

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AND  
THE DEPARTMENT OF HOMELAND SECURITY**

**I. PURPOSE**

The purpose of this Memorandum of Understanding (MOU) between the Department of Health and Human Services (HHS) and the Department of Homeland Security (DHS) (the "parties") is to establish specific cooperation mechanisms as part of a broad framework for cooperation to enhance the Nation's preparedness against the introduction, transmission, and spread of quarantinable and serious communicable diseases from foreign countries into the States, territories, and possessions of the United States.

**II. BACKGROUND**

The HHS Secretary has statutory responsibility to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. The Centers for Disease Control and Prevention (CDC), a component of HHS, is responsible for preventing and controlling disease and promoting health and education activities designed to improve the health of the people of the United States. CDC has statutory authority to detain, isolate, quarantine, or conditionally release persons arriving into the United States reasonably believed to be infected with quarantinable diseases. Some of the activities CDC undertakes to meet its legal and regulatory responsibilities include: overseeing the screening of arriving international travelers for symptoms of illness that could be of public health significance; providing travelers with essential health information; performing inspections of carriers, maritime vessels, and cargos for infectious disease threats; enforcing entry requirements for certain animals, etiologic agents, and vectors deemed to be of public health significance; and promulgating and implementing quarantine regulations.

DHS is responsible for preventing and protecting the Nation against terrorist attacks, major disasters, and other emergencies. Component agencies of DHS analyze threats and intelligence, secure the borders and the transportation system, protect the critical infrastructure, and plan the coordinated response. Three agencies within DHS, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the United States Coast Guard (USCG), consistent with their legal authorities, are statutorily permitted, pursuant to 42 U.S.C. § 268(b), to aid CDC "in the enforcement of quarantine rules and regulations." They may also detain, pending a determination of inadmissibility, aliens arriving into the United States.

Collaboration under the auspices of this MOU will be carried out primarily between the following entities within HHS and DHS:

For HHS:                CDC  
  
For DHS:                CBP  
                              ICE  
                              USCG

### **III.     DEFINITIONS**

The following definitions will govern this MOU:

“Communicable disease” means, unless otherwise defined in 42 C.F.R. Part 71, an illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person or animal or a reservoir to a susceptible host, either directly or indirectly through an intermediate animal host, vector, or the inanimate environment.

“International traveler” means any international traveler, regardless of nationality or citizenship status including, but not limited to, returning residents, arriving immigrants, illegal immigrants, and citizens of the United States.

“Quarantinable disease” means any of the communicable diseases listed in an Executive Order of the President, as provided under section 361 of the Public Health Service Act (42 U.S.C. 264). The current list of quarantinable diseases as set forth in Executive Order 13295 of April 4, 2003, as amended, includes: cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, Severe Acute Respiratory Syndrome (“SARS”), and influenza caused by novel or reemerging influenza viruses that are causing, or have the potential to cause, a pandemic.

### **IV.     AUTHORITY**

Pursuant to 42 U.S.C. §§ 264-71, the Secretary of HHS may 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, territories, or possessions, or from one State, territory, or possession into any other State, territory, or possession. Those regulations may provide for the apprehension, detention, or conditional release of individuals only 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 (“quarantinable diseases”) upon the recommendation of HHS. The President has specified SARS and influenza viruses that cause or may cause a pandemic, among others, in the list of communicable diseases subject to HHS regulations regarding quarantine and inspection. See Executive Order 13295 (Apr. 4, 2003), as amended; 42 C.F.R. Parts 70 & 71.

CDC enters into this MOU under the authority provided by sections 361 and 365 of the Public Health Service Act (42 U.S.C. §§ 264 and 268).

DHS enters into this MOU under the authority of the Homeland Security Act of 2002, § 102(b)(2) (6 U.S.C. § 112(b)(2)).

CBP and ICE have the authority to carry out obligations set forth in this MOU pursuant to 42 U.S.C. § 268(b), and pursuant to their inherent authority relating to agreements necessary to perform their functions.

The USCG has the authority to carry out obligations set forth in this MOU pursuant to 14 U.S.C. §§ 141 and 147a, and 42 U.S.C. § 268(b).

Pursuant to the Aviation and Transportation Security Act, Pub. L. No. 107-71 (Nov. 19, 2001), DHS has additional authorities to regulate the security of air and other transportation, and it is prepared to exercise those authorities to require necessary precautions and measures in the event of an H5N1 pandemic, including requiring the medical screening of international travelers prior to flights to the United States. At this time, HHS and CDC do not foresee a need to rely on these transportation security authorities with respect to an H5N1 influenza pandemic; they will notify DHS and agree on appropriate measures under these authorities in the event that circumstances change.

## V. FORMS OF COOPERATION

The parties agree to cooperate in the following areas:

### A. Information Sharing and Collection

The parties agree that the sharing of certain information may be useful in preventing the introduction, transmission, and spread of quarantinable and serious communicable diseases into the U.S. and within the U.S. As such, the parties, acting through their respective component agencies, agree to the following:

#### 1. DHS/CPB

CPB will provide relevant information, if available and pursuant to paragraph A.4.a. of this article, to HHS/CDC from the following data sources for contact tracing purposes:

- a. CBP agrees to share information collected through CBP Form 6059B, "Customs Declaration,"
- b. CBP agrees to share information collected through the Advance Passenger Information System (APIS) in response to a specific request by CDC, as permitted in 19 C.F.R. § 122.49a(e);

- c. CBP agrees to provide Passenger Name Record (PNR) data to HHS/CDC, in accordance with all applicable rules and conditions provided in the EU Undertakings (69 Fed. Reg. 41543)(which apply equally to PNR data derived from flights between the U.S. and Iceland) and the Swiss Undertakings, subject to the following requirements:
- 1) that HHS/CDC submit all requests for data in writing, providing the purposes for making such a request;
  - 2) that HHS/CDC agrees that any data requests submitted to CBP will be necessary for the protection of the vital health interests of the data subject or of other persons, in regard to significant health risks;
  - 3) that every transfer of data under this paragraph will be treated by HHS/CDC as set forth in Appendix A of this MOU;
  - 4) Receipt of such data by HHS/CDC, along with the cover sheet of information provided in Appendix A of this MOU, constitutes acknowledgement and acceptance by HHS/CDC of the conditions of the transfer as outlined in Appendix A;
  - 5) that HHS/CDC agree that any further transfer of such data will only be to a state or local government authority directly involved in contact tracing associated with the incident (“relevant government authority”) and will remain consistent with the purposes it outlined in its original request for the data from CBP;
  - 6) that HHS/CDC will provide a copy of Appendix A along with any data transferred to relevant government authorities and, as a means of documenting the acceptance of the conditions and requirements of the transfer to these relevant government authorities, HHS/CDC will obtain an acknowledgement from those parties that the subsequent transfer is also governed by all conditions contained in Appendix A;
  - 7) that HHS/CDC document any transfer of the data to a relevant government authority and provide that information, along with the corresponding acknowledgement, along with the information transferred, to CBP upon request; and
  - 8) that HHS/CDC and all relevant government authorities receiving PNR information will ensure the orderly disposal of such information consistent with their own applicable record retention procedures.
- d. CBP information shared with CDC may be subject to other restrictions that CDC will be required to observe, including the Privacy Act. With the exception of PNR as described in this MOU, such information may only be shared, without prior written

consent of CBP, with necessary State and local government health related agencies for contact tracing purposes as long as the transfer remains in furtherance of, and related to, the original purpose for the transfer from CBP to HHS/CDC.

- e. Pursuant to consultations described in paragraph A.4.f. of this article, CBP will share with CDC additional data elements as agreed between the parties.

2. USCG

- a. USCG agrees to assist CDC by sharing its extensive network of maritime contacts;
- b. USCG agrees to issue Marine Safety Information Broadcasts (MSIB) that contain a list of questions that CDC requests be answered in connection with the required radio reports of illness from vessel masters;
- c. USCG agrees to question the master of all vessels it boards prior to entry into port to obtain the same information as required for an MSIB; and
- d. USCG agrees to advise immediately the cognizant quarantine station having jurisdiction over the relevant port regarding a positive response indicating the presence of a suspect ill person.

3. ICE

- a. ICE will provide CDC, in response to a specific request from CDC, with information, as permitted by law and other agreements;
- b. ICE information shared with CDC may be subject to the Privacy Act and is not to be shared further with any party, agency, or individual without the express, written consent of ICE (*i.e.*, subject to the Third Agency Rule); and
- c. ICE reserves the right to implement strict restrictions regarding the use, storage, protection, and dissemination of any information it may share.

4. HHS/CDC

- a. The decision to request passenger manifest information will be based on a determination by the CDC Director that identification and notification of passengers, crewmembers, or their contacts potentially exposed to a serious communicable disease are reasonably necessary to prevent the introduction, transmission, or spread of disease from a foreign country into the United States or from one state or possession into another;
- b. CDC will share with DHS and/or its component agencies, on its own initiative or upon request:
  - (1) public health information concerning potential communicable disease threats;
  - (2) appropriate infection control practices; and
  - (3) safety measures for the protection of officers, employees, and contractors of DHS and its component agencies;
- c. CDC will protect all information it receives from DHS and/or its component agencies from dissemination and disclosure as requested by the owner agency, and in accordance with applicable laws and regulations;
- d. In carrying out its responsibilities described in this MOU, CDC may share information with DHS that may be subject to the Privacy Act, such as the names of international travelers. Such information is not to be shared further with any party, agency, or individual without the express, written consent of CDC (*i.e.*, subject to the Third Agency Rule);
- e. It is understood by all parties that CDC, in fulfilling its role in facilitating the identification, evaluation, and treatment of persons exposed to communicable disease during travel, may disclose information obtained from DHS to health departments and other public health or cooperating medical authorities. Such disclosures are governed under CDC Privacy Act System Notice 09-20-0136, entitled Epidemiologic Studies and Surveillance of Disease Problems, which also outlines the policies and procedures that will be used by CDC to safeguard all protected information received from DHS, subject to the provisions of Article V, paragraph A(1) of this MOU; and

- f. HHS will provide to DHS a list of additional data elements HHS deems necessary to identify passengers who may be infected with a quarantinable or serious communicable disease, as well as to facilitate contact tracing in the United States. HHS will consult further with DHS to arrive at a mutually agreed-upon list of such data elements and to outline further steps as necessary to obtain such information expeditiously when either party believes there is a public health emergency.

B. Travelers' Health and Medical Surveillance

The parties agree to assist one another in informing the traveling public of potential disease threats, including assisting in the distribution and dissemination of CDC Travel Notices or Health Alert Notices if necessary and as resources permit.

In addition, DHS personnel will assist with passive and, as provided in paragraph 2 of this section, active surveillance for quarantinable or serious communicable diseases of public health significance among persons arriving in the U.S. from foreign countries. It is understood between the parties that DHS personnel may not have medical training and therefore are not expected to physically examine or diagnose illness among arriving travelers.

1. Passive surveillance by DHS personnel would generally consist of the recognition and reporting of overt visible signs of illness or information about possible illness provided to them in the course of their routine interactions with arriving passengers. Passive surveillance does not involve the eliciting of a medical history or performance of a medical examination.
2. In situations where a significant outbreak of a quarantinable disease is detected abroad, CDC may request that DHS personnel assist with active surveillance in order to prevent the spread of disease to the United States. Active surveillance by DHS personnel will be contingent on approval by the Secretary of DHS, or his delegee, of a formal request by the Secretary of HHS, or his delegee.

3. Active surveillance may consist of a number of methods to assess risk that individual passengers, arriving from affected countries or regions, are carrying a quarantinable disease. CDC will ensure that a quarantine officer or designated official with public health training will be on site at the port of entry to evaluate any individual identified through active surveillance.
4. CDC will consult with DHS on the scope and the nature of the surveillance method(s) used to ensure that impact on DHS  
I - - - - With respect to active surveillance, CDC will further provide explicit guidance to DHS as to what response or combination of responses to surveillance questions or measures should prompt immediate communication with the quarantine officer or public health designee.

C. Disease Reporting, Inspection, and Entry Requirements

CDC has statutory authority to require reporting of ill travelers, conduct certain public health inspections of carriers and cargo, and impose certain entry requirements for carriers and cargo that may pose a communicable disease threat. DHS will aid CDC in the enforcement of its statutory authority regarding quarantine rules and regulations pursuant to operational guidelines to be developed by mutual agreement of the parties. Such guidelines will include emergency measures to be taken when a carrier or vessel is determined, after leaving a foreign port, to be carrying a passenger or passengers with a quarantinable or serious communicable disease.

D. Quarantine Enforcement and Detention

As part of CDC's authority to prevent the introduction, transmission, and spread of communicable diseases into the United States, its possessions, and territories, CDC is authorized to isolate and/or quarantine arriving persons reasonably believed to be infected with or exposed to specified quarantinable diseases and to detain carriers and cargo infected with a communicable disease.

DHS has agreed to assist CDC in the execution and enforcement of these authorities, primarily in the enforcement of CDC-issued quarantine orders, and through collaboration with other Federal, State, and local law enforcement entities, as necessary. The manner in which CDC and DHS will coordinate detention efforts will be set forth in detail in operational guidelines agreed upon by the parties, including in specific operational guidelines agreed between CDC and DHS for pandemic H5N1 influenza.



E. Transportation

Once a determination has been made to quarantine an individual, appropriate means of transportation must be secured for movement from ports of entry or between the ports of entry to an appropriate facility for quarantine. DHS will assist CDC pursuant to operational guidelines as agreed upon by the parties, including in specific operational guidelines agreed between CDC and DHS for pandemic H5N1 influenza.

F. Employee Health and Worker Protection and Countermeasures

The parties agree that the safety and health of officers, agents, employees, and contractors of DHS and its component agencies during their participation in the various activities described in this MOU to assist CDC in the enforcement of quarantine rules and regulations is of primary importance. As such, the parties agree to the following:

1. DHS component agencies

- a. DHS component agencies will keep track of and notify CDC of all agency officers, employees, and/or contractors participating in the detention of, or otherwise have become exposed to, reportedly ill persons; and
- b. For each case in which personnel from DHS component agencies assist in a manner that causes potential exposure to a reportedly ill person, DHS component agencies will provide participating CDC personnel with supervisory contact names and telephone numbers so that CDC may advise them appropriately.

2. CDC

- a. CDC will provide DHS personnel assisting HHS pursuant to this MOU with training consistent with standard practices applicable to health care workers;
- b. Where CDC or other medical personnel are on hand to evaluate a potentially ill traveler, the medical personnel will also evaluate and provide appropriate treatment guidelines for DHS personnel who have been potentially exposed during the provision of assistance to that person or persons;

- c. With regard to each specific case where DHS component agency officers, employees, and/or contractors potentially have been exposed to a potentially ill person during their provision of assistance to that person, CDC will immediately advise appropriate DHS component agencies throughout the course of the investigation and after the final medical determination concerning the diagnosis of a particular communicable disease;
- d. CDC will provide recommendations to DHS regarding the appropriate immunizations required by any DHS personnel who may be potentially exposed to ill persons or quarantinable diseases;
- e. CDC will immediately advise DHS component agencies of specific and appropriate precautions and medical treatment that any potentially exposed officers, employees, and/or contractors of DHS and/or its component agencies should undertake;
- f. CDC will provide the training necessary to enable DHS staff to fulfill their obligations to assist with medical surveillance as described in this agreement. CDC will continue to contribute to the curriculum of the Customs and Border Protection Integrated Officers' Course, which is provided to new staff at the Federal Law Enforcement Training Center in Glynco, GA. In addition, follow-up, onsite training seminars will be conducted, at a minimum, at the major ports of entry or Border Patrol stations where CDC Quarantine Stations are located and can be arranged at other locations upon request by the CBP Port Director or CBP Border Patrol Sector Chief. Finally, CDC Quarantine Station staff, including the lead public health officer and Quarantine Medical Officer or their designee will be available by phone to respond to specific questions related to medical surveillance that may arise. CDC anticipates that the training curriculum and materials will undergo significant revision and refinement coincident with the Quarantine Station expansion and enhancement initiative currently underway. CDC will include DHS staff in this process so that staff training needs may be assessed and adequately addressed;
- g. CDC will provide to DHS guidelines on determining those personnel most likely to be affected in the event of a public health emergency;

- h. CDC and DHS will consult further on the appropriate allocation of countermeasures for personnel exposed or potentially exposed to quarantinable or serious communicable diseases in the event of a public health emergency; and
- i. CDC will promptly provide specific guidance on recommended measures to protect mass transit from the spread of pandemic influenza.

G. Prevention

- 1. DHS and HHS will consult further on potential means of containing quarantinable or serious communicable disease overseas. Such consultations shall include:
  - a. Discussions with the Department of State, as appropriate, to develop guidance on the circumstances under which the issuance of visas in an affected area may be restricted in the event of a public health emergency.
  - b. Development of guidelines and, as appropriate, authority to station officials overseas and to screen conveyances overseas for health reasons in order to prevent the spread of quarantinable and serious communicable diseases into the United States.
- 2. HHS commits to amend promptly its regulations defining diseases of public health significance rendering an alien inadmissible under U.S. immigration law to include quarantinable diseases.

V. **FUNDING**

This MOU is not an obligation nor a commitment of funds, nor a basis for a transfer of funds, but rather a statement of understanding between the parties. Expenditures by each party are subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies.

VI. **SETTLEMENT OF DISPUTES**

Disagreements between the parties arising under or relating to this MOU will be resolved only by consultation between the parties and will not be referred to any State or Federal court, or to an international tribunal.

## **VII. POINTS OF CONTACT**

The review, request for changes, and interpretation of the general provisions of this MOU will be coordinated through the senior point of contact designated below:

For CDC:     Martin Cetron, Director  
                  Division of Global Migration and Quarantine  
                  Centers for Disease Control and Prevention  
                  Executive Park, Bldg. 57, 5<sup>th</sup> Floor, MS-E03  
                  Atlanta, GA 30333  
                  (404) 498-1600  
                  mctron@cdc.gov

For DHS:     Office of the Chief Medical Officer  
                  Department of Homeland Security

The parties will consult further as to the necessity of designating emergency or other points of contact in order to carry out particular operational duties described in this MOU or to be developed by the parties.

## **VIII. AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION**

- A.     Except as otherwise provided, this MOU may be amended by the mutual written consent of the authorized representatives for DHS and HHS.
- B.     Either party may unilaterally request renegotiation of this MOU. Such renegotiations shall commence not later than 30 days after such request is made.
- C.     This MOU may be terminated at any time upon the mutual written consent of the parties. In the event both parties consent to terminate this MOU, the parties will consult prior to the date of termination to ensure termination of the most economical and equitable terms.
- D.     Either party may terminate this MOU upon 30 days written notification to the other party. Such notice will be the subject of immediate consultation by the parties to decide upon the appropriate course of action.
- E.     This MOU will enter into effect upon signature of both parties and will remain in effect until terminated.

**IX. EFFECT ON PROCEDURES AND LAWS**

- A. All assistance provided under this MOU must comply with applicable law, regulations, and agency policies.
- B. In the event of a public health emergency, nothing in this agreement shall be construed so as to prohibit or restrict either party from taking necessary actions, either on its own, in conjunction with the other party, or in coordination with other agencies, to respond to the emergency.

**X. NO PRIVATE RIGHT CREATED**

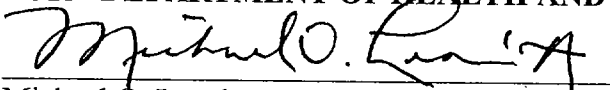
This document is an internal Agreement between DHS and HHS, including their components, and does not create or confer any right or benefit on any other person or party, private or public. Nothing in this Agreement or its addenda is intended to restrict the authority of either signatory to act as provided by law or regulation, or to restrict any agency from enforcing any laws within its authority or jurisdiction.

None of the obligations undertaken in this Agreement are intended to conflict with or override any preexisting statutory or regulatory obligation of either Department, including each of their components. Where such a conflict exists, the Departments agree that the statutory, regulatory, or other requirement imposed by law will supersede the agreement term.

**XI. APPROVING SIGNATURES**

The foregoing represents the understandings reached between the HHS and DHS upon the matters referred to therein.

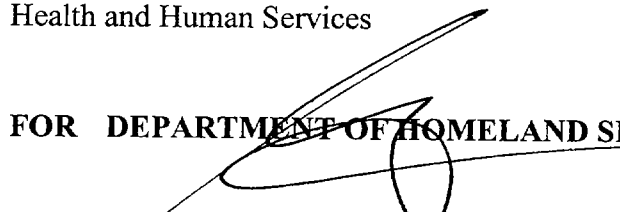
**FOR DEPARTMENT OF HEALTH AND HUMAN SERVICES**



Michael O. Leavitt  
Secretary, United States Department of  
Health and Human Services

OCT 19 2005  
Date

**FOR DEPARTMENT OF HOMELAND SECURITY**

  
Michael Chertoff  
Secretary, United States Department of  
Homeland Security

10/7/05  
Date

## APPENDIX A

### **SAMPLE DATA SHARING PROVISION TO ACCOMPANY TRANSMISSION OF PASSENGER INFORMATION FROM DHS TO CDC**

[INSERT ADDRESSEE NAME & AGENCY]

[INSERT EXPLANATION REGARDING WHAT THE DATA IS AND WHY IT IS BEING PROVIDED...”pursuant to your request received on (GIVE DATE OF REQUEST)”]

The information transferred to the receiver of this data is the **Property of U.S. Customs and Border Protection (CBP)**. It will be transferred to your agency for your **official use only** and remains the property of CBP.

CBP generally considers Passenger Name Record (PNR) information, which it accesses from an air carrier's reservation and departure control system, to be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. §§ 552. The attached data may also be protected under the Privacy Act if the subject of the record is a U.S. citizen or lawful permanent resident. 5 U.S.C. § 552a. Furthermore, the Trade Secrets Act (18 U.S.C. § 1905) prohibits federal employees from disclosing protected information without authorization and imposes personal sanctions on employees who do so. However, CBP permits access to PNR information by other federal, state, local and foreign agencies, strictly for specific purposes, one of which is where such disclosure is necessary for the protection of the vital interests of the data subject or of other persons, particularly with regards to significant health risks.

The requested data will be provided to [INSERT AGENCY/DEPARTMENT NAME] for health-related contact tracing purposes involving any and all passenger(s) who are referenced in this data and/or may be affected by the incident/event specified in the above-mentioned request. Your agency represents that this disclosure is necessary for the protection of the vital interests of the data subject or another individual, particularly with regards to significant health risks. The data received pursuant to the execution of this document and the acceptance of these conditions cannot be used for any purpose that is inconsistent with said request. Your agency must ensure the orderly disposal of this information, consistent with your own record retention procedures. Any subsequent transfer of this information (or any portion thereof) by your agency to state and local “relevant government authorities” must be in furtherance of, and consistent with, the same purposes contained in the original request submitted to CBP by HHS/CDC.

FOR HHS/CDC:

Acceptance of the requested information from CBP constitutes your agency's acknowledgement of the requirements and conditions of the disclosure, as set forth in this cover page.

FOR ALL OTHER RECIPIENTS:

A representative of your agency/organization must provide his/her signature as your agency's acknowledgement of the conditions of the transfer, as set forth in this letter. Please fax this acknowledgement to HHS/CDC immediately.

FOR ALL RECIPIENTS, including HHS/CDC:

Your agency agrees to forward this cover page along with any further disclosures of the requested information to state and/or local "relevant government authorities" directly involved in contract tracing efforts associated with the above-mentioned incident. All further disclosures and the purposes of those transfers must be documented by HHS/CDC and the collection of the acknowledgement that accompanies said transfers, and provided to CBP upon request. In addition, all such transfers are also subject to the same conditions imposed upon your agency with regards to the original transfer from CBP to HHS/CDC, as outlined in this letter.

Please be advised that any unauthorized release of PNR data may jeopardize CBP's ability to obtain this critically important data from air carriers, thereby also jeopardizing the ability of HHS/CDC and all other relevant state and local governments to obtain the information from CBP in the future.

Acknowledgement of conditions:

\_\_\_\_\_ date  
on behalf of Agency receiving data

(Please identify Agency receiving data & contact information below)

\_\_\_\_\_  
\_\_\_\_\_

If this office may be of further assistance, please contact  
[INSERT CONTACT NAME AND PHONE].

Sincerely,

## **HHS-DHS Operational Guidelines on Preventing the Introduction of H5N1 Influenza into the United States**

### Introduction

On [date], the Department of Health and Human Services (HHS) and the Department of Homeland Security (DHS) concluded a Memorandum of Understanding (MOU) to enhance U.S. preparedness against the introduction, transmission, and spread of quarantinable and serious communicable diseases from foreign countries into the United States. In order to fully implement the provisions of the MOU in the event of an outbreak of H5N1 influenza outside the United States, the two departments will apply the following specific operational guidelines on preventing the introduction of any H5N1 pandemic influenza into the United States.

#### A. Travelers' Health and Medical Surveillance

DHS and HHS will cooperate to enhance surveillance for H5N1 influenza at U.S. ports of entry in the event of an outbreak overseas.

1. DHS personnel will assist with passive surveillance for H5N1 influenza among persons arriving in the U.S. from foreign countries. Passive surveillance consists of the recognition and reporting of overt visible signs of H5N1 influenza or information about possible infection with H5N1 influenza provided to them in the course of their routine interactions with arriving passengers.
2. CDC will provide DHS with a list of symptoms of H5N1 influenza for which DHS personnel should observe passengers to the extent possible.
3. DHS personnel may also assist with active surveillance, upon request of the Secretary of HHS or his delegee, and upon approval of the Secretary of DHS or his delegee, in situations where a significant outbreak of H5N1 influenza is detected abroad. Active surveillance means any of a number of methods to assess risk that individual passengers, arriving from affected countries or regions, are carrying H5N1 influenza.
4. CDC will provide proposed questions to DHS, as well as explicit guidance as to what response or combination of responses to surveillance questions or measures should prompt immediate communication with the quarantine officer or public health designee. CDC will ensure that a quarantine officer or designated official with public health training will be on site at the port of entry to evaluate any individual identified through active surveillance.
5. Components of DHS and HHS will take the following specific actions to carry out surveillance for H5N1 influenza.



CBP

- a. CBP will obtain information from specific international travelers in an effort to determine the general health status of the traveler, when requested by CDC or on its own initiative, under guidelines established by CDC and agreed to by CBP;
- b. CBP will assist in the distribution of CDC-provided health alert cards and other information concerning travel health alerts and advisories issued by CDC; and
- c. In response to a specific request, based upon information provided by CDC, CBP will assist CDC in notifying other Federal agencies and organizations and other officials of potential threats and emergencies relating to H5N1 influenza.

CDC

- a. CDC will develop, with the advice and agreement of affected agencies, appropriate guidelines and protocols for interviewing international travelers;
- b. CDC will collaborate with appropriate State and local public health entities and international health organizations, such as the World Health Organization, in developing and applying prevention and control methods relating to H5N1 influenza; and
- c. CDC will develop guidelines and precautions to be used for the promotion of the health and safety of officers, employees, and contractors of DHS and its component agencies.

B. Reporting, Inspection, and Entry Requirements

The relevant components of DHS and HHS will take the following actions to enforce quarantine rules and regulations in the event of an outbreak of H5N1 influenza. Any obligations under this section are dependent on the availability of agreed protective equipment and measures for DHS personnel.

1. CBP

- a. When requested, CBP agrees to escort CDC personnel while boarding conveyances engaged in international travel; and

- b. When requested, and on the basis of a determination by HHS or CDC personnel that the action is necessary for public health reasons, CBP agrees to withhold or withdraw clearance to any vessel traveling from international waters that has docked in a U.S. port.

2. USCG

- a. USCG agrees to enforce CDC-issued “no sail” orders; and
- b. When requested, USCG agrees to escort CDC personnel while boarding conveyances.

3. ICE

In cases where ICE has detained, or otherwise intercepted, an alien who has previously entered the United States who exhibits symptoms of H5N1 influenza, or is suspected of carrying or having been exposed to H5N1 influenza, ICE will, in accordance with its guidelines and practices, and applicable laws, contact CDC to seek assistance. This assistance may include CDC’s issuance of a temporary detention order or quarantine order, or CDC’s coordination of State and local response. Where parole of an alien under these circumstances is impracticable, ICE may temporarily detain the individual pending a determination of inadmissibility in removal proceedings, based upon its authority set forth in section 1226 of Title 8, United States Code.

4. CDC

- a. CDC will disseminate public health information to carriers and maritime vessels; and
- b. CDC will collaborate with other Federal, State, and local public health entities as necessary and as required by law.

C. Quarantine Enforcement and Detention

DHS and CDC will take the following actions to execute and enforce quarantine authorities in the event of an outbreak of H5N1 influenza. Any obligations under this section are dependent on the availability of agreed protective equipment and measures for DHS personnel as well as the availability of agreed quarantine facilities, including emergency facilities.

1. Arrivals by Air

a. CBP

(1) When requested by CDC:

(a) CBP will meet and escort a quarantine officer, other CDC personnel, or CDC designee at the U.S. airport destination of an international flight in order to board a conveyance to determine the status of a traveler reportedly carrying H5N1 influenza;

(b) When no quarantine officer, other CDC personnel, or CDC designee is able to meet the suspect traveler's flight at the time of its arrival, CBP will meet the flight and prevent deplaning until CDC authorizes deplaning;

(c) CBP will detain, through appropriate use of force when necessary, those travelers designated by CDC to be subject to a temporary detention order or quarantine order issued by CDC;

(d) Consistent with CBP guidelines and directives, and applicable law, CBP will assist quarantine officers, other CDC personnel and CDC designees in the enforcement of quarantine rules and regulations; and

(e) If it is determined that an alien must be transported to a medical facility or other designated quarantine facility for further examination or isolation, before admission into the United States, CBP, wherever practicable, will parole the traveler into the United States on a temporary basis for medical treatment.

(2) On CBP's initiative with regard to United States Citizens and Lawful Permanent Residents (LPRs):

a) Consistent with CBP guidelines and directives, and applicable law, CBP will assist quarantine officers, other CDC personnel, and CDC designees in the enforcement of quarantine rules and regulations; and

b) CBP will detain, through appropriate use of force when necessary, those travelers designated by CDC to be subject to a temporary detention order or quarantine order.

(3) On CBP's initiative with regard to aliens:

(a) When an alien appears before a CBP officer or Border Patrol Agent and presents symptoms of H5N1 influenza, CBP will contact the nearest CDC quarantine station and, consistent with its guidelines and practices, and in accordance with applicable law, utilize established operating procedures to handle aliens arriving at ports of entry who have medical emergencies;

(b) Before admission into the United States, if CDC determines an alien must be transported to a medical facility or other designated quarantine facility for further examination or isolation, CBP, wherever practicable, may parole the traveler into the United States on a temporary basis for medical treatment;

(c) Consistent with CBP guidelines and directives, and applicable law, CBP will assist quarantine officers, other CDC personnel, and CDC designees in enforcing quarantine rules and regulations; and

(d) CBP will detain, through appropriate use of force when necessary, those aliens designated by CDC to be subject to a temporary detention order or quarantine order.

(4) CBP, in accordance with its guidelines, directives and applicable law, will halt and temporarily detain aircraft attempting irregular arrivals to the United States for the purpose of evading laws and regulations relating to the importation of goods.

b. ICE

(1) ICE may, pursuant to its guidelines, directives, and applicable law, temporarily detain those aliens suspected of carrying or having been exposed to H5N1 influenza that are not eligible for parole or detained by CBP. ICE will assist quarantine officers, other CDC personnel, and CDC designees in arranging custody and observation of the subject alien.

- (2) To the extent permitted by law, ICE will detain individuals it encounters during the regular course of its duties who are suspected carriers of H5N1 influenza until such time as assistance can be rendered by State and local officials or CDC.

2. Arrivals by Sea

a. CBP

(1) At sea:

- (a) Upon request of CDC, and in coordination with USCG, and when its resources permit, CBP will assist in the enforcement of quarantine authority on vessels at sea;
- (b) If, during an immigration inspection at sea, a CBP officer encounters a traveler exhibiting symptoms of H5N1 influenza, the officer will contact a supervisor at the port in which the vessel is arriving so that the nearest CDC quarantine station and/or DIHS may be notified;
- (c) If during an interdiction at sea, a CBP Border Patrol agent encounters a traveler exhibiting symptoms of H5N1 influenza, the agent will contact a supervisor to advise of the arrival location so that the local or nearest CDC quarantine station or other medical personnel may be contacted for assistance; and
- (d) Consistent with CBP guidelines, directives, and applicable law, CBP agrees to assist quarantine officers, CDC personnel and/or designees in the enforcement of quarantine rules and regulations.

(2) At dock:

- (a) When requested by the CDC, CBP will meet a quarantine officer, other CDC personnel, or CDC designee at a docked vessel and accompany them on board to investigate a person reportedly carrying H5N1 influenza;

(b) When requested by CDC, if no quarantine officer or CDC designee is able to meet the suspect traveler's vessel at the time of its arrival, CBP will meet the vessel and prevent disembarkation until CDC authorizes disembarkation;

(c) CBP will detain, through appropriate use of force when necessary, those travelers designated by CDC to be subject to a temporary detention order or quarantine order;

(d) Consistent with CBP guidelines and directives, and applicable law, CBP agrees to otherwise assist quarantine officers, other CDC personnel and CDC designees in the enforcement of quarantine rules and regulations;

(e) When a United States citizen or LPR appears before a CBP officer or Border Patrol Agent and presents symptoms of H5N1 influenza, CBP will immediately contact the nearest CDC quarantine station, as set forth in previously established guidelines;

(f) When an alien appears before a CBP officer or Border Patrol Agent and presents symptoms of H5N1 influenza, the CBP officer and/or Border Patrol Agent will isolate the subject and contact the nearest CDC quarantine station or other CDC-designated facility; CBP will then notify ICE of any action taken in cases where the alien has been taken into custody; and

(g) Before admission into the United States, if CDC determines an alien must be transported to a medical facility or other designated quarantine facility for further examination or isolation, CBP, wherever practicable, may parole the traveler into the United States on a temporary basis for medical treatment.

(3) CBP, in accordance with its guidelines, directives, and applicable law, will halt and temporarily detain sea going vessels attempting irregular arrivals to the United States for the purpose of evading laws and regulations relating to the importation of goods.

b. USCG

- (1) When requested, USCG will accompany CDC when boarding a vessel under USCG authority (vessels and individuals on the navigable waters of the United States, including the territorial sea--out to 12 nautical miles--and the contiguous zone--out to 24 nautical miles) and while on waterfront facilities immediately adjacent thereto, to investigate and enforce its quarantine authorities;
- (2) USCG will assist CDC, when requested, by escorting individuals subject to temporary detention orders or quarantine orders and CDC personnel from the vessel to shoreside where the detained individual will be turned over to the appropriate Federal, State, or local law enforcement personnel; and
- (3) To the extent permitted by law and UCSG internal policies, specifically regarding use of force incidents, USCG will assist CDC in the enforcement of its quarantine authorities.

c. ICE

- (1) ICE may, pursuant to its guidelines, directives, and applicable law, temporarily detain those aliens suspected of carrying or having been exposed to H5N1 influenza that are not eligible for parole or detained by CBP. ICE will assist quarantine officers, other CDC personnel, and CDC designees in arranging custody and observation of the subject alien.
- (2) To the extent permitted by law, ICE will detain individuals it encounters during the regular course of its duties who are suspected carriers of H5N1 influenza until such time as assistance can be rendered by State and local officials or CDC.

3. Arrival at Land Borders

a. CBP (ports of entry)

- (1) When a United States citizen appears before a CBP officer and presents symptoms of H5N1 influenza during processing, CBP will immediately contact the nearest CDC quarantine station or other CDC designated facility as established by standard operating procedures, and assist medical personnel, on site, as necessary;
- (2) CBP will detain, through appropriate use of force when necessary, those travelers subject to a temporary detention order or quarantine order issued by CDC;
- (3) Consistent with CBP guidelines and directives, and applicable law, CBP will assist quarantine officers, other CDC personnel, and CDC designees in the enforcement of quarantine rules and regulations;
- (4) When an alien appears before a CBP officer or Border Patrol Agent and presents symptoms of H5N1 influenza, CBP will contact the nearest CDC quarantine station and, consistent with its guidelines and practices, and in accordance with applicable law, utilize established operating procedures to handle aliens arriving at ports of entry who have medical emergencies; and
- (5) In the case where an alien, already in custody, exhibits symptoms of H5N1 influenza, CBP will follow CBP established operating procedures for the handling of detainees with medical emergencies.

b. CBP Border Patrol (between ports of entry)

- (1) When an alien, LPR, or United States citizen is apprehended by a CBP Border Patrol Agent for an immigration or criminal violation, and the subject presents symptoms of H5N1 influenza, CBP Border Patrol Agents will immediately contact the nearest CDC quarantine station or other CDC designated facility as established by standard operating procedures;



In the case where an alien, already in custody, exhibits symptoms of H5N1 influenza, CBP Border Patrol Agents will follow CBP Border Patrol established operating procedures for the handling of detainees with medical emergencies;

- (3) When CBP Border Patrol Agents encounter an individual at a checkpoint or in the field who exhibits symptoms of H5N1 influenza, but is not apprehended for an immigration or criminal violation, Border Patrol Agents will immediately contact the nearest CDC quarantine station or other CDC designated facility;
- (4) CBP Border Patrol Agents will detain, through appropriate use of force when necessary, those travelers subject to a temporary detention order or quarantine order issued by CDC;
- (5) Consistent with CBP Border Patrol guidelines and directives, and applicable law, Border Patrol Agents will assist quarantine officers, other CDC personnel, and CDC designees in the enforcement of quarantine rules and regulations; and
- (6) With respect to paragraphs (1) through (5) above, every effort will be made by CBP Border Patrol to minimize the possibility of requiring the quarantine of Border Patrol stations or personnel.

c. ICE

- (1) ICE may, pursuant to its guidelines, directives, and applicable law, temporarily detain those aliens suspected of carrying or having been exposed to H5N1 influenza who are not eligible for parole or detained by CBP. ICE will assist quarantine officers, other CDC personnel, and CDC designees in arranging custody and observation of the subject alien.

4. CDC Responsibilities

- a. CDC agrees to provide medical personnel in as expeditious a manner possible to examine and assess the health of suspect travelers;
- b. CDC agrees to develop and obtain, as expeditiously as possible, whatever detention or quarantine orders, consistent with its authority, may be necessary to isolate the affected travelers;
- c. With respect to Federal Inspection Services (FIS) areas at ports of entry and areas in-between ports of entry that may be affected (such as Border Patrol Stations and vehicles, where a detainee might be housed temporarily until HHS/CDC personnel can be contacted), CDC will establish worker protection and infection control guidelines for distribution in addition to other guidance and training concerning personal protective equipment, immunizations, etc.;
- d. CDC will collaborate with appropriate State and local law enforcement agencies, medical personnel, and other public health entities to assist in defining and coordinating assistance with the quarantine enforcement, detention, and transportation of suspect travelers, and establishing their role as first responders in such situations;
- e. When detaining an alien, CDC agrees to notify the appropriate Embassy or Consulate through the United States Department of State and applicable law; and
- f. In the case where an alien has been paroled into the United States on a temporary basis for medical treatment, in accordance with an I-247 immigration detainer, CDC agrees to inform the agency that paroled the alien (*i.e.*, either CBP or ICE) when medical treatment is complete so that the alien may be returned to that agency and properly processed for admission into, or exclusion from, the United States.

D. Transportation

DHS and HHS components will take the following actions to ensure the appropriate movement of persons carrying H5N1 influenza in the event of an outbreak. Any obligations under this section are dependent on the availability of agreed protective equipment and measures for DHS personnel.

1. CBP Border Patrol (between ports of entry)

In accordance with CBP Border Patrol procedures, CBP Border Patrol will facilitate communication and coordination efforts regarding the transfer of detained individuals with H5N1 influenza from CBP Border Patrol custody to HHS/CDC designated personnel, or other appropriately designated federal partners to permit the safe removal of such detainees from Border Patrol checkpoints or other areas between the ports.

2. USCG

- a. When CDC's primary and usual means of maritime transportation is unavailable, and upon request of CDC, USCG will make readily accessible USCG boats and crews available to CDC quarantine personnel and individuals subject to quarantine orders for purposes of transporting them to and from vessel and shoreside. The USCG considers this mission important and while such use of resources will always be at the discretion of the operational commander, it is anticipated that these resources will be made available when their use does not conflict with higher priority operations (*e.g.*, emergent Search and Rescue, Maritime Security (MARSEC) Condition 2 or 3 operations). Where USCG boats provide transportation from the vessel to the shore, CDC will arrange shoreside pick up of individuals requiring transport to quarantine or isolation facilities. In all other situations, the CDC will provide a means for or otherwise arrange transportation of quarantine officials and individuals subject to CDC quarantine or isolation orders from the vessel to the quarantine or isolation facility;
- b. USCG officers will not transport or accompany detained individuals or CDC quarantine officers from shoreside of the waterfront facility to any inland area; and

- c. CDC will provide guidance concerning necessary transportation and decontamination procedures for USCG vessels.

3. CDC

- a. CDC agrees to collaborate with the appropriate Federal, State, or local law enforcement agencies or medical personnel and agencies to secure agreements for response and transportation in these situations;
- b. CDC agrees to provide training and will provide the appropriate level of personal protective equipment and training on its use to officers, employees, and contractors of DHS and/or its components assisting in the detention and/or transportation of persons carrying H5N1 influenza; and
- c. Consistent with its agreements for transportation, CDC agrees to timely contact the necessary personnel, to assist, accompany, and transport detained individuals from ports of entry and between ports of entry.