absence of State and local protections, as many as 30-40 million people in America could be at risk of eviction.[FN17] A wave of evictions on that scale would be unprecedented in modern times. [FN18] A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus contributing to the spread of COVID-19.

17 See Emily Benfer, et al., The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America are at Risk, available at: <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.

18 As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America. <https://evictionlab.org/national-estimates/>.

The statistics on interstate moves show that mass evictions would likely increase the interstate spread of COVID-19. Over 35 million Americans, representing approximately 10% of the U.S. population, move each year.[FN19] Approximately 15% of moves are interstate.[FN20]

19 See U.S. Census Bureau, CPS Historical Migration/Geographic Mobility Tables, available at: <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/historic.html>.

20 Id.

Eviction, Homelessness, and Risk of Severe Disease From COVID-19

Evicted individuals without access to housing or assistance options may also contribute to the homeless population, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population.[FN21] In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.[FN22] Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.[FN23]

21 See CDC, Coronavirus Disease 2019 (COVID-19), People Who Are at Increased Risk for Severe Illness, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (accessed August 26, 2020).

22 Seattle-King County. Point in Time Count. https://regionalhomelesssystem.org/wp-content/uploads/2020/07/Count-Us-In-2020-Final_7.29.2020.pdf

23 United States Department of Housing and Urban Development. The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2. Available at: <https://files.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf>

People experiencing homelessness are a high-risk population. It may be more difficult for these persons to consistently access the necessary resources in order to adhere to public health recommendations to prevent COVID-19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID-19 have been identified in homeless shelters.[FN24] In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members.[FN25] In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents.[FN26] COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested).[FN27] Throughout the United States, among 208 shelters reporting universal diagnostic testing data, 9% of shelter clients have tested positive.[FN28]

- 24 Mosites E, et al, Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters—Four U.S. Cities, March 27–April 15, 2020. MMWR 2020 May 1;69(17):521–522.
- 25 Tobolowsky FA, et al. COVID-19 Outbreak Among Three Affiliated Homeless Service Sites—King County, Washington, 2020. MMWR 2020 May 1;69(17):523–526.
- 26 Baggett TP, Keyes H, Sporn N, Gaeta JM. Prevalence of SARS-CoV-2 Infection in Residents of a Large Homeless Shelter in Boston. JAMA. 2020 Apr 27;323(21):2191–2. Online ahead of print.
- 27 Imbert E, et al. Coronavirus Disease 2019 (COVID-19) Outbreak in a San Francisco Homeless Shelter. Clin Infect Dis. 2020 Aug 3.
- 28 National Health Care for the Homeless Council and Centers for Disease Control and Prevention. Universal Testing Data Dashboard. Available at: <https://nhchc.org/cdc-covid-dashboard/>.

CDC guidance recommends increasing physical distance between beds in homeless shelters.[FN29] To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

- 29 Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

In the context of the current pandemic, large increases in evictions could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID-19. The other is if homeless shelters turn away the recently homeless, who could become unsheltered, and further contribute to the spread of COVID-19. Neither consequence is in the interest of the public health.

The risk of COVID-19 spread associated with unsheltered homelessness (those who are sleeping outside or in places not meant for human habitation) is of great concern to CDC. Over 35% of homeless persons are typically unsheltered.[FN30] The unsheltered homeless are at higher risk for infection when there is community spread of COVID-19. The risks associated with sleeping and living outdoors or in an encampment setting are different than from staying indoors in a congregate setting, such as an emergency shelter or other congregate living facility. While outdoor settings may allow people to increase physical distance between themselves and others, they may also involve exposure to the elements and inadequate access to hygiene, sanitation facilities, health care, and therapeutics. The latter factors contribute to the further spread of COVID-19.

- 30 In January 2018, 552,830 people were counted as homeless in the United States. Of those, 194,467 (35 percent) were unsheltered, and 358,363 (65 percent) were sheltered. See, Council of Economic Advisors, *The State of Homelessness in America* (September 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf>.

Additionally, research suggests that the population of persons who would be evicted and become homeless would include many who are predisposed to developing severe disease from COVID-19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID-19.[FN31] Also, the homeless *55296 often have underlying conditions that increase their risk of severe outcomes of COVID-19.[FN32] Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.[FN33]

- 31 Hugo Vasquez-Vera, et al. The threat of home eviction and its effects on health through the equity lens: A systematic review. *Social Science and Medicine*. 175 (2017) 199e208.
- 32 Fazel S, Geddes JR, Kushel M. The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations. *Lancet*. 2014;384(9953):1529-1540.
- 33 Hsu HE, et al. Race/Ethnicity, Underlying Medical Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID-19 at an Urban Safety-Net Medical Center—Boston, Massachusetts, 2020. *MMWR* 2020 Jul 10;69(27):864-869. Historically, African Americans and Hispanic Americans are disproportionately represented in evictions compared to other races. They are more likely to experience severe outcomes of COVID-19. Id.

These public health risks may increase seasonally. Each year, as winter approaches and the temperature drops, many homeless move into shelters to escape the cold and the occupancy of shelters increases.[FN34] At the same time, there is evidence to suggest that the homeless are more susceptible to respiratory tract infections,[FN35] which may include seasonal influenza. While there are differences in the epidemiology of COVID-19 and seasonal influenza, the potential co-circulation of viruses during periods of increased occupancy in shelters could increase the risk to occupants in those shelters.

- 34 See, generally, the Annual Homeless Assessment Report to Congress (2007), available at: <https://www.huduser.gov/Publications/pdf/ahar.pdf> (acknowledging the seasonality of shelter bed use).
- 35 Ly TDA, Edouard S, Badiaga S, et al. Epidemiology of respiratory pathogen carriage in the homeless population within two shelters in Marseille, France, 2015-2017: Cross sectional 1-day surveys. *Clin Microbiol Infect*. 2019; 25(2):249.e1-249.e6.

In short, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID-19.

Findings and Action

Therefore, I have determined the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or U.S. territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.[FN36]

36

In the United States, public health measures are implemented at all levels of government, including the Federal, State, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. Eviction Lab, COVID-19 Housing Policy Scorecard, available at: <https://evictionlab.org/covid-policy-scorecard/>.

Based on the convergence of COVID-19, seasonal influenza, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, all of which may be exacerbated as fall and winter approach, I have determined that a temporary halt on evictions through December 31, 2020, subject to further extension, modification, or rescission, is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (“APA”) but rather an emergency action taken under the existing authority of 42 CFR 70.2. In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public-health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

A delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that could have potentially significant consequences. As discussed above, one potential consequence would be that evicted individuals would move into close quarters in congregate or shared living settings, including homeless shelters, which would put the individuals at higher risk to COVID-19. Another potential consequence would be if evicted individuals become homeless and unsheltered, and further contribute to the spread of COVID-19. A delay in the effective date of the Order that leads to such consequences would defeat the purpose of the Order and endanger the public health. Immediate action is necessary.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs has determined that it would be a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. The agency has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately.

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

This Order shall be enforced by Federal authorities and cooperating State and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if

the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid State and local authorities in the enforcement of their quarantine and *55297 other health regulations and to accept State and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this order to prevent eviction is effectuated to protect the public health, the States and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD) has informed CDC that all HUD grantees—states, cities, communities, and nonprofits—who received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted, consistent with applicable laws, regulations, and guidance.

HUD has further informed CDC that:

HUD's grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG-CV and ESG-CV funds provided by the CARES Act, all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. Where gaps are identified, grantees should coordinate across available Federal, non-Federal, and philanthropic funds to ensure these critical needs are sufficiently addressed, and utilize HUD's technical assistance to design and implement programs to support a coordinated response to eviction prevention needs. For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, State and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties.

Similarly, the Department of the Treasury has informed CDC that the funds allocated through the Coronavirus Relief Fund may be used to fund rental assistance programs to prevent eviction. Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information.

Effective Date

This Order is effective upon publication in the Federal Register and will remain in effect, unless extended, modified, or rescinded, through December 31, 2020.

Attachment

Declaration Under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing; [FN37]

37 “Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary [FN38] out-of-pocket medical expenses;

38 An “extraordinary” medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;
- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.[FN39]

39 “Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to you.

- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.
- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to State and local laws.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

Signature of Declarant Date

Authority

The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: September 1, 2020.

Nina B. Witkofsky,

Acting Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2020-19654 Filed 9-1-20; 4:15 pm]

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APPENDIX O

86 FR 8020-01, 2021 WL 352179(F.R.)

NOTICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19

Wednesday, February 3, 2021

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

***8020** ACTION: Agency Order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the extension of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

DATES: This Order is effective January 31, 2021 through March 31, 2021.

FOR FURTHER INFORMATION CONTACT: Tiffany Brown, Acting Deputy Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS H21-10, Atlanta, GA 30329. Phone: 404-639-7000. Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

This Order extends the original temporary eviction moratorium Order published on September 4, 2020 and extended by the Consolidated Appropriations Act, 2021 and further extends the Order with modifications through March 31, 2021. The conditions that originally necessitated the original Order continue to exist and, in many jurisdictions, have significantly worsened. With the convergence of COVID-19, seasonal influenza, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, extending the temporary halt on evictions, subject to further extension, modification, or rescission, is appropriate. Additionally, the Order now applies to American Samoa. At the time of publication of the September 4, 2020 Order, no cases had been reported in American Samoa. Cases have now been reported there.

A copy of the Order is provided below. A copy of the signed Order and the Declaration can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>

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 70.2

Temporary Halt in Residential Evictions to Prevent the Further Spread of Covid-19

Summary

Subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person [FN1] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

- 1 For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person” [FN2] means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that: (1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return),[FN3] (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

- 2 This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, Social Science Research 62 (2017), 366-377, <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Point-in-Time Count & Survey, page 22, available at: https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf.

- 3 According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See National Low-Income Housing Coalition, Out of Reach: The High Cost of Housing 2020, available at: <https://reports.nlihc.org/oor>. As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or though homelessness, the higher income thresholds listed here have been determined to better serve this goal.

(3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary [FN4] out-of-pocket medical expenses;

- 4 An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

(4) the individual is using best efforts to make timely partial payments that are ***8021** as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a residential property. It also does not include foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within congregate or shared living settings, or through unsheltered homelessness;
- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory; and
- Supporting response efforts to COVID-19 at the Federal, state, local, territorial, and tribal levels.

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories. As of January 21, 2021, there have been over 96 million cases of COVID-19 globally, resulting in over 2,000,000 deaths. Over 24,400,000 cases have been identified in the United States, with new cases reported daily, and over 400,000 deaths due to the disease. On January 8, 2021, over 300,000 COVID-19 cases in the U.S. were reported to CDC, representing a peak approximately 7 times the highest daily cases in April, 2020 and approximately 4 times the highest daily cases in July, 2020.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.[FN5]

- ⁵ CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

COVID-19 presents a historic threat to public health, and COVID-19 cases have been detected in every county in the continental United States.[FN6] Through December 2020 and January 2021, the number of deaths per day from COVID-19 consistently exceeded any other cause.[FN7] Additionally, in recent months, new variants of SARS-CoV-2 have emerged globally, some of which have been associated with increased transmissibility.[FN8] To respond to this public health threat, the Federal, state, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these significant efforts, COVID-19 continues to spread and further action is needed.

- ⁶ USAFacts. <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map/>.
- ⁷ Woolf SH, Chapman DA, Lee JH. COVID-19 as the Leading Cause of Death in the United States. *JAMA*. 2021;325(2):123-124. doi:10.1001/jama.2020.24865
- ⁸ Emerging SARS-CoV-2 Variants. <https://www.cdc.gov/coronavirus/2019-ncov/more/science-and-research/scientific-brief-emerging-variants.html>.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow state and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. This Order further extends and modifies the prior Orders until March 31, 2021 for the reasons described herein. Much of the content of the September 4, 2020 Order has been incorporated into this Order. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

In addition to extending the effective period of the September 4, 2020 Order, as further extended by the Consolidated Appropriations Act, 2021, this Order includes newly available modeling projections and observational data from COVID-19 incidence comparisons across states that have implemented and lifted eviction moratoria, which clearly demonstrate the need for this Order. The Order now also applies to American Samoa because cases of COVID-19 have now been reported there.

Applicability

This Order does not apply in any state, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. In accordance with 42 U.S.C. 264(e), this Order does not preclude state, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing ***8022** payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties,

or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract. Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; [FN9] (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

- 9 Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See What to Do if You are Sick, available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

This Order now applies to American Samoa. At the time of publication of the September 4, 2020 Order, no cases had been reported in American Samoa. Cases have now been reported there.[FN10]

- 10 <https://www.who.int/americansamoa>.

Eviction and Risk of COVID-19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding.[FN11] Studies show that COVID-19 transmission occurs readily within households; household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.[FN12]

- 11 United States Census Bureau. American Housing Survey, 2017. <https://www.census.gov/programs-surveys/ahs.html>.

- 12 Bi Q, Wu Y, Mei S, et al. Epidemiology and transmission of COVID-19 in 391 cases and 1286 of their close contacts in Shenzhen, China: a retrospective cohort study. *Lancet Infect Dis* 2020, [https://doi.org/10.1016/S1473-3099\(20\)30287-5](https://doi.org/10.1016/S1473-3099(20)30287-5).

Preliminary modeling projections and observational data from COVID-19 incidence comparisons across states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 40% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction (pre-peer review).[FN13] Compared to a scenario where no evictions occurred, the models also predicted a 5-50% increased risk of infection even for those who did not share housing as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.[FN14] An analysis of observational data from state-based eviction moratoria in 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction moratoria were lifted (pre-peer review).[FN15] Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors controlled for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at ≥ 16 weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at ≥ 16 weeks (CI 3.1, 9.3). Although

there may be additional factors that the authors were unable to adjust for, the authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.[FN16]

13 Sheen J, Nande A, Walters EL, Adlam B, Gheorghe A, Shinnick J, Tejeda MF, Greenlee A, Schneider D, Hill AL, Levy MZ. The effect of eviction moratoriums on the transmission of SARS-CoV-2. medRxiv [Preprint]. 2020 Nov 1:2020.10.27.20220897. doi: 10.1101/2020.10.27.20220897. PMID: 33140067; PMCID: PMC7605580.

14 Id.

15 Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

16 Id.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing, and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, cognitive decline, or no access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms.[FN17] Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

17 See CDC COVID-19 Guidance for Shared or Congregate Housing, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020.[FN18] The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and local officials using emergency powers.

18 Because evictions generally require 30-days' notice, the effects of housing displacement due to the expiration of the CARES act are not expected to manifest until August 27, 2020.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.[FN19] *8023 Approximately 12.3 million rental units have federally backed financing, representing 28% of renters. Other data show more than 2 million housing vouchers along with approximately 2 million other federally assisted rental units.[FN20]

19 See Congressional Research Service, CARES Act Eviction Moratorium, (April 7, 2020) available at: <https://crsreports.congress.gov/product/pdf/IN/IN11320>.

20 See HUD, A Picture of Subsidized Households General Description of the Data and Bibliography, available at: <https://www.huduser.gov/portal/datasets/assthsg/statedata98/descript.html>.

The CARES Act moratorium, however, did not reach all renters. Neither does the more recently enacted Emergency Rental Assistance Program under the Consolidated Appropriations Act, 2021, as administered by the Department of Treasury.[FN21] Many renters who fell outside the scope of the moratorium were protected under state and local moratoria. In the absence of state and local protections, as many as 30-40 million people in America could be at risk of eviction.[FN22] A wave of evictions on that scale would be unprecedented in modern times.[FN23] A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus contributing to the spread of COVID-19.

²¹ <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program>.

²² See Emily Benfer, et al., The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America are at Risk, available at: <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.

²³ As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America. <https://evictionlab.org/national-estimates/>.

The statistics on interstate moves show that mass evictions would likely increase the interstate spread of COVID-19. Over 35 million Americans, representing approximately 10% of the U.S. population, move each year.[FN24] Approximately 15% of moves are interstate.[FN25]

²⁴ See U.S. Census Bureau, CPS Historical Migration/Geographic Mobility Tables, available at: <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/historic.html>.

²⁵ Id.

Eviction, Homelessness, and Risk of Severe Disease From COVID-19

Evicted individuals without access to housing or assistance options may also contribute to the homeless population, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population.[FN26] In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.[FN27] Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.[FN28]

²⁶ See CDC, Coronavirus Disease 2019 (COVID-19), People Who Are at Increased Risk for Severe Illness, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (accessed August 26, 2020).

²⁷ Seattle-King County. Point in Time Count. https://regionalhomelesssystem.org/wp-content/uploads/2020/07/Count-Us-In-2020-Final_7.29.2020.pdf.

²⁸ United States Department of Housing and Urban Development. The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2. Available at: <https://files.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf>.

People experiencing homelessness are a high-risk population. It may be more difficult for these persons to consistently access the necessary resources in order to adhere to public health recommendations to prevent COVID-19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID-19 have been identified in homeless shelters.[FN29] In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members.[FN30] In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents.[FN31] COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested).[FN32] Throughout the United States, among 208 shelters reporting universal diagnostic testing data, 9% of shelter clients have tested positive.[FN33]

- 29 Mosites E, et al, Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters—Four U.S. Cities, March 27–April 15, 2020. *MMWR* 2020 May 1;69(17):521–522.
- 30 Tobolowsky FA, et al. COVID-19 Outbreak Among Three Affiliated Homeless Service Sites—King County, Washington, 2020. *MMWR* 2020 May 1;69(17):523–526.
- 31 Baggett TP, Keyes H, Sporn N, Gaeta JM. Prevalence of SARS-CoV-2 Infection in Residents of a Large Homeless Shelter in Boston. *JAMA*. 2020 Apr 27;323(21):2191–2. Online ahead of print.
- 32 Imbert E, et al. Coronavirus Disease 2019 (COVID-19) Outbreak in a San Francisco Homeless Shelter. *Clin Infect Dis*. 2020 Aug 3.
- 33 National Health Care for the Homeless Council and Centers for Disease Control and Prevention. Universal Testing Data Dashboard. Available at: <https://nhchc.org/cdc-covid-dashboard/>.

CDC guidance recommends increasing physical distance between beds in homeless shelters.[FN34] To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

- 34 Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

In the context of the current pandemic, large increases in evictions resulting in homelessness could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID-19. The other is if homeless shelters continue to limit new admissions, leading to increases in unsheltered homelessness. Neither consequence is in the interest of the public health.

Recently published data suggest that those experiencing unsheltered homelessness may have a lower risk of contracting COVID-19 compared to those staying in shelters.[FN35] Data are not yet available to evaluate the risk of COVID-19 among people who are staying unsheltered compared to the general population. However, increases in unsheltered homelessness may lead to further strains on the healthcare system, impacting the availability of COVID-19 care. People experiencing homelessness have been estimated to use the emergency department almost 5 times the rate of the general population,[FN36] and those who are unsheltered are estimated to use the emergency department twice as often as ***8024** those who are sheltered.[FN37] In the context of the pandemic, increased emergency department use is untenable given the existing strains on the healthcare system.[FN38]

- 35 Yoon JC, Montgomery MP, Buff AM, Boyd AT, Jamison C, Hernandez A, Schmit K, Shah S, Ajoku S, Holland DP, Prieto J, Smith S, Swancutt MA, Turner K, Andrews T, Flowers K, Wells A, Marchman C, Laney E, Bixler D,

Cavanaugh S, Flowers N, Gaffga N, Ko JY, Paulin HN, Weng MK, Mosites E, Morris SB. COVID-19 Prevalence among People Experiencing Homelessness and Homelessness Service Staff during Early Community Transmission in Atlanta, Georgia, April-May 2020. *Clin Infect Dis*. 2020 Sep 8;ciaa1340. doi: 10.1093/cid/ciaa1340. Epub ahead of print. PMID: 32898272; PMCID: PMC7499502.

- 36 Amato S, Nobay F, Amato DP, Abar B, Adler D. Sick and unsheltered: Homelessness as a major risk factor for emergency care utilization. *Am J Emerg Med*. 2019 Mar;37(3):415-420. doi: 10.1016/j.ajem.2018.06.001. Epub 2018 Jun 2. PMID: 29891125.
- 37 Raven MC, Tieu L, Lee CT, Ponath C, Guzman D, Kushel M. Emergency Department Use in a Cohort of Older Homeless Adults: Results From the HOPE HOME Study. *Acad Emerg Med*. 2017 Jan;24(1):63-74. doi: 10.1111/acem.13070. PMID: 27520382; PMCID: PMC5857347.
- 38 <https://www.wsj.com/articles/covid-19-surge-strains-hospitals-once-again-11605100312>.

Additionally, research suggests that the population of persons who would be evicted and become homeless would include many who are predisposed to developing severe disease from COVID-19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID-19.[FN39] Also, people experiencing homelessness often have underlying conditions that increase their risk of severe outcomes of COVID-19.[FN40] Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.[FN41]

- 39 Hugo Vasquez-Vera, et al. The threat of home eviction and its effects on health through the equity lens: A systematic review. *Social Science and Medicine*. 175 (2017) 199e208.
- 40 Fazel S, Geddes JR, Kushel M. The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations. *Lancet*. 2014;384(9953):1529-1540.
- 41 Hsu HE, et al. Race/Ethnicity, Underlying Medical Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID-19 at an Urban Safety-Net Medical Center—Boston, Massachusetts, 2020. *MMWR* 2020 Jul 10;69(27):864-869. Historically, African Americans and Hispanic Americans are disproportionately represented in evictions compared to other races. They are more likely to experience severe outcomes of COVID-19. Id.

These public health risks may increase seasonally. Each year, as winter approaches and the temperature drops, many persons experiencing homelessness move into shelters to escape the cold and the occupancy of shelters increases.[FN42] At the same time, there is evidence to suggest that the homeless are more susceptible to respiratory tract infections,[FN43] which may include seasonal influenza. While there are differences in the epidemiology of COVID-19 and seasonal influenza, the potential co-circulation of viruses during periods of increased occupancy in shelters could increase the risk to occupants in those shelters.

- 42 See, generally, the Annual Homeless Assessment Report to Congress (2007), available at: <https://www.huduser.gov/Publications/pdf/ahar.pdf> (acknowledging the seasonality of shelter bed use).
- 43 Ly TDA, Edouard S, Badiaga S, et al. Epidemiology of respiratory pathogen carriage in the homeless population within two shelters in Marseille, France, 2015-2017: Cross sectional 1-day surveys. *Clin Microbiol Infect*. 2019; 25(2):249.e1-249.e6.

In short, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase.

Findings and Action

For the reasons described herein, I am extending and modifying the September 4, 2020 Order, as further extended by Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021. I have determined that extending the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.[FN44]

44 In the United States, public health measures are implemented at all levels of government, including the federal, state, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. Eviction Lab, COVID-19 Housing Policy Scorecard, available at: <https://evictionlab.org/covid-policy-scorecard/>.

Based on the convergence of COVID-19, seasonal influenza, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, all of which may be exacerbated as winter continues, I have determined that extending the temporary halt on evictions, subject to further extension, modification, or rescission, is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, the September 4, 2020 Order is hereby modified and extended through March 31, 2021. Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any state or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (“APA”) but rather an emergency action taken under the existing authority of 42 CFR 70.2. The purpose of § 70.2 is to enable CDC to take swift steps to prevent contagion. [FN45]

45 *Chambless Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849, (W.D. La. 2020).

In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public-health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

In the September 4, 2020 Order, the previous CDC Director determined that good cause existed because the public health emergency caused by COVID-19 made it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of the Order. The previous Director also found that a delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant consequences. One such potential consequence would be that evicted individuals would move into close quarters in congregate or shared living settings, including homeless shelters, which would put the individuals at higher risk for COVID-19. Another potential consequence would be if evicted individuals become homeless and unsheltered, and further contribute to the spread of COVID-19. For these reasons, the previous Director concluded that the delay in the effective date of the Order would defeat the purpose of the Order and endanger the public health and, therefore, determined that immediate action was necessary. As a result, the previous Director issued the Order without prior notice and comment and without a delay in the effective date. Because these conditions continue to exist—indeed, have worsened—and because the extension granted in section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 is set to expire on January 31, 2021, I hereby conclude that immediate action is again necessary without prior notice and comment and without a delay in the effective date.

***8025** The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations.

The conditions that existed on September 4, 2020 have only worsened. As of January 21, 2021, there have been over 24,400,000 cases and over 400,000 deaths. Data collected by Princeton University show that eviction filings are occurring; it is therefore expected that large numbers of evictions would be processed if the Order were to expire. [<https://evictionlab.org/eviction-tracking>]. Without this Order, there is every reason to expect that evictions will increase significantly, resulting in further spread of COVID-19. It is imperative to act quickly to protect the public health, and it would be impracticable and contrary to the public interest to delay the issuance and effective date of the Order pending notice-and-comment rulemaking.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. The agency has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately

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

This Order shall be enforced by federal authorities and cooperating state and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death, or a fine of no more than \$250,000 if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid state and local authorities in the enforcement of their quarantine and other health regulations and to accept state and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD) has informed CDC that all HUD grantees—states, cities, communities, and nonprofits—who received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted, consistent with applicable laws, regulations, and guidance.

HUD has further informed CDC that:

HUD's grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG-CV and ESG-CV funds provided by the CARES Act, all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. Where gaps are identified, grantees should coordinate across available Federal, non-Federal, and philanthropic funds to ensure these critical needs are sufficiently addressed and utilize HUD's technical assistance to design and implement programs to support a coordinated response to eviction prevention needs. For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, state and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties.

Similarly, the Department of the Treasury has informed CDC that the funds allocated through the Coronavirus Relief Fund and the Emergency Rental Assistance Program may be used to fund rental assistance programs to prevent eviction. Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program..

Effective Date

This Order is effective on January 31, 2021 and will remain in effect, unless extended, modified, or rescinded, through March 31, 2021.

Authority

The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: January 29, 2021.

Sherri Berger

Acting Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2021-02243 Filed 1-29-21; 4:15 pm]

BILLING CODE 4163-18-P

APPENDIX P

86 FR 16731-01, 2021 WL 1194000(F.R.)

NOTICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Wednesday, March 31, 2021

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

***16731** ACTION: Agency order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the extension of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

DATES: This Order is effective April 1, 2021 through June 30, 2021.

FOR FURTHER INFORMATION CONTACT: Tiffany Brown, Acting Deputy Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329. Phone: 404-639-7000. Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

This Order further extends the original temporary eviction moratorium Order published on September 4, 2020, as initially extended by the Consolidated Appropriations Act, 2021, and further extended by the Order published on January 29, 2021 set to expire on March 31, 2021, with modifications through June 30, 2021. Because of COVID-19, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, extending the temporary halt on evictions, subject to further extension, modification, or rescission, is appropriate.

The Order is extended through June 30, 2021 based on current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. Although daily incidence of COVID-19 decreased and plateaued between January and March 25, 2021, widespread transmission continues at high levels, making the Order still necessary, especially given that previous plateaus have led to secondary and tertiary phases of acceleration.

A copy of the Order is provided below. A copy of the signed Order and the Declaration can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>.

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 70.2

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Summary

Subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person [FN1] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

- ¹ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person” [FN2] means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue *16732 eviction or a possessory action,[FN3] a declaration under penalty of perjury indicating that:

- ² This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, Soc Sci Res. 2017;62:362-377. doi:10.1016/j.ssresearch.2016.08.017, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Count & Survey Comprehensive Report, Applied Survey Research, at 22, https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf. (last viewed Mar. 24, 2021).
- ³ As used throughout this Order, this would include, without limitation, an agent or attorney acting on behalf of the landlord or the owner of the residential property.

- (1) The individual has used best efforts to obtain all available government assistance for rent or housing;
- (2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020, or expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return), [FN4] (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) ⁵ 6

- ⁴ According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two-bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See Out of Reach: How Much do you Need to Earn to Afford a Modest Apartment in Your State?, National Low Income Housing Coalition, <https://reports.nlihc.org/or> (last visited Mar. 23, 2021). As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close

quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

5 “Stimulus check” includes payments made pursuant to Section 2201 of the CARES Act, to Section 9601 of the American Rescue Plan Act of 2021, or to any similar federally authorized payments made to individual natural persons in 2020 and 2021. Eligibility for the 2020 or 2021 stimulus checks has been based on an income that is equal to or lower than the income thresholds described above and does not change or expand who is a covered person under this Order since it was entered into on September 4, 2020.

6 A person is likely to qualify for protection under this Order if they receive the following benefits: (a) Temporary Assistance for Needy Families (TANF); (b) Supplemental Nutrition Assistance Program (SNAP); (c) Supplemental Security Income (SSI); or (d) Supplemental Security Disability Income (SSDI) to the extent that income limits for these programs are less than or equal to the income limits for this Order. However, it is the individual's responsibility to verify that their income is within the income limits described.

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary [FN7] out-of-pocket medical expenses;

7 Extraordinary expenses are defined as those that prevented you from paying some or all of your rent or providing for other basic necessities like food security. To qualify as an extraordinary medical expense, the unreimbursed medical expense is one that is likely to exceed 7.5% of one's adjusted gross income for the year.

(4) The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) Eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a residential property. This definition also does not prohibit foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park,[FN8] or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

8 Mobile home parks may also be referred to as manufactured housing communities.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within crowded, congregate or shared living settings, or through unsheltered homelessness;

- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory;
- Mitigating the further spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent; and
- Supporting response efforts to COVID-19 at the federal, state, local, territorial, and tribal levels.

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States, plus the District of Columbia and U.S. territories. As of March 25, 2021, there have been almost 125 million cases of COVID-19 globally, resulting in over 2,700,000 deaths.[FN9] Over 29,700,000 cases have been identified in the United States, with new cases reported daily, and over 540,000 deaths due to the disease.[FN10] Although transmission has decreased since a peak in January 2021, the current number of cases per day remains almost twice as high as the initial peak in April 2020 and transmission rates are similar to the second peak in July 2020.

⁹ COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU), Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last visited Mar. 25, 2021).

¹⁰ COVID Data Tracker, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last visited Mar. 25, 2021).

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Individuals without symptoms can also spread the virus.[FN11] Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions (e.g. cancer, obesity, serious heart conditions, or diabetes) are at increased risk for severe illness from COVID-19.[FN12]

¹¹ Johansson MA, Quandelacy TM, Kada S, et al. SARS-CoV-2 Transmission From People Without COVID-19 Symptoms. *JAMA Netw Open.* 2021;4(1):e2035057. doi:10.1001/jamanetworkopen.2020.35057

¹² People with Certain Medical Conditions, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated Mar. 15, 2021).

COVID-19 presents a historic threat to public health, and COVID-19 cases have been detected in every county in the continental United States.[FN13] Between December 2020 and January 2021, the number of deaths per day from COVID-19 consistently exceeded any other ***16733** cause.[FN14] Although transmission levels have decreased since January, between February 25 and March 25, 2021, the daily incidence of COVID-19 remained comparable to the summer peak of transmission in July 2020, which is higher than the daily incidence when the Order initially took effect in September, 2020. Furthermore, 37% of counties in the United States are categorized as experiencing “high” transmission (over 100 cases per 100,000 people or greater than 10% test positivity) and an additional 30% of counties are categorized as experiencing “substantial” transmission (50-99.99 cases per 100,000 people or 8-9.99% test positivity).[FN15] No counties are currently considered free of spread, and only 8% of counties are considered to have low transmission.[FN16]

- 13 US COVID-19 cases and deaths by state, USAFacts, <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map/> (last visited Mar. 24, 2021).
- 14 Woolf SH, Chapman DA, Lee JH. COVID-19 as the Leading Cause of Death in the United States. *JAMA*. 2021;325(2):123-124. doi:10.1001/jama.2020.24865.
- 15 COVID-19 Integrated County View, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#county-view> (last visited Mar. 22, 2021).
- 16 *Id.*

Two-dose mRNA COVID-19 vaccination became available in December 2020 and as of March 27, 2021 over 50 million people in the United States (more than 15% of the population) have been fully immunized.[FN17] In February 2021, a single dose COVID-19 vaccine also became available. CDC continues to update guidance for COVID-19 precautions among individuals who have been fully vaccinated; however, currently there are no recommended changes to COVID-19 prevention recommendations related to activities in public, such as avoiding crowded and poorly ventilated places. This is particularly important given continued transmission. Even as COVID-19 vaccines continue to be distributed, it remains critical to maintain COVID-19 precautions to avoid further rises in transmission and to guard against yet another increase in the rates of new infections. It is important to note that despite higher rates of vaccine coverage, the simultaneous roll-back of community mitigation efforts may continue to expose vulnerable populations, such as those targeted in this Order, to higher-than-average COVID-19 rates. It is important to note that despite higher rates of vaccine coverage, the simultaneous roll-back of community mitigation efforts may continue to expose vulnerable populations, such as those targeted in this Order, to higher-than-average COVID-19 rates.[FN18]

- 17 *Id.*
- 18 COVID Data Tracker, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last visited Mar. 25, 2021).

In recent months, new variants of SARS-CoV-2 have also emerged globally.[FN19] Epidemiological evaluation of these variants shows increased transmissibility as well as possible increased mortality. The current substantial levels of transmission and the emergence of variants highlight the persistent and dynamic nature of the pandemic and the need for continued protections.

- 19 Abdool Karim SS, de Oliveira T. New SARS-CoV-2 Variants—Clinical, Public Health, and Vaccine Implications [published online ahead of print, 2021 Mar 24]. *N Engl J Med*. 2021;10.1056/NEJMc2100362. doi:10.1056/NEJMc2100362.

To respond to this public health threat, Federal, state, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. In particular, the COVID-19 pandemic has triggered unprecedented restrictions on interstate and foreign travel. For example, many states require travelers arriving from other states to obtain negative test results and/or quarantine upon arrival.[FN20] For international travel, all passengers age two or older—including U.S. citizens—must obtain a negative test result or show proof of recovery before they may board a flight to the United States.[FN21] Despite the need for travel precautions, airport use has increased in recent weeks, leading to heightened concerns of interstate transmission.[FN22] SARS-CoV-2 transmission, behavior change, and travel restrictions have devastated industries that depend on the movement of people, such as the travel, leisure, and hospitality.[FN23] Ten months after the initial wave of closures due to COVID-19, over 16 percent of the hospitality and leisure sector's labor force was unemployed.[FN24] The persistent spread of COVID-19 continues to necessitate preventive action.

- 20 Travel During COVID-19, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html> (last updated Feb. 16, 2021).
- 21 Id.
- 22 Cecelia Smith-Schoenwalder, CDC Urges Americans to Avoid Travel as Airport Screenings Approach Pandemic Peak, U.S. News, <https://www.usnews.com/news/health-news/articles/2021-03-22/cdc-urges-americans-to-avoid-travel-as-airport-screenings-approach-pandemic-peak> (last visited Mar. 26, 2021).
- 23 Aaron Klein & Ember Smith, Explaining the economic impact of COVID-19: Core industries and the Hispanic workforce, Brookings Institute, <https://www.brookings.edu/research/explaining-the-economic-impact-of-covid-19-core-industries-and-the-hispanic-workforce/> (last visited Mar. 23, 2021).
- 24 Labor Force Statistics from the Current Population Survey, U.S. Bureau of Labor Statistics, <https://www.bls.gov/web/empsit/cpseesa31.htm> (last updated Mar. 5, 2021).

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow state and local authorities to more easily implement, as needed, stay-at-home and social distancing directives to mitigate the community spread of COVID-19.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19 in March 2020. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020. The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and other local officials using emergency powers. Researchers estimated that this temporary federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.[FN25] The CARES act also provided funding streams for emergency rental assistance; surveys estimate that this assistance became available to the public through rental assistance programs by July 2020.[FN26]

- 25 See CARES Act Eviction Moratorium, Congressional Research Service, <https://crsreports.congress.gov/product/pdf/IN/IN11320> (last visited Mar. 23, 2021).
- 26 Vincent Reina et al., COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

The federal moratorium provided by the CARES Act, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were instead protected under state and local moratoria. In August, it was estimated that as many as 30-40 million people in America could be at risk of eviction.[FN27] In early ***16734** March, 2021, the Census Household Pulse Survey estimated that over 4 million adults who are not current on rent perceive that they are at imminent risk of eviction. [FN28] A wave of evictions on that scale would be unprecedented in modern times.[FN29] A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus becoming at higher risk of COVID-19.

- 27 See Emily Benfer et al., The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America are at Risk, Aspen Institute, <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/> (last visited Mar. 23, 2021).
- 28 Household Pulse Survey, United States Census Bureau, <https://www.census.gov/data-tools/demo/hhp/#/?measures=EVR> (last visited Mar. 25, 2021).
- 29 As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America, The Eviction Lab: Princeton University, <https://evictionlab.org/national-estimates/> (last visited Mar. 24, 2021).

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. This Order further extends and modifies the prior Eviction Moratoria until June 30, 2021, for the reasons described herein, subject to revision based on the changing public health landscape. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

Researchers estimate that, in 2020, Federal, state, and local eviction moratoria led to over one million fewer evictions than the previous year.[FN30] Additional research shows that, despite the CDC eviction moratorium leading to an estimated 50% decrease in eviction filings compared to the historical average, there have still been over 100,000 eviction filings since September, suggesting high demand and likelihood of mass evictions.[FN31]

- 30 Pete Hepburn & Renee Louis, Preliminary Analysis: Six Months of the CDC Eviction Moratorium, The Eviction Lab: Princeton University, <https://evictionlab.org/six-months-cdc/> (last visited Mar. 26, 2021).
- 31 Id.

Eviction and Risk of COVID-19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding. Studies show that COVID-19 transmission occurs readily within households. The secondary attack rate in households has been estimated to be 17%, and household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts. A study of pregnant women in New York City showed that women in large households (greater number of residents per household) were three times as likely to test positive for SARS-CoV-2 than those in smaller households, and those in neighborhoods with greater household crowding (>1 resident per room) were twice as likely to test positive.

Throughout the United States, counties with the highest proportion of crowded households have experienced COVID-19 mortality rates 2.6 times those of counties with the lowest proportion of crowded households.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, chronic health conditions, cognitive decline, or limited access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms. Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Preliminary modeling projections and observational data from COVID-19 incidence comparisons across states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 40% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction (pre-peer review). Compared to a scenario where no evictions occurred, the models also predicted a 5-50% increased risk of infection, even for those who did not share housing, as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.

An analysis of observational data from state-based eviction moratoria in the 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction moratoria were lifted (pre-peer review). Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors controlled for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at ≥ 16 weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at ≥ 16 weeks (CI 3.1, 9.3). The authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.[FN32]

32 Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality* (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

***16735** Although data are limited, available evidence suggests evictions lead to interstate spread of COVID-19 in two ways. First, an eviction may lead the evicted members of a household to move across state lines. Of the 35 million Americans who move each year, 15% move to a new state. Second, even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. This Order cannot effectively mitigate interstate transmission of COVID-19 without covering intrastate evictions, as the level of spread of SARS-CoV-2 resulting from these evictions can lead to SARS-CoV-2 transmission across state borders. Moreover, intrastate spread facilitates interstate spread in the context of communicable disease spread, given the nature of infectious disease. In the aggregate, the mass-scale evictions that will likely occur in the absence of this Order will inevitably increase interstate spread of COVID-19.

Eviction, Homelessness, and Risk of Severe Disease From COVID-19

Evicted individuals without access to support or other assistance options may become homeless, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population. In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason

for becoming homeless. Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.

People experiencing homelessness are at high risk for COVID-19. It may be more difficult for these persons to consistently access the necessary resources to adhere to public health recommendations to prevent COVID-19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID-19 have been identified in homeless shelters. In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members. In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents. COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested). Data from 557 universal diagnostic testing events at homeless shelters in 21 states show an average of 6% positivity among shelter clients. Data comparing the incidence or severity of COVID-19 among people experiencing homelessness directly to the general population are limited. However, during the 15-day period of the outbreak in Boston, MA, researchers estimated a cumulative incidence of 46.3 cases of COVID-19 per 1000 persons experiencing homelessness, as compared to 1.9 cases per 1000 among Massachusetts adults (pre-print).

CDC guidance recommends increasing physical distance between beds in homeless shelters. To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

In the context of the current pandemic, large increases in evictions resulting in homelessness could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID-19. The other is if homeless shelters limit new admissions, leading to increases in unsheltered homelessness, which is associated with significantly heightened risk of mortality generally. Neither consequence is in the interest of the public health.

Additionally, research suggests that the population of persons who would be evicted and those experiencing homelessness may be at risk of severe disease from COVID-19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID-19. Also, people experiencing homelessness often have underlying conditions that increase their risk of severe outcomes of COVID-19. Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.

In short, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase.

Modifications

In addition to extending the effective period of the prior orders, this Order makes several modifications. A description of each modification follows:

CDC added a statement in the “Statement of Intent” section consistent with the clarification of the “Evict” and “Eviction” definitions. The statement now specifically clarifies that one intended purpose of this Order is to mitigate the spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent.

CDC modified the “Applicability” section to add the following points:

A signed declaration submitted under a previous order remains valid notwithstanding the issuance of this extended and modified order, and covered persons do not need to submit a new declaration under this Order. Evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed are subject to this Order, but those that were completed before September 4, 2020, are not subject to the Order. While the Order does not prohibit evictions for engaging in criminal activity while on the leased premises, covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offense) where the underlying activity is a covered person remaining in a residential property despite nonpayment of rent. Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on grounds that they pose a health or safety threat to other residents.

Even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. Moreover, increases in intrastate spread further facilitate interstate spread in the context of communicable disease spread.

The “Background,” “Eviction and Risk of COVID-19 Infection” and “Eviction, Homelessness, and Risk of Severe Disease from COVID-19” *16736 subsections have been revised to reflect updated epidemiological and other relevant information in support of this Order.

CDC added a new section titled “Declaration Forms” with the following points:

To qualify as a covered person eligible for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered Person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed.

Tenants, lessees, or residents of a residential property may use any written document in place of the Declaration Form if it includes the required information as in the Form, is signed, and includes a perjury statement.

Tenants, lessees, or residents of a residential property can use a form translated into other Languages.

In some circumstances, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents who are party to the lease, rental agreement, or housing contract.

CDC modified the “Findings and Action” section to, among other things, further explain that this Order is not a rule within the meaning of the Administrative Procedure Act and, to the extent a court finds that the Order qualifies as a rule, there is good cause to dispense with prior public notice and comment.

Applicability

This Order does not apply in any state, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order or to the extent its application is prohibited by federal court order. In accordance with 42 U.S.C. 264(e), this Order does not preclude state, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract. Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity

while on the premises; (2) threatening the health or safety of other residents; [FN33] (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

- 33 Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See What to Do if You are Sick, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> (last updated Mar. 17, 2021).

A signed declaration submitted under a previous order remains valid notwithstanding the issuance of this extended and modified order, and covered persons do not need to submit a new declaration under this Order.

Any evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed, are subject to this Order. Any tenant, lessee, or resident of a residential property who qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under this Order. Any eviction that was completed prior to September 4, 2020, is not subject to this Order.

Under this Order, covered persons may be evicted for engaging in criminal activity while on the premises. But covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offense) where the underlying activity is a covered person remaining in a residential property for nonpayment of rent. Permitting such evictions would result in substantially more evictions overall, thus increasing the risk of disease transmission as otherwise covered persons move into congregate settings or experience homelessness. This result would be contrary to the stated objectives of this Order, and therefore would diminish their effectiveness. Moreover, to the extent such criminal trespass laws are invoked to establish criminal activity solely based on a tenant, lessee, or resident of a residential property remaining in a residential property despite the nonpayment of rent, such invocation conflicts with this Order and is preempted pursuant to 42 U.S.C. 264(e).

Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

The Order is extended through June 30, 2021, based on the current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. Although daily incidence of COVID-19 decreased and plateaued between January and March 25, 2021, widespread transmission continues at high levels, making the Order still necessary, especially given that previous plateaus have led to secondary and tertiary phases of acceleration. Furthermore, the number of deaths per day continues at levels comparable to or higher than when this Order was established in September 2020.[FN34] This 90-day extension will allow the assessment of natural changes to COVID-19 incidence, the influences of new variants, and the expansion of COVID-19 vaccine coverage to determine if there is a continued need for a national eviction moratorium.

- 34 Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendsdeaths (last visited Mar. 22, 2021).

Declaration Forms

To qualify for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. To assist tenants and landlords, the CDC created a standardized declaration form that can be downloaded here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Tenants, lessees, and residents of residential property are not obligated to use the CDC form. Any written document that an eligible tenant, lessee, or residents of residential property presents to their landlord will comply with this Order, as long as it contains the required elements of “Covered person” as described in this order. In addition, tenants, lessees, and residents *16737 of residential property are allowed to declare in writing that they meet the elements of covered person in other languages.

All declarations, regardless of form used, must be signed, and must include a statement that the tenant, lessee, or resident of a residential property understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. This Order does not preclude a landlord challenging the truthfulness of a tenant's, lessee's, or resident's declaration in court, as permitted under state or local law.

In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents party to the lease, rental agreement, or housing contract. The declaration may be signed and transmitted either electronically or by hard copy.

Findings and Action

For the reasons described herein, I am extending and modifying the September 4, 2020 Order, as extended by section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 and further extended by the January 29, 2021 Order. I have determined that extending the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.[FN35]

35 In the United States, public health measures are implemented at all levels of government, including the federal, state, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. COVID-19 Housing Policy Scorecard, The Eviction Lab: Princeton University, <https://evictionlab.org/covid-policy-scorecard/> (last visited Mar. 23, 2021).

Based on the convergence of COVID-19, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, I have determined that extending the temporary halt on evictions is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, the September 4, 2020 Order is hereby modified and extended through June 30, 2021.

Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any state or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (APA) but rather an emergency action taken under the existing authority of 42 CFR 70.2. The purpose of section 70.2, which was promulgated through notice-and-comment rulemaking, is to enable CDC to take swift steps to prevent contagion without having to seek a second round of public comments and without a delay in effective date.[FN36]

36 *Chambless Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849, (W.D. La. 2020).

In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order

and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

In the September 4, 2020 Order, the previous CDC Director determined that good cause existed because the public health emergency caused by COVID-19 made it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of the Order. The previous Director also found that a delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant consequences. For these reasons, the previous Director concluded that the delay in the effective date of the Order would defeat the purpose of the Order and endanger the public health and, therefore, determined that immediate action was necessary. As a result, the previous Director issued the Order without prior notice and comment and without a delay in the effective date. I made similar findings in the January 29, 2021 Order.

As noted above, although transmission levels have decreased since January, between February 25, 2021 and March 25, 2021, the daily incidence of COVID-19 remained comparable to the summer peak of transmission in July 2020. Daily incidence in the last 30 days has remained consistently higher than the daily incidence when the Order took effect in September 2020. Furthermore, 37% of counties in the United States are categorized as experiencing “high” transmission (over 100 cases per 100,000 people or greater than 10% test positivity) and an additional 30% of counties are categorized as experiencing “substantial” transmission (50-99.99 cases per 100,000 people or 8-9.99% test positivity). No counties are currently considered free of spread, and only 8% of counties are considered to have low transmission. Because of these reasons and because the current extension is set to expire on March 31, 2021, I hereby conclude that immediate action is again necessary without prior notice and comment and without a delay in the effective date.

The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations.

Although the pandemic is dynamic and the situation evolves over time, the fundamental public health threat that existed on September 4, 2020, and January 29, 2021—the risk of large numbers of residential evictions contributing to the spread of COVID-19 throughout the United States—continues to exist. Without this Order, there is every reason to expect that evictions will increase. It is imperative that public health authorities act quickly to help ward off an unprecedented wave of evictions, which would threaten new spikes in SARS-CoV-2 transmission at a critical juncture in fight against COVID-19. Such mass evictions and the attendant public-health consequences would be very difficult, if not impossible, to reverse. It would be impracticable and contrary to the public interest to delay the issuance and effective date of the Order pending notice-and-comment rulemaking for the reasons described herein, and because of the ever-changing landscape of the pandemic and the uncertainty of whether Congress would grant another extension as it did in December 2020.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be an economically significant regulatory ***16738** action pursuant to Executive Order 12866 and a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. CDC has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately. Thus, this action has been reviewed by OIRA.

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

This Order shall be enforced by federal authorities and cooperating state and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations

of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 or one year in jail, or both, if the violation does not result in a death, or a fine of no more than \$250,000 or one year in jail, or both if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid state and local authorities in the enforcement of their quarantine and other health regulations and to accept state and local assistance in the enforcement of federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD), the Department of Agriculture, and Treasury have informed CDC that unprecedented emergency resources have been appropriated through various Federal agencies that assist renters and landlords during the pandemic, including \$46.55 billion to the Treasury through the Consolidated Appropriations Act of 2021 and the American Rescue Plan (ARP). Furthermore, in 2020 44 states and 310 local jurisdictions allocated about \$3.9 billion toward emergency rental assistance, largely from funds appropriated to Treasury and HUD from the Coronavirus Aid, Relief, and Economic Security (CARES).[FN37] These three rounds of federal appropriations also provided substantial resources for homeless services, homeowner assistance, and supplemental stimulus and unemployment benefits that low income renters used to pay rent.

³⁷ Vincent Reina et al., COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program. HUD has further informed CDC that forbearance policies for mortgages backed by the federal government are in effect until June 30, 2021, which provide many landlords, especially smaller landlords, with temporary relief as new emergency rental assistance programs are deployed.

HUD, USDA and Treasury grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG-CV and ESG-CV funds provided by the new funding from the CARES Act, Consolidated Appropriations Act of 2021, and ARP all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, state and local

officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties. Furthermore, tenants can visit consumerfinance.gov/housing for up-to-date information on rent relief options, protections, and key deadlines.

Effective Date

This Order is effective on April 1, 2021, and will remain in effect through June 30, 2021, subject to revision based on the changing public health landscape.

Authority: The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: March 29, 2021.

Sherri Berger,

Acting Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2021-06718 Filed 3-29-21; 4:15 pm]

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APPENDIX Q

86 FR 34010-02, 2021 WL 2636210(F.R.)

NOTICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Monday, June 28, 2021

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

***34010 ACTION:** Agency Order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the extension of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

DATES: This Order is effective July 1, 2021, through July 31, 2021.

FOR FURTHER INFORMATION CONTACT: Tiffany Brown, Deputy Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329. Phone: 404-639-7000. Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

This Order further extends the original temporary eviction moratorium Order published on September 4, 2020, as initially extended by the Consolidated Appropriations Act, 2021, and further extended by the Orders published on January 29, 2021 and March 31, 2021 set to expire on June 30, 2021. Because of COVID-19, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, extending the temporary halt on evictions is appropriate. This Order further extends the prior Eviction Moratoria for what is currently intended to be a final 30 day-period, until July 31, 2021.

The Order is extended through July 31, 2021 based on current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States.

A copy of the Order is provided below. A copy of the signed Order and Declaration form can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>.

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 70.2

TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE FURTHER SPREAD OF COVID-19

Summary

Subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person [FN1] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

- ¹ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person” [FN2] means any tenant, lessee, or resident of a residential ***34011** property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action,[FN3] a declaration under penalty of perjury indicating that:

- ² This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, Soc Sci Res. 2017;62:362-377. doi:10.1016/j.ssresearch.2016.08.017, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Count & Survey Comprehensive Report, Applied Survey Research, at 22, https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf (last viewed Mar. 24, 2021).

- ³ As used throughout this Order, this would include, without limitation, an agent or attorney acting on behalf of the landlord or the owner of the residential property.

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020, or expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return), [FN4] (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) ⁵ 6

- ⁴ According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two-bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See Out of Reach: How Much do you Need to Earn to Afford a Modest Apartment in Your State?, National Low Income Housing Coalition, <https://reports.nlihc.org/or> (last visited Mar. 23, 2021). As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close

quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

5 “Stimulus check” includes payments made pursuant to Section 2201 of the CARES Act, to Section 9601 of the American Rescue Plan Act of 2021, or to any similar federally authorized payments made to individual natural persons in 2020 and 2021. Eligibility for the 2020 or 2021 stimulus checks has been based on an income that is equal to or lower than the income thresholds described above and does not change or expand who is a covered person under this Order since it was entered into on September 4, 2020.

6 A person is likely to qualify for protection under this Order if they receive the following benefits: (a) Temporary Assistance for Needy Families (TANF); (b) Supplemental Nutrition Assistance Program (SNAP); (c) Supplemental Security Income (SSI); or (d) Social Security Disability Income (SSDI) to the extent that income limits for these programs are less than or equal to the income limits for this Order. However, it is the individual's responsibility to verify that their income is within the income limits described.

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary [FN7] out-of-pocket medical expenses;

7 Extraordinary expenses are defined as those that prevented you from paying some or all of your rent or providing for other basic necessities like food security. To qualify as an extraordinary medical expense, the unreimbursed medical expense is one that is likely to exceed 7.5% of one's adjusted gross income for the year.

(4) The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) Eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a residential property. This definition also does not prohibit foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park,[FN8] or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the State, territorial, tribal, or local jurisdiction.

8 Mobile home parks may also be referred to as manufactured housing communities.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within crowded, congregate or shared living settings, or through unsheltered homelessness;

- Mitigating the further spread of COVID-19 from one State or territory into any other State or territory;
- Mitigating the further spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent; and
- Supporting response efforts to COVID-19 at the Federal, State, local, territorial, and tribal levels.

Background

COVID-19 in the United States

Since January 2020, the respiratory disease known as “COVID-19,” caused by a novel coronavirus (SARS-COV-2), has spread globally, including cases reported in all fifty states within the United States, plus the District of Columbia and U.S. territories. As of June 23, 2021, there have been over 179 million cases of COVID-19 globally, resulting in over 3,800,000 deaths.[FN9] Over 33,300,000 cases have been identified in the United States, with new cases reported daily, and over 599,000 deaths due to the disease.[FN10]

- 9 COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU), Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last updated June 23, 2021).
- 10 COVID Data Tracker, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last updated June 22, 2021).

The virus that causes COVID-19 spreads very easily and sustainably between people, particularly those who are in close contact with one another (within about 6 feet, but occasionally over longer distances), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Individuals without symptoms can also spread the virus.[FN11] Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions (e.g. cancer, obesity, serious heart conditions, or diabetes) are at increased risk for severe illness from COVID-19.[FN12]

- 11 Kimball A, Hatfield KM, Arons M, et al. Asymptomatic and Presymptomatic SARS-CoV-2 Infections in Residents of a Long-Term Care Skilled Nursing Facility—King County, Washington, March 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:377-381. DOI: <http://dx.doi.org/10.15585/mmwr.mm6913e1>.
- 12 Razzaghi H, Wang Y, Lu H, et al. Estimated County-Level Prevalence of Selected Underlying Medical Conditions Associated with Increased Risk for Severe COVID-19 Illness—United States, 2018. *MMWR Morb Mortal Wkly Rep* 2020;69:945-950. DOI: <http://dx.doi.org/10.15585/mmwr.mm6929a1>.

COVID-19 vaccines are now widely available in the United States, and all ***34012** people 12 years and older are recommended to be vaccinated against COVID-19. Three COVID-19 vaccines are currently authorized by the U.S. Food and Drug Administration (FDA) for emergency use: two mRNA vaccines (Pfizer-BioNTech, Moderna) and one viral vector vaccine (Johnson & Johnson/Janssen), each of which has been determined to be safe and effective against COVID-19. As of June 22, 2021, over 150.3 million people in the United States (more than 53% of the population 12 years or older) have been fully immunized.[FN13] However, as with other transmissible diseases in densely populated congregate settings, the risk for SARS-CoV-2 infection is greater as long as there is continued community transmission of the virus. As vaccination coverage increases, phasing out prevention measures for fully vaccinated people, ideally those measures that are the most disruptive to individuals and society, will be increasingly feasible.[FN14] However, the vaccination program is still underway; nearly half of the eligible

population is not yet fully vaccinated; and children under age 12 are not yet eligible for vaccines. And, although rare, fully vaccinated people may become infected with COVID-19.[FN15] Moreover, CDC recognizes the risk that even vaccinated people face in densely populated congregate settings. CDC therefore continues to recommend mask use by all people in areas like homeless shelters and other congregate settings.[FN16]

- 13 COVID-19 Vaccinations in the United States, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last updated June 22, 2021).
- 14 Interim Public Health Recommendations for Fully Vaccinated People. Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (last updated May 28, 2021).
- 15 COVID-19 Vaccine Breakthrough Infections Reported to CDC—United States, January 1–April 30, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:792–793. DOI: <http://dx.doi.org/10.15585/mmwr.mm7021e3>.
- 16 Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19). Centers for Disease Control and Prevention. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html> (last updated June 8, 2021).

New variants of SARS-CoV-2 have emerged globally,[FN17] several of which have been identified as variants of concern. [FN18] Variants of concern, including the variants Alpha, Beta, Gamma, Delta, and Epsilon, are those for which there is evidence of an increase in transmissibility, more severe disease, reduction in neutralization by antibodies generated during previous infection or vaccination, reduced effectiveness of treatments or vaccines, or diagnostic detection failures.[FN19] The Alpha variant has become the predominant SARS-CoV-2 strain circulating in the United States; however the proportion of Delta variant cases has increased recently.[FN20] Available evidence suggests the currently authorized mRNA COVID-19 vaccines (Pfizer-BioNTech and Moderna) provide significant protection against known variant strains.[FN21] Other vaccines, particularly AstraZeneca, show reduced efficacy against infection with certain variants but may still protect against severe disease. Given the predominance of variant strains and the continued emergence of new variants, ongoing monitoring of vaccine effectiveness is needed to identify mutations that could render vaccines most commonly used in the U.S. less effective against more transmissible variants like the Delta variant, which now makes up almost 10 percent of U.S. cases, up from 2.7 percent in May.[FN22]

- 17 Abdool Karim SS, de Oliveira T. New SARS-CoV-2 Variants—Clinical, Public Health, and Vaccine Implications [published online ahead of print, 2021 Mar 24]. *N Engl J Med*. 2021;10.1056/NEJMc2100362. doi:10.1056/NEJMc2100362.
- 18 Id.
- 19 SARS-CoV-2 Variant Classifications and Definitions, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant-info.html#Concern> (last updated June 22, 2021).
- 20 Id.
- 21 Science Brief: COVID-19 Vaccines and Vaccination, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html> (last updated May 27, 2021).
- 22 According to data with an end collection date of June 5, 2021. Variant Proportions, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (last updated June 22, 2021).

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation and self-quarantine by people who become ill or who are at risk of transmitting COVID-19.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19 in March 2020. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020. The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and other local officials using emergency powers.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.[FN23] The CARES act also provided funding streams for emergency rental assistance; surveys estimate that this assistance became available to the public through rental assistance programs by July 2020.

- 23 Laurie Goodman, Karan Kaul, and Michael Neal. The CARES Act Eviction Moratorium Covers All Federally Financed Rentals—That's One in Four US Rental Units. The Urban Institute. April 2, 2020. <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>.

The Federal moratorium provided by the CARES Act, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were instead protected under State and local moratoria. In early March, 2021, the Census Household Pulse Survey estimated that 6.4 million households were behind on rent, and just under half fear imminent eviction. [FN24] In 2016, research showed that there were 3.6 million eviction filings and 1.5 million eviction judgments over the span of a whole year,[FN25] meaning that a wave of evictions on the scale feared by households would be unprecedented in modern times. A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus becoming at higher risk of COVID-19.

- 24 Census Household Pulse Survey: Key Phase 3 Housing Payment Findings. Office of Policy Development and Research, HUDUser (April 26, 2021). <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-042621.html>.

- 25 Ashley Gromis. Eviction: Intersection of Poverty, Inequality, and Housing. Eviction Lab, Princeton University (May 2019). https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021, and approved the Order as an exercise of the CDC's authority under Section 361 of the Public Health Service Act (42 U.S.C. 264). With the extension of the Order, Congress also provided \$25 billion for emergency rental *34013 assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. On March 28, 2021, the CDC Director modified and extended the Order until June 30, 2021. This Order further extends the prior Eviction Moratoria for what is currently intended to be a final 30-day period, until July 31, 2021, for the reasons described herein. Although this Order is subject to revision based on the changing public health landscape, absent an unexpected change in the trajectory of the pandemic, CDC does not plan to extend the Order further. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

Researchers estimate that, in 2020, Federal, State, and local eviction moratoria led to over one million fewer evictions than the previous year.[FN26] Additional research shows that, despite the CDC eviction moratorium leading to an estimated 50% decrease in eviction filings compared to the historical average, there have still been over 100,000 eviction filings since September

just within approximately 35 cities and states with more readily available data, suggesting high demand and likelihood of mass evictions.[FN27]

- 26 Hepburn P, Louis R, Fish J, et al. U.S. Eviction Filing Patterns in 2020. Socius. January 2021. doi:10.1177/23780231211009983.
- 27 Peter Hepburn and Renee Louis. Preliminary Analysis: Six Months of the CDC Eviction Moratorium (March 8, 2021). <https://evictionlab.org/six-months-cdc/>.

Eviction, Crowding, and Interstate Transmission of Covid-19

By February 10, 2021, the U.S. Department of the Treasury had paid all of the \$25 billion made available by the Consolidated Appropriations Act of 2021 to states, territories, localities and tribes for the purpose of providing emergency rental assistance to eligible households in their jurisdictions. Additionally, as directed in the Act, Treasury has also made available 40 percent—more than \$8.6 billion—of the additional funding to states, territories and localities for emergency rental assistance provided in the American Rescue Plan. Based on data collected from grantees, Treasury reports that over 630,000 households had already applied for emergency rental assistance by the end of March—when many State and local programs had not yet opened for applications. Though there are indications that emergency rental assistance has started to reach increasing numbers of families over recent months, State and local agencies likely have hundreds of thousands of applications for assistance that currently remain outstanding as programs accelerate their activity. According to Treasury, more households—over 96,000—were served in April than in the entire first quarter. Assistance accelerated in May, with over a fifty percent increase in households served compared to the previous month. The level of assistance provided to low income households is expected to continue increasing because some states started accepting rental assistance applications in late May, including as late as June 1, and now all states are operating programs. Based on analysis of grantee reporting, Treasury believes that State and local emergency rental assistance programs will collectively deploy more rental assistance in July than in any previous month. In addition to Emergency Rental Assistance, there are coordinated efforts across Federal agencies to—in partnership with states and localities—promote eviction prevention strategies.

An unprecedented and avoidable surge of evictions is likely to occur if the national moratorium were to conclude on June 30. Recent data from the U.S. Census Household Pulse Survey demonstrates that an increased percentage of households behind on rent believe that an eviction is likely in the next two months.[FN28] A surge in evictions could lead to the immediate and significant movement of large numbers of persons from lower density to higher density housing. This potential for a mass movement of persons would occur at precisely the same time that our nation is actively engaged in a widespread vaccination effort. This vaccination effort has a slower rate of penetration among the populations most likely to experience eviction, and such a mass movement would place increased stress on the homeless service system.[FN29] In combination with the continued underlying COVID-19 spread, and the overlapping factors described above, this would create considerable risk for rapid transmission of COVID-19 in high risk settings. Allowing additional time for rent relief to reach renters and to further increase vaccination rates through the end of July 2021 could decrease the numbers of likely evictions and avert the potential of COVID-19 resurgence among people who experience eviction, their communities, and other regions of the country affected by the resulting transmission.

- 28 Household Pulse Survey Interactive Tool. U.S. Census Bureau. <https://www.census.gov/data-tools/demo/hhp/#/> (last visited June 23, 2021).
- 29 Barry V, Dasgupta S, Weller DL, et al. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity—United States, December 14, 2020–May 1, 2021. MMWR Morb Mortal Wkly Rep 2021;70:818-824. DOI: <http://dx.doi.org/10.15585/mmwr.mm7022e1>.

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. These moves may require crossing State borders. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding. Studies show that COVID-19 transmission occurs readily within households. The secondary attack rate in households has been estimated to be 17%, and household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.[FN30] A study of pregnant women in New York City showed that women in large households (greater number of residents per household) were three times as likely to test positive for SARS-CoV-2 than those in smaller households, and those in neighborhoods with greater household crowding (≥ 1 resident per room) were twice as likely to test positive.[FN31] Throughout the United States, counties with the highest proportion of crowded households have experienced COVID-19 mortality rates 2.6 times those of counties with the lowest proportion of crowded households.

30 Qin-Long Jing, et al. Household secondary attack rate of COVID-19 and associated determinants in Guangzhou, China: a retrospective cohort study. *The Lancet*. 2020 June 17; vol. 20.10; doi: [https://doi.org/10.1016/S1473-3099\(20\)30471-0](https://doi.org/10.1016/S1473-3099(20)30471-0).

31 Ukachi N. Emeruwa, et al. Associations Between Built Environment, Neighborhood Socioeconomic Status, and SARS-CoV-2 Infection Among Pregnant Women in New York City. *JAMA*. 2020;324(4):390-392. doi:10.1001/jama.2020.11370.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, chronic health conditions, cognitive ~~34014~~ decline, or limited access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms. Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Modeling studies and preliminary observational data from the pre-vaccine phase of the COVID-19 pandemic comparing incidence between states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 30% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction.[FN32] Compared to a scenario where no evictions occurred, the models also predicted a 4%-40% increased risk of infection, even for those who did not share housing, as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.

32 Nande A, Sheen J, Walters EL, Klein B, Chinazzi M, Gheorghe AH, Adlam B, Shinnick J, Tejeda MF, Scarpino SV, Vespignani A, Greenlee AJ, Schneider D, Levy MZ, Hill AL. The effect of eviction moratoria on the transmission of SARS-CoV-2. *Nat Commun*. 2021 Apr 15;12(1):2274. doi: 10.1038/s41467-021-22521-5. PMID: 33859196; PMCID: PMC8050248.

An analysis of observational data from State-based eviction moratoria in 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction moratoria were lifted (pre-peer review). Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors accounted for time-varying indicators of each State's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at ≥ 16

weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at ≥ 16 weeks (CI 3.1, 9.3). The authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting State moratoria.[FN33]

- 33 Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality* (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

Although data are limited, available evidence suggests evictions lead to interstate spread of COVID-19 in two ways. First, an eviction may lead the evicted members of a household to move across State lines. Of the 35 million people in America who move each year, 15% move to a new State. Second, even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. This Order cannot effectively mitigate interstate transmission of COVID-19 without covering intrastate evictions (evictions occurring within the boundaries of a State or territory), as the level of spread of SARS-CoV-2 resulting from these evictions can lead to SARS-CoV-2 transmission across State borders.

Moreover, intrastate spread facilitates interstate spread in the context of communicable disease spread, given the nature of infectious disease. In the aggregate, the mass-scale evictions that will likely occur in the absence of this Order will inevitably increase interstate spread of COVID-19.

Eviction, Homelessness, and Covid-19 Transmission

Evicted individuals without access to support or other assistance options may become homeless, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population. In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.[FN34] Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Data collection by an emergency shelter in Columbus, Ohio, showed that 35.4% of families and 11.4% of single adults reported an eviction as the primary or secondary reason for their seeking shelter. [FN35]

- 34 Count Us In 2020. KCRHA (July 2020). https://kcrha.org/wp-content/uploads/2020/07/Count-Us_In-2020-Final_7.29.2020.pdf.

- 35 Chester Hartman and David Robinson. “Evictions: The Hidden Housing Problem” in *Housing Policy Debate*. 2003.

Extensive outbreaks of COVID-19 have been identified in homeless shelters. In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members. In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents. COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested). Data from 557 universal diagnostic testing events at homeless shelters in 21 states show an average of 6% positivity among shelter clients. Data comparing the incidence or severity of COVID-19 among people experiencing homelessness directly to the general population are limited. However, during the 15-day period of the outbreak in Boston, MA, researchers estimated a cumulative incidence of 46.3 cases of COVID-19 per 1000 persons experiencing homelessness, as compared to 1.9 cases per 1000 among Massachusetts adults (pre-print).

CDC guidance recommends increasing physical distance between beds in homeless shelters, which is likely to decrease capacity, while community transmission of COVID-19 is occurring. These guidelines are similar to other guidance issued for other congregate settings such as prisons and jails. To adhere to this guidance, shelters have limited the number of people served

throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

Persons at Higher Risk of Eviction May Also be at Higher Risk of Being Unvaccinated

At this time, communities with high rates of eviction may currently have lower coverage of COVID-19 vaccination—a focus for current *34015 vaccination campaigns. In the spring of 2021, counties with high social vulnerability (i.e., social and structural factors associated with adverse health outcome inclusive of socioeconomic indicators related to risk of eviction) were shown to have lower levels of COVID-19 vaccination.[FN36]

- ³⁶ Barry V, Dasgupta S, Weller DL, Kriss JL, Cadwell BL, Rose C, Pingali C, Musial T, Sharpe JD, Flores SA, Greenlund KJ, Patel A, Stewart A, Qualters JR, Harris L, Barbour KE, Black CL. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity—United States, December 14, 2020–May 1, 2021. *MMWR Morb Mortal Wkly Rep.* 2021 Jun 4;70(22):818–824. doi: 10.15585/mmwr.mm7022e1. PMID: 34081685; PMCID: PMC8174677.

CDC Eviction Moratorium

The Department of the Treasury continues to distribute emergency rental assistance funds that may help mitigate spikes in COVID-19 transmission due to increases in evictions. These funds are expected to make a meaningful difference for hundreds of thousands of people who are expected to receive the rental assistance in the 30-day horizon of this Order, alongside other Federal and State efforts to prevent evictions.[FN37]

- ³⁷ Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey. National Low Income Housing Coalition. June 2021. https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_2021_6-22_FINAL_v2.pdf

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. On March 28, the CDC Director renewed the Order until June 30, 2021. This Order further extends the prior Eviction Moratorium until July 31, 2021, for the reasons described herein, while the Department of the Treasury disburses the remaining ERA funds to State and local jurisdictions, and those grantees continue to accelerate efforts to deploy rental assistance on behalf of tenants. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

Applicability

This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order or to the extent its application is prohibited by Federal court order. In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract. Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; [FN38] (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

38 Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See What to Do if You are Sick, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> (last updated Mar. 17, 2021).

Any evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed, are subject to this Order. Any tenant, lessee, or resident of a residential property who qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under this Order. Any eviction that was completed prior to September 4, 2020, is not subject to this Order.

Under this Order, covered persons may be evicted for engaging in criminal activity while on the premises. But covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar State-law offense) where the underlying activity is a covered person remaining in a residential property for nonpayment of rent. Permitting such evictions would result in substantially more evictions overall, thus increasing the risk of disease transmission as otherwise covered persons move into congregate settings or experience homelessness. This result would be contrary to the stated objectives of this Order, and therefore would diminish their effectiveness. Moreover, to the extent such criminal trespass laws are invoked to establish criminal activity solely based on a tenant, lessee, or resident of a residential property remaining in a residential property despite the nonpayment of rent, such invocation conflicts with this Order and is preempted pursuant to 42 U.S.C. 264(e).

Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

The Order is extended through July 31, 2021, based on the current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. This 30-day extension, intended to be the final iteration, will allow the assessment of natural changes to COVID-19 incidence, the influences of new variants, additional distribution of emergency rental assistance funds, and the expansion of COVID-19 vaccine uptake.

Declaration Forms

To qualify for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. To assist tenants and landlords, the CDC created a standardized declaration form that can be downloaded here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Tenants, lessees, and residents of residential property are not obligated to use the CDC form. Any written document that an eligible tenant, lessee, or residents of residential property presents to their landlord will comply with this Order, as long as it contains *34016 the required elements of “Covered person” as described in this Order. In addition, tenants, lessees,

and residents of residential property are allowed to declare in writing that they meet the elements of covered person in other languages.

All declarations, regardless of form used, must be signed, and must include a statement that the tenant, lessee, or resident of a residential property understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. This Order does not preclude a landlord challenging the truthfulness of a tenant's, lessee's, or resident's declaration in court, as permitted under State or local law.

In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents party to the lease, rental agreement, or housing contract. The declaration may be signed and transmitted either electronically or by hard copy.

As long as the information in a previously signed declaration submitted under a previous order remains submit a new declaration under this Order.

Findings and Action

Determination

For the reasons described herein, I am extending the September 4, 2020 Order, as extended by section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 and further extended and modified by the January 29, 2021 and March 28, 2021 Orders. I have determined based on the information below that extending the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.

State and local jurisdictions continue to distribute emergency rental assistance funds, provided by the Department of Treasury, that will help avert a spate of evictions and thus mitigate corresponding spikes in COVID-19 transmission. Although trends have improved dramatically since January 2021, there continues to be ongoing transmission of approximately 10,000 cases per day in the United States.[FN39]

³⁹ COVID Data Tracker, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last updated June 22, 2021).

Congress has appropriated approximately \$46 billion—of which almost three-quarters is currently available to State and local grantees—to help pay rent and rental arrears for tenants who may otherwise be at high risk of eviction. According to estimates based on the U.S. Census Household Pulse Survey, approximately 6.4 million renter households are behind on their rent as of March 29, 2021. The successful delivery of those funds by states and localities should greatly reduce the incidence of eviction that would occur in the absence of that support. However, many states and localities are still ramping up the collection and processing of applications and the delivery of assistance and putting in place other eviction prevention strategies. It was only in the beginning of June that all State-run emergency rental assistance programs had opened for applications. If the moratorium expires on June 30, a wave of evictions, on the order of hundreds of thousands, could occur this summer and early fall, exacerbating the spread of COVID-19 among the significant percentage of the population that remains unvaccinated. In appropriating these emergency rental assistance funds, Congress intended that the funding would work in concert with the eviction moratorium, providing time for rental assistance to reach eligible tenants and landlords to sustainably reduce the threat of an eviction wave after an eviction moratorium was no longer in effect. While the pace of assistance is continuing to increase, without additional time for states and localities to deliver this needed relief and engage in other efforts to prevent evictions, a surge of evictions would occur upon the conclusion of the national moratorium. A surge in evictions would lead to immediate movement, crowding, and increased stress on the homeless service system. In combination with ongoing COVID-19

transmission, and the overlapping factors described above, this would create considerable risk for the rapid transmission of COVID-19 in high-risk settings. Allowing additional time for rent relief to reach renters—alongside other Federal and State actions to prevent evictions—by an extension through the month of July 2021 can decrease the numbers of likely evictions and avert the potential of COVID-19 resurgence among people who experience eviction, their communities, and other regions of the country affected by the resulting transmission.

Based on the convergence of these issues, I have determined that extending the temporary halt on evictions is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, the September 4, 2020 Order, as extended and modified by the January 29, 2021 and March 28, 2021 Orders, is hereby extended through July 31, 2021.

Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory where there are documented cases of COVID-19 and the State or U.S. territory has provided a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (APA) but rather an emergency action taken under the existing authority of 42 CFR 70.2. The purpose of § 70.2, which was promulgated through notice-and-comment rulemaking, is to enable CDC to take swift steps to prevent contagion without having to seek a second round of public comments and without a delay in effective date.[FN40]

40 *Chambless Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849 (W.D. La. 2020).

Good Cause

In the event this Order qualifies as a rule under the APA, there is good cause to dispense with prior public notice and comment and a delay in effective date. See 5 U.S.C. 553(b)(B), (d)(3). Good cause exists, in sum, because the public health emergency caused by the COVID-19 pandemic and the unpredictability of the trajectory of the pandemic make it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

In the September 4, 2020 Order, the previous CDC Director determined that good cause existed because the public health emergency caused by COVID-19 made it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of the Order. The previous Director also found that a delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant consequences. For these reasons, the previous Director concluded that the delay in the effective date of the Order ***34017** would defeat the purpose of the Order and endanger the public health and, therefore, determined that immediate action was necessary. As a result, the previous Director issued the Order without prior notice and comment and without a delay in the effective date. I made similar findings in the January 29, 2021 and March 28, 2021 Orders, and similar findings, as described herein, continue to exist.

The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations. And although the pandemic is showing positive trends, the fundamental public health threat that existed on September 4, 2020, January 29, 2021, and March 28, 2021—the risk of large numbers of residential evictions contributing to the spread of COVID-19 throughout the United States—continues to exist. Without this Order, there is every reason to expect that evictions will increase. It is imperative that public health authorities act quickly to mitigate such an increase of evictions, which could increase the likelihood of new spikes in SARS-CoV-2 transmission even as COVID-19 morbidity and mortality may be waning. Such mass evictions and the attendant public-health consequences could unravel positive trends, and would be very difficult to reverse.

For all of these reasons, I hereby conclude that immediate action is again necessary and that notice-and-comment rulemaking and a delay in effective date would be impracticable and contrary to the public interest.

Miscellaneous

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be an economically significant regulatory action pursuant to Executive Order 12866 and a major rule under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act or CRA), 5 U.S.C. 804(2). Thus, this action has been reviewed by OIRA. CDC has determined that for the same reasons given above, there would be good cause under the CRA to make the requirements herein effective immediately. 5 U.S.C. 808(2).

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

This Order shall be enforced by Federal authorities and cooperating State and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 or one year in jail, or both, if the violation does not result in a death, or a fine of no more than \$250,000 or one year in jail, or both if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

Notice To Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and to accept State and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD), the Department of Agriculture, and the Department of the Treasury have informed CDC that unprecedented emergency resources have been appropriated through various Federal agencies that assist renters and landlords during the pandemic, including \$46.55 billion to the Treasury through the Consolidated Appropriations Act of 2021 and the American Rescue Plan (ARP). Furthermore, in 2020 44 states and 310 local jurisdictions allocated about \$3.9 billion toward emergency rental assistance, largely from funds appropriated to HUD from the Coronavirus Aid, Relief, and Economic Security (CARES).[FN41] These three rounds of Federal appropriations also provided substantial resources for homeless services, homeowner assistance, and supplemental stimulus and unemployment benefits that low-income renters used to pay rent.

41 Vincent Reina et al, COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program. Relevant agencies have informed CDC that forbearance policies for mortgages backed by the Federal Government provide many landlords, especially smaller landlords, with temporary relief as new emergency rental assistance programs are deployed. Treasury, HUD, and USDA grantees and partners play a critical role in prioritizing efforts to support this goal. All communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households. Treasury, HUD, and USDA stand at the ready to support American communities in taking these steps to reduce the spread of COVID-19 and maintain economic prosperity.

For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, State and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties. Furthermore, tenants can visit consumerfinance.gov/housing for up-to-date information on rent relief options, protections, and key deadlines.

***34018 Effective Date**

This Order is effective on July 1, 2021, and will remain in effect through July 31, 2021, subject to revision based on the changing public health landscape.

Authority

The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: June 24, 2021.

Sherri Berger,

Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2021-13842 Filed 6-24-21; 2:00 pm]

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APPENDIX R

86 FR 43244-01, 2021 WL 3419603(F.R.)

NOTICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions in Communities With Substantial or High Transmission of COVID-19 To Prevent the Further Spread of COVID-19

Friday, August 6, 2021

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

***43244 ACTION:** Agency Order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces a new Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions in communities with substantial or high transmission of COVID-19 to prevent the further spread of COVID-19.

DATES: This Order is effective August 3, 2021 through October 3, 2021.

FOR FURTHER INFORMATION CONTACT: Tiffany Brown, Deputy Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329. Phone: 404-639-7000. Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021, and approved the Order as an exercise of the CDC's authority under Section 361 of the Public Health Service Act (42 U.S.C. 264). With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan. The Order was extended multiple times due to the changing public health landscape and expired on July 31, 2021 after what was intended to be the final extension.[FN1] Absent an unexpected change in the trajectory of the pandemic, CDC did not plan to extend the Order further.

¹ The CDC Director renewed the Order until March 31, 2021. On March 28, 2021, the CDC Director modified and extended the Order until June 30, 2021. On June 24, 2021 the CDC Director extended the Order until July 31, 2021.

Following the recent surge in cases brought forth by the highly transmissible Delta variant, the CDC Director now issues a new Order temporarily halting evictions for persons in counties or U.S. territories experiencing substantial or high rates of transmission, for the reasons described herein. It is more limited in scope than prior orders, intended to target specific areas of the country where cases are rapidly increasing, which likely would be exacerbated by mass evictions.

Accordingly, subject to the limitations listed in the new Order, a landlord, owner of a residential property, or [FN2] person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any county or U.S. territory while the county or territory is experiencing substantial or high levels of community transmission levels of SARS-CoV-2. This Order will expire on October 3, 2021, but is subject to further extension, modification, or rescission based on public health circumstances.[FN3]

2 For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

3 To the extent any provision of this Order conflicts with prior Orders, this Order is controlling, as this is a new order.

A copy of the Order is provided below. A copy of the signed Order and Declaration form can be found at <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>.

***43245 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 70.2

Temporary Halt in Residential Evictions in Communities With Substantial or High Levels of Community Transmission of COVID-19 To Prevent the Further Spread of COVID-19

Summary

The U.S. Centers for Disease and Control (CDC) is issuing a new order temporarily halting evictions in counties with heightened levels of community transmission in order to respond to recent, unexpected developments in the trajectory of the COVID-19 pandemic, including the rise of the Delta variant. It is intended to target specific areas of the country where cases are rapidly increasing, which likely would be exacerbated by mass evictions. Accordingly, subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person [FN4] with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any county or U.S. territory while the county or territory is experiencing substantial or high levels of community transmission of SARS-CoV-2.

4 For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person” [FN5] means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action,[FN6] a declaration [FN7] under penalty of perjury indicating that:

5 This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, Soc Sci Res. 2017;62:362-377. doi:10.1016/j.ssresearch.2016.08.017, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one

survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Count & Survey Comprehensive Report, Applied Survey Research, at 22, https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf. (last viewed Mar. 24, 2021).

6 As used throughout this Order, this would include, without limitation, an agent or attorney acting on behalf of the landlord or the owner of the residential property.

7 A person who previously filed a declaration under prior CDC eviction moratoria issued on September 4, 2020, January 29, 2021, March 28, 2021, or June 24, 2021 may be eligible for protection under this Order and does not need to file a new declaration, if they live in a county experiencing substantial or high rates of transmission of community levels of SARS-CoV-2 and meet the definition of a covered person under this Order.

(1) The individual has used best efforts to obtain all available governmental assistance for rent or housing;

(2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020 or expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return), [FN8] (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check).⁹ 10

8 According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two-bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See Out of Reach: How Much do you Need to Earn to Afford a Modest Apartment in Your State?, National Low Income Housing Coalition, <https://reports.nlihc.org/or> (last visited Mar. 23, 2021). As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

9 “Stimulus check” includes payments made pursuant to Section 2201 of the CARES Act, to Section 9601 of the American Rescue Plan Act of 2021, or to any similar federally authorized payments made to individual natural persons in 2020 and 2021. Eligibility for the 2020 or 2021 stimulus checks has been based on an income that is equal to or lower than the income thresholds described above and does not change or expand who is a covered person under this Order since it was entered into on September 4, 2020.

10 A person is likely to qualify for protection under this Order if they receive the following benefits: (a) Temporary Assistance for Needy Families (TANF); (b) Supplemental Nutrition Assistance Program (SNAP); (c) Supplemental Security Income (SSI); or (d) Social Security Disability Insurance (SSDI) to the extent that income limits for these programs are less than or equal to the income limits for this Order. However, it is the individual's responsibility to verify that their income is within the income limits described.

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary [FN11] out-of-pocket medical expenses;

11 Extraordinary expenses are defined as those that prevented you from paying some or all of your rent or providing for other basic necessities like food security. To qualify as an extraordinary medical expense, the unreimbursed medical expense is one that is likely to exceed 7.5% of one's adjusted gross income for the year.

(4) The individual is using best efforts to make timely partial rent payments that are as close to the full rent payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

(5) Eviction would likely render the individual homeless—or force the individual to move into and reside in close quarters in a new congregate or shared living setting—because the individual has no other available housing options; and

(6) The individual resides in a U.S. county experiencing substantial [FN12] or high [FN13] rates of community transmission levels of SARS-CoV-2 as defined by CDC.

12 Counties experiencing substantial transmission levels are experiencing (1) 50.99-99.99 new cases in the county in the past 7 days divided by the population in the county multiplied by 100,000; and (2) 8.00-9.99% positive nucleic acid amplification tests in the past 7 days (number of positive tests in the county during the past 7 days divided by the total number of tests performed in the county during the past 7 days). Christie A, Brooks JT, Hicks LA, et al. Guidance for Implementing COVID-19 Prevention Strategies in the Context of Varying Community Transmission Levels and Vaccination Coverage. MMWR Morb Mortal Wkly Rep 2021;70:1044-1047. DOI: <http://dx.doi.org/10.15585/mmwr.mm7030e2>. See COVID-19 Integrated County View, Centers for Disease Control and Prevention; <https://covid.cdc.gov/covid-data-tracker/#county-view> (last updated August 1, 2021).

13 Id. (defining high transmission levels as (1) ≥ 100 new cases in the county in the past 7 days divided by the population in the county multiplied by 100,000; and (2) $\geq 10.00\%$ positive nucleic acid amplification tests in the past 7 days (number of positive tests in the county during the past 7 days divided by the total number of tests performed in the county during the past 7 days)).

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a *43246 residential property. This definition also does not prohibit foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park,[FN14] or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

14 Mobile home parks may also be referred to as manufactured housing communities.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within crowded, congregate or shared living settings, or through unsheltered homelessness;
- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory;
- Mitigating the further spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent; and

- Supporting response efforts to COVID-19 at the federal, state, local, territorial, and tribal levels.

Background

COVID-19 in the United States

Since January 2020, the respiratory disease known as “COVID-19,” caused by a novel coronavirus (SARS-CoV-2), has spread globally, including cases reported in all fifty states within the United States, plus the District of Columbia and U.S. territories. As of August 3, 2021, there have been almost 200 million cases of COVID-19 globally, resulting in over 4,240,000 deaths. [FN15] Almost 35,000,000 cases have been identified in the United States, with new cases reported daily, and almost 610,000 deaths have been attributed to the disease.[FN16] A renewed surge in cases in the United States began in early July 2021; case counts rose from 19,000 cases on July 1, 2021 to 103,000 cases on July 30, 2021. Forecasted case counts predict that cases will continue to rise over the next four weeks.[FN17]

- 15 COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU), Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last updated August 3, 2021).
- 16 COVID Data Tracker, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last updated August 1, 2021).
- 17 United States Forecasting, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#forecasting_weeklycases (updated July 28, 2021) (citing data an estimated 608,569 weekly COVID-19 cases by early September 2021).

The virus that causes COVID-19 spreads very easily and sustainably between people, particularly those who are in close contact with one another (within about 6 feet, but occasionally over longer distances), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Individuals without symptoms can also spread the virus.[FN18] Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions (e.g., cancer, obesity, serious heart conditions, or diabetes) are at increased risk for severe illness from COVID-19.[FN19]

- 18 Kimball A., Hatfield K.M., Arons M., et al. Asymptomatic and Presymptomatic SARS-CoV-2 Infections in Residents of a Long-Term Care Skilled Nursing Facility—King County, Washington, March 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:377-381. DOI: <http://dx.doi.org/10.15585/mmwr.mm6913e1>.
- 19 Razzaghi H., Wang Y., Lu H., et al. Estimated County-Level Prevalence of Selected Underlying Medical Conditions Associated with Increased Risk for Severe COVID-19 Illness—United States, 2018. *MMWR Morb Mortal Wkly Rep* 2020;69:945-950. DOI: <http://dx.doi.org/10.15585/mmwr.mm6929a1>.

New variants of SARS-CoV-2 have emerged globally,[FN20] several of which have been identified as variants of concern, [FN21] including the Alpha, Beta, Gamma, and Delta variants. These variants of concern have evidence of an increase in transmissibility, which may lead to higher incidence.[FN22]

- 20 Abdool Karim S.S., de Oliveira T. New SARS-CoV-2 Variants—Clinical, Public Health, and Vaccine Implications [published online ahead of print, 2021 Mar 24]. *N Engl J Med*. 2021;10.1056/NEJMc2100362. doi:10.1056/NEJMc2100362.
- 21 Id.

- 22 Dougherty K., Mannell M., Naqvi O., Matson D., Stone J. SARS-CoV-2 B.1.617.2 (Delta) Variant COVID-19 Outbreak Associated with a Gymnastics Facility—Oklahoma, April-May 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1004-1007. DOI: <http://dx.doi.org/10.15585/mmwr.mm7028e2> (describing a B.1.617.2 (Delta) Variant COVID-19 outbreak associated with a gymnastics facility and finding that the Delta variant is highly transmissible in indoor sports settings and households, which might lead to increased incidence rates).

Currently, the Delta variant is the predominant SARS-CoV-2 strain circulating in the United States, estimated to account for over 82% of cases as of July 17, 2021.[FN23] The Delta variant has demonstrated increased levels of transmissibility compared to other variants.[FN24] Furthermore, early evidence suggests that people who are vaccinated and become infected with the Delta variant may transmit the virus to others.[FN25]

- 23 Variant Proportions, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (citing data for the two-week interval ending July 17, 2021).
- 24 About Variants of the Virus that Causes COVID-19, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/variants/variant.html> (last updated June 28, 2021).
- 25 Riemersma et al. Vaccinated and unvaccinated individuals have similar viral loads in communities with a high prevalence of the SARS-CoV-2 Delta variant. Pre-print. Available at <https://www.medrxiv.org/content/10.1101/2021.07.31.21261387v1>.

Transmission of the Delta variant has led to accelerated community transmission in the United States. CDC recommends assessing the level of community transmission using, at a minimum, two metrics: new COVID-19 cases per 100,000 persons in the last 7 days and percentage of positive SARS-CoV-2 diagnostic nucleic acid amplification tests in the last 7 days. For each of these metrics, CDC classifies transmission values as low, moderate, substantial, or high. As of August 1, 2021, over 80% of the U.S. counties were classified as experiencing substantial or high levels of community transmission.[FN26] In areas of substantial or high transmission, CDC recommends community leaders encourage vaccination and universal masking in indoor public spaces in addition to other layered prevention strategies to prevent further spread.

- 26 COVID-19 Integrated County View, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#county-view> (last updated July 28, 2021).

COVID-19 vaccines are now widely available in the United States, and vaccination is recommended for all people 12 years of age and older. Three COVID-19 vaccines are currently authorized by the U.S. Food and Drug Administration (FDA) for emergency use: Two mRNA vaccines and one viral vector vaccine, each of which has been determined to be safe and effective against COVID-19. As of July 28, 2021, over 163 million people in the United States (57.6% of the population 12 years or older) have been fully vaccinated and ***43247** over 189 million people in the United States (66.8% of the population 12 years or older) have received at least one dose.[FN27] Changes in vaccine uptake and the extreme transmissibility of the Delta variant have resulted in rising numbers of COVID-19 cases, primarily and disproportionately affecting the unvaccinated population.

- 27 COVID-19 Vaccinations in the United States, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last updated July 28, 2021).

The COVID-19 vaccination effort has a slower rate of penetration among the populations most likely to experience eviction.²⁸
 29 In combination with the continued underlying COVID-19 spread, and the overlapping factors described above, this creates considerable risk for rapid transmission of COVID-19 in high-risk settings.

- 28 Barry V., Dasgupta S., Weller D.L., et al. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity—United States, December 14, 2020–May 1, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:818–824. DOI: <http://dx.doi.org/10.15585/mmwr.mm7022e1>.
- 29 Centers for Disease Control and Prevention. COVID-19 Vaccination Equity. Accessed 8/3/21. Available at: <https://covid.cdc.gov/covid-data-tracker/#vaccination-equity>.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation and self-quarantine by people who become ill or who are at risk of transmitting COVID-19.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19 in March 2020. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally related mortgage financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020. The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and other local officials using emergency powers.

Researchers estimated that this temporary federal moratorium provided relief to over one-quarter a material portion of the nation's roughly 43 million renters.[FN30] The CARES act also provided funding streams for emergency rental assistance; surveys estimate that this assistance became available to the public through rental assistance programs by July 2020.[FN31]

- 30 Laurie Goodman, Karan Kaul, and Michael Neal. The CARES Act Eviction Moratorium Covers All Federally Financed Rentals—That's One in Four US Rental Units. The Urban Institute. April 2, 2020. <https://www.urban.org/urban-wire/cares-act-eviction-moratorium-covers-all-federally-financed-rentals-thats-one-four-us-rental-units>.
- 31 Vincent Reina et al, COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

The Federal moratorium provided by the CARES Act, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were instead protected under state and local moratoria. In early March 2021, the Census Household Pulse Survey estimated that 6.4 million households were behind on rent and just under half fear imminent eviction.[FN32] In 2016, research showed that there were 3.6 million eviction filings and 1.5 million eviction judgments over the span of a whole year,[FN33] meaning that the pandemic would cause a wave of evictions on a scale that would be unprecedented in modern times. A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus becoming at higher risk of COVID-19.

- 32 Census Household Pulse Survey: Key Phase 3 Housing Payment Findings. Office of Policy Development and Research, HUDUser (April 26, 2021). <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-042621.html>.
- 33 Ashley Gromis. Eviction: Intersection of Poverty, Inequality, and Housing. Eviction Lab, Princeton University (May 2019). https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021, and approved the Order as an exercise of the CDC's authority under Section 361 of the Public Health Service Act (42 U.S.C. 264). With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and

rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan Act of 2021. The Order was extended multiple times due to the changing public health landscape and expired on July 31, 2021 after what was intended to be the final extension.[FN34] Absent an unexpected change in the trajectory of the pandemic, CDC did not plan to extend the Order further.

- 34 The CDC Director renewed the Order until March 31, 2021. On March 28, 2021, the CDC Director modified and extended the Order until June 30, 2021. On June 24, 2021 the CDC Director extended the Order until July 31, 2021.

Following the recent surge in cases brought forth by the highly transmissible Delta variant, the CDC Director now issues a new Order temporarily halting evictions for persons in counties experiencing substantial or high rates of transmission, for the reasons described herein. This Order will expire on October 3, 2021, but is subject to further extension, modification, or rescission based on public health circumstances.

Researchers estimate that, in 2020, Federal, state, and local eviction moratoria led to over 1.5 million fewer evictions filings than the previous year.[FN35] Additional research shows that, despite the CDC eviction moratorium leading to an estimated 50% decrease in eviction filings compared to the historical average,[FN36] there have still been over 450,000 eviction filings during the pandemic just within approximately 31 cities and six states with more readily available data. This data covers approximately 1 in 4 renter households in the country, suggesting high demand and likelihood of mass evictions nationwide.[FN37]

- 35 Hepburn P., Louis R., Fish J., et al. U.S. Eviction Filing Patterns in 2020. *Socius*. January 2021. doi:10.1177/23780231211009983.

- 36 Peter Hepburn and Renee Louis. Preliminary Analysis: Six Months of the CDC Eviction Moratorium (March 8, 2021). <https://evictionlab.org/six-months-cdc/>.

- 37 Eviction Lab. Accessed 8/2/21. Available at: <https://evictionlab.org/eviction-tracking/>.

Eviction, Crowding, and Interstate Transmission of COVID-19

By February 10, 2021, the U.S. Department of the Treasury had paid all of the \$25 billion made available by the Consolidated Appropriations Act, 2021 to states, territories, localities and tribes for the purpose of providing emergency rental assistance to eligible households in their jurisdictions. Additionally, as directed in the Act, Treasury has also made available 40 percent—more than \$8.6 billion—of the additional funding to states, territories and localities for emergency rental assistance provided in the American Rescue Plan Act of 2021. While some emergency rental assistance programs were slow to open, every State program had opened by early June. Based on data collected from grantees, Treasury reports that over 85,000 renter households received rental and utility *43248 assistance to support their housing stability by the end of March and this number increased to more than 100,000 in April, more than 156,000 in May and over 290,000 in June. Though emergency rental assistance has clearly started to reach increasing numbers of families over recent months, state and local agencies have hundreds of thousands of applications for assistance that currently remain outstanding as programs accelerate their activity. The level of assistance continued to increase in June, with nearly 300,000 households served. Based on analysis of grantee reporting, Treasury believes that the monthly deployment of rental assistance by state and local emergency rental assistance programs will continue to increase from the significant deployment in June. In addition to Emergency Rental Assistance, there are coordinated efforts across Federal agencies to—in partnership with states and localities—promote eviction prevention strategies.

Recent data from the U.S. Census Household Pulse Survey demonstrates that just under half of households behind on rent believe that an eviction is likely in the next two months.[FN38] A surge in evictions could lead to the immediate and significant movement of large numbers of persons from lower density to higher density housing at a time in the United States when the highly transmissible Delta variant is driving COVID-19 cases at an unprecedented rate.

- 38 Household Pulse Survey Interactive Tool. U.S. Census Bureau. <https://www.census.gov/data-tools/demo/hhp/#/> (last visited June 23, 2021).

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. These moves may require crossing state borders. According to the 2017 Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding. Studies show that COVID-19 transmission occurs readily within households. The secondary attack rate in households has been estimated to be 17%, and household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts.[FN39] A study of pregnant women in New York City showed that women in large households (greater number of residents per household) were three times as likely to test positive for SARS-CoV-2 than those in smaller households, and those in neighborhoods with greater household crowding (>1 resident per room) were twice as likely to test positive.[FN40] Throughout the United States, counties with the highest proportion of crowded households have experienced COVID-19 mortality rates 2.6 times those of counties with the lowest proportion of crowded households.

- 39 Qin-Long Jing, et al. Household secondary attack rate of COVID-19 and associated determinants in Guangzhou, China: a retrospective cohort study. *The Lancet*. 2020 June 17; vol. 20.10; doi: [https://doi.org/10.1016/S1473-3099\(20\)30471-0](https://doi.org/10.1016/S1473-3099(20)30471-0).
- 40 Ukachi N. Emeruwa, et al. Associations Between Built Environment, Neighborhood Socioeconomic Status, and SARS-CoV-2 Infection Among Pregnant Women in New York City. *JAMA*. 2020;324(4):390-392. doi:10.1001/jama.2020.11370.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, chronic health conditions, cognitive decline, or limited access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms. Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Modeling studies and observational data from the pre-vaccine phase of the COVID-19 pandemic comparing incidence between states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 30% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction.[FN41] Compared to a scenario where no evictions occurred, the models also predicted a 4%-40% increased risk of infection, even for those who did not share housing, as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.

- 41 Nande A, Sheen J, Walters EL, Klein B, Chinazzi M, Gheorghe AH, Adlam B, Shinnick J, Tejeda MF, Scarpino SV, Vespignani A, Greenlee AJ, Schneider D, Levy MZ, Hill AL. The effect of eviction moratoria on the transmission of SARS-CoV-2. *Nat Commun*. 2021 Apr 15;12(1):2274. doi: 10.1038/s41467-021-22521-5. PMID: 33859196; PMCID: PMC8050248.

An analysis of observational data from state-based eviction moratoria in 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2-3 months after eviction moratoria were lifted. [FN42] Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with

the rates in states that maintained their moratoria. In these models, the authors accounted for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at ≥ 16 weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at ≥ 16 weeks (CI 3.1, 9.3). The authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.[FN43]

42 Leifheit KM, Linton SL, Raifman J, Schwartz GL, Benfer EA, Zimmerman FJ, Pollack CE. Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality. *Am J Epidemiol*. 2021 Jul 26;kwab196. doi: 10.1093/aje/kwab196. Epub ahead of print. PMID: 34309643.

43 Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

Although data are limited, available evidence suggests evictions lead to interstate spread of COVID-19 in two ways. First, an eviction may lead the evicted members of a household to move across state lines. Of the 35 million people in America who move each year, 15% move to a new state. Second, even if a particular eviction, standing alone, would not always result in interstate displacement, the mass *43249 evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. This Order cannot effectively mitigate interstate transmission of COVID-19 without covering intrastate evictions (evictions occurring within the boundaries of a state or territory), as the level of spread of SARS-CoV-2 resulting from these evictions can lead to SARS-CoV-2 transmission across state borders.

Moreover, intrastate spread facilitates interstate spread in the context of communicable disease spread, given the nature of infectious disease. In the aggregate, the mass-scale evictions that will likely occur in the absence of this Order in areas of substantial or high transmission will inevitably increase interstate spread of COVID-19.

Eviction, Homelessness, and COVID-19 Transmission

Evicted individuals without access to support or other assistance options may become homeless, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population. In Seattle-King County, 5-15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.[FN44] Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Data collection by an emergency shelter in Columbus, Ohio, showed that 35.4% of families and 11.4% of single adults reported an eviction as the primary or secondary reason for their seeking shelter. [FN45]

44 Count Us In 2020. KCRHA (July 2020). https://kcrha.org/wp-content/uploads/2020/07/Count-Us_In-2020-Final_7.29.2020.pdf.

45 Chester Hartman and David Robinson. "Evictions: The Hidden Housing Problem" in *Housing Policy Debate*. 2003.

Extensive outbreaks of COVID-19 have been identified in homeless shelters. In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members. In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents. COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested). Data from 634 universal diagnostic testing events at homeless shelters in 21 states show an average of 6% positivity among shelter clients. Data comparing the

incidence or severity of COVID-19 among people experiencing homelessness directly to the general population are limited. However, during the 15-day period of the outbreak in Boston, MA, researchers estimated a cumulative incidence of 46.3 cases of COVID-19 per 1000 persons experiencing homelessness, as compared to 1.9 cases per 1000 among Massachusetts adults (pre-print).

Among other things, CDC guidance recommends increasing physical distance between beds in homeless shelters, which is likely to decrease capacity, while community transmission of COVID-19 is occurring. To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above.

Application of COVID-19 Prevention Strategies Based on Community Transmission

CDC recommends strengthening or adding effective COVID-19 mitigation strategies in communities with considerable transmission risk. As discussed above, CDC guidance specifies that everyone, regardless of vaccination status, should wear masks in indoor and public settings in communities experiencing substantial or high rates of community transmission. Similarly, CDC guidance for homeless shelters recommends maintaining layered COVID-19 precautions as long as community transmission is occurring and provides options for scaling back precautions when community transmission is low.[FN46]

⁴⁶ Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19). Available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

Eviction moratoria represent a COVID-19 transmission prevention measure that can similarly be applied when the epidemiological context is appropriate, for example in communities with substantial or high transmission of COVID-19.[FN47] Prevention strategies like these should only be relaxed or lifted after two weeks of continuous sustained improvement in the level of community transmission. In areas with low or no SARS-CoV-2 transmission and with testing capacity in place to detect early introduction or increases in spread of the virus, layered prevention strategies might be removed one at a time while monitoring closely for any evidence that COVID-19 cases are increasing. Decisions to add or remove prevention strategies should be based on local data and public health recommendations. The emergence of more transmissible SARS-CoV-2 variants, including Delta, increases the urgency for public health agencies and other organizations to collaboratively monitor the status of the pandemic in their communities and continue to apply layered prevention strategies.

⁴⁷ Of course, eviction moratoria are only effective to the degree that consumers know about them and to the degree they are complied with by landlords, owners of residential property, others who have a right to evict, or their agents.

Persons at Higher Risk of Eviction May Also Be at Higher Risk of Being Unvaccinated

Communities with high rates of eviction have been shown to have lower coverage of COVID-19 vaccination—a focus for current vaccination campaigns. A study in the spring of 2021 showed that counties with high social vulnerability (i.e., social and structural factors associated with adverse health outcome inclusive of socioeconomic indicators related to risk of eviction) had lower levels of COVID-19 vaccination.[FN48]

⁴⁸ Barry V, Dasgupta S, Weller DL, Kriss JL, Cadwell BL, Rose C, Pingali C, Musial T, Sharpe JD, Flores SA, Greenlund KJ, Patel A, Stewart A, Qualters JR, Harris L, Barbour KE, Black CL. Patterns in COVID-19 Vaccination Coverage, by Social Vulnerability and Urbanicity—United States, December 14, 2020–May 1, 2021. *MMWR Morb Mortal Wkly Rep.* 2021 Jun 4;70(22):818–824. doi: 10.15585/mmwr.mm7022e1. PMID: 34081685; PMCID: PMC8174677.

CDC Eviction Moratorium

The Department of the Treasury has made funding available to states, territories, localities, and Tribal governments, which continue to distribute emergency rental assistance funds that may help mitigate spikes in COVID-19 transmission due to increases in evictions. Alongside other federal and state efforts to prevent evictions, these funds are expected to make a meaningful difference for hundreds of thousands of people who are expected to receive the rental assistance.[FN49]

49 Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey. National Low Income Housing Coalition. June 2021. https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_2021_6-22_FINAL_v2.pdf.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the *43250 Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. On March 28, the CDC Director renewed the Order until June 30, 2021. On June 24, the CDC Director renewed the Order until July 31, 2021 (July Order). The CDC Director indicated that the July Order would be the final extension of the nationwide eviction moratorium absent an unexpected change in the trajectory of the pandemic. Unfortunately, the rise of the Delta variant and corresponding rise in cases in numerous counties in the United States have altered the trajectory of the pandemic. As a result, CDC is issuing this narrower, more targeted Order to temporarily halt evictions in the hardest hit areas. Without this Order, evictions in these areas would likely exacerbate the increase in cases. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

Applicability

This Order applies in U.S. counties [FN50] experiencing substantial [FN51] and high [FN52] levels of community transmission levels of SARS-CoV-2 as defined by CDC, as of August 3, 2021. If a U.S. county that is not covered by this Order as of August 3, 2021 later experiences substantial or high levels of community transmission while this Order is in effect, then that county will become subject to this Order as of the date the county begins experiencing substantial or high levels of community transmission. If a U.S. county that is covered by this Order no longer experiences substantial or high levels of community transmission for 14 consecutive days, then this Order will no longer apply in that county, unless and until the county again experiences substantial or high levels of community transmission while this Order is in effect.

50 As used in this Order, the term “county” refers to both counties in the United States and U.S. territories.

51 Supra note 7.

52 Supra. note 8.

This Order does not apply in any state, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order or to the extent its application is prohibited by Federal court order. In accordance with 42 U.S.C. 264(e), this Order does not preclude state, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents; [FN53] (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

53 Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See What to Do if You are Sick, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> (last updated Mar. 17, 2021).

Any evictions for nonpayment of rent initiated prior to issuance of this Order but not yet completed, are subject to this Order. Any tenant, lessee, or resident of a residential property who previously submitted a Declaration, still qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under this Order. Any eviction that was completed before issuance of this Order including from August 1 through August 3, 2021 is not subject to this Order, as it does not operate retroactively.

Under this Order, covered persons may be evicted for engaging in criminal activity while on the premises. But covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offense) where the underlying activity is a covered person remaining in a residential property for nonpayment of rent. Permitting such evictions would result in substantially more evictions overall, thus increasing the risk of disease transmission as otherwise covered persons move into congregate settings or experience homelessness. This result would be contrary to the stated objectives of this Order, and therefore would diminish their effectiveness. Moreover, to the extent such criminal trespass laws are invoked to establish criminal activity solely based on a tenant, lessee, or resident of a residential property remaining in a residential property despite the nonpayment of rent, such invocation conflicts with this Order and is preempted pursuant to 42 U.S.C. 264(e).

Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

This Order is in effect through October 3, 2021, based on the current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. This timeframe will allow the assessment of natural changes to COVID-19 incidence, the influences of new variants, additional distribution of emergency rental assistance funds, and the expansion of COVID-19 vaccine uptake.

Declaration Forms

To qualify for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. To assist tenants and landlords, the CDC created a standardized declaration form that can be downloaded here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Tenants, lessees, and residents of residential property are not obligated to use the CDC form. Any written document that an eligible tenant, lessee, or resident of residential property presents to their landlord will comply with this Order, as long as

it contains the required elements of “Covered person” as described in this Order. In *43251 addition, tenants, lessees, and residents of residential property are allowed to declare in writing that they meet the elements of “Covered person” in other languages.

All declarations, regardless of form used, must be signed, and must include a statement that the tenant, lessee, or resident of a residential property understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. This Order does not preclude a landlord challenging the truthfulness of a tenant's, lessee's, or resident's declaration in court, as permitted under state or local law.

In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents party to the lease, rental agreement, or housing contract. The declaration may be signed and transmitted either electronically or by hard copy.

As long as the information in a previously signed declaration submitted under a previous order remains truthful and accurate, covered persons do not need to submit a new declaration under this Order. However, eligibility for protection will be based on the terms of this Order.

Findings and Action

Determination

For the reasons described herein, I have determined based on the information below that issuing a temporary halt in evictions in counties experiencing substantial or high levels of COVID-19 transmission constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.

State and local jurisdictions continue to distribute emergency rental assistance funds, provided by the Department of Treasury, that will help avert a spate of evictions and thus mitigate corresponding spikes in COVID-19 transmission. Trends have dramatically worsened since June 2021 and transmission is rapidly accelerating in the United States.[FN54]

⁵⁴ COVID Data Tracker, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last updated June 22, 2021).

Congress has appropriated approximately \$46 billion—of which almost three-quarters is currently available to state and local grantees—to help pay rent and rental arrears for tenants who may otherwise be at high risk of eviction. According to estimates based on the U.S. Census Household Pulse Survey, approximately 6.9 million renter households were behind on their rent in late June. At that time, about 4.6 million renter households were concerned that they could not pay next month's rent. The successful delivery of those funds by states and localities should greatly reduce the incidence of eviction that would occur in the absence of that support. However, many states and localities are still ramping up the collection and processing of applications and the delivery of assistance and putting in place other eviction prevention strategies. It was only in the beginning of June that all state-run emergency rental assistance programs had opened for applications. If the moratorium is not in place, a wave of evictions, on the order of hundreds of thousands, could occur in late summer and early fall, exacerbating the spread of COVID-19 among the significant percentage of the population that remains unvaccinated. In appropriating these emergency rental assistance funds, Congress intended that the funding would work in concert with the eviction moratorium, providing time for rental assistance to reach eligible tenants and landlords to sustainably reduce the threat of an eviction wave after an eviction moratorium was no longer in effect. While the pace of assistance is continuing to increase, without additional time for states and localities to deliver this needed relief and engage in other efforts to prevent evictions, a surge of evictions would occur upon the conclusion of the national moratorium. A surge in evictions would lead to immediate movement, crowding, and increased stress on the homeless

service system. In combination with surging COVID-19 rates across the country, and the overlapping factors described above, this would create considerable risk for the rapid transmission of COVID-19 in high-risk settings.

Based on the convergence of these issues, I have determined that issuing a new Order temporarily halting evictions is appropriate.

Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any county or U.S. territory while COVID-19 transmission is substantial or high and the relevant state, county, locality, or territory has provided a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (APA) but rather an emergency action taken under the existing authority of 42 CFR 70.2. The purpose of section 70.2, which was promulgated through notice-and-comment rulemaking, is to enable CDC to take swift steps to prevent contagion without having to seek a second round of public comments and without a delay in effective date.[FN55]

55 *Chambless Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849 (W.D. La. 2020).

Good Cause

In the event this Order qualifies as a rule under the APA, there is good cause to dispense with prior public notice and comment and a delay in effective date. See 5 U.S.C. 553(b)(B), (d)(3). Good cause exists, in sum, because the public health emergency caused by the COVID-19 pandemic and the unpredictability of the trajectory of the pandemic make it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

I have determined that good cause exists because the public health emergency caused by COVID-19 makes it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of the Order. A delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant public health consequences. I conclude that the delay in the effective date of the Order would defeat the purpose of the Order and endanger the public health and, therefore, determine that immediate action is necessary.

The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations. Despite promising trends in the spring of 2021, the surge of cases spurred by the Delta variant has confirmed that the fundamental public health threat—of the risk of large numbers of residential evictions contributing to the spread of COVID-19 throughout the United States—continues to exist. Without this Order, there is every reason to expect that evictions will increase dramatically *43252 at a time when COVID-19 infections in the United States are increasing sharply. It is imperative that public health authorities act quickly to mitigate such an increase of evictions, which could increase the likelihood of new spikes in SARS-CoV-2 transmission. Such mass evictions and the attendant public health consequences would be very difficult to reverse.

For all of these reasons, I hereby conclude that immediate action is again necessary and that notice-and-comment rulemaking and a delay in effective date would be impracticable and contrary to the public interest.

Miscellaneous

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be an economically significant regulatory action pursuant to Executive Order 12866 and a major rule under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act or CRA), 5 U.S.C. 804(2). Thus, this action has been reviewed by OIRA. CDC has determined that for the same reasons given above, there would be good cause under the CRA to make the requirements herein effective immediately. 5 U.S.C. 808(2).

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

This Order shall be enforced by federal authorities and cooperating state and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 or one year in jail, or both, if the violation does not result in a death, or a fine of no more than \$250,000 or one year in jail, or both if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid state and local authorities in the enforcement of their quarantine and other health regulations and to accept state and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD), the Department of Agriculture, and the Department of the Treasury have informed CDC that unprecedented emergency resources have been appropriated through various Federal agencies that assist renters and landlords during the pandemic, including \$46.55 billion to the Treasury through the Consolidated Appropriations Act of 2021 and the American Rescue Plan (ARP). Furthermore, in 2020 44 states and 310 local jurisdictions allocated about \$3.9 billion toward emergency rental assistance, largely from funds appropriated to HUD from the Coronavirus Aid, Relief, and Economic Security (CARES).[FN56] These three rounds of federal appropriations also provided substantial resources for homeless services, homeowner assistance, and supplemental stimulus and unemployment benefits that low-income renters used to pay rent.

⁵⁶ Vincent Reina et al, COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

Visit <https://covid.cdc.gov/covid-data-tracker/#county-view> for an integrated, county view of levels of community transmission for monitoring the COVID-19 pandemic in the United States. Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program. Visit www.consumerfinance.gov/renthelp to access the Rental Assistance Finder that connects renters and landlords with the state and local programs that are distributing billions of dollars in federal assistance. Relevant agencies have informed CDC that

forbearance policies for mortgages backed by the federal government provide many landlords, especially smaller landlords, with temporary relief as new emergency rental assistance programs are deployed.

Treasury, HUD, and USDA grantees and program participants play a critical role in prioritizing efforts to support this goal. All communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

Treasury, HUD, and USDA stand at the ready to support American communities in taking these steps to reduce the spread of COVID-19 and maintain economic prosperity.

For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, state and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties. Furthermore, tenants can visit consumerfinance.gov/housing for up-to-date information on rent relief options, protections, and key deadlines.

Effective Date

This Order is effective on August 3, 2021 and will remain in effect through October 3, 2021, subject to revision based on the changing public health landscape.

Authority: The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Sherri Berger,

Chief of Staff, Centers for Disease Control and Prevention.

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