

**December 3, 2020**

### **Summary**

The United States has 13,931,901 confirmed COVID-19 cases and 273,590 reported related deaths. The country recorded 2,760 deaths on December 2, the highest daily death toll since the start of the pandemic. CDC Director Redfield warned that COVID-19 deaths could reach 450,000 by February unless Americans improve compliance with public health measures. CDC adopted an advisory panel recommendation that health care workers and residents of long-term care facilities receive COVID-19 vaccines first; state governments will make the final decisions regarding vaccine prioritization. CDC released updated guidance that individuals exposed to the virus may shorten their quarantine from fourteen days to ten days if they develop no symptoms or to seven days if they also test negative within 48 hours of discontinuing quarantine. British regulators approved Pfizer's COVID-19 vaccine for use in the United Kingdom. FDA is still reviewing data from Pfizer's clinical trials but is expected to approve the vaccine in mid-December. Pfizer will ship half of the vaccines it originally planned this year due to supply-chain problems. A bipartisan group of Senators proposed a \$908 billion stimulus package to address economic damage caused by the pandemic.

There were 100,226 COVID-19 patients in United States hospitals on December 2, nearly double the spring peak. After a months-long spike, cases are declining throughout the Midwest; New York Times now classifies many of those states' caseloads as "higher but going down." Florida became the third state to reach 1 million COVID-19 infections on December 1. California Governor Gavin Newsom announced plans for regional stay at home orders based on hospital capacity: any region with 15% or less ICU capacity will enter a three-week stay-at-home order.

New York reported 61 deaths and 4,063 hospitalizations, and 783 COVID-19 patients in intensive care on Thursday, December 2, 2020. Approximately 9,855, or 4.84%, of the 203,440 tests administered in New York on December 2 were positive for COVID-19. New York's contact-tracing data indicates that 70% of new infections originated in homes and small gatherings; Governor Cuomo encouraged New Yorkers to avoid small gatherings. New York will receive 170,000 vaccines on December 15, which will be distributed to residents and staff in long-term care facilities. The governor said hospital-based health-care workers in the state would be vaccinated after people who live and work in nursing homes.. The New York City health commissioner advised older residents and individuals with underlying health conditions to avoid nonessential activities. Foot traffic is down 50% in New York City's business districts compared to pre-pandemic levels; the reduction may be responsible for increased business closures in the neighborhoods. JFK Airport may be forced to stop or reduce planned renovations; reduced revenues, as well as significant pre-existing debt, will inform the decision.

## Presidential updates

- [\*White House Officials, FDA Commissioner Meet Regarding Vaccine Approval\*](#), December 1
  - White House officials met with Food and Drug (FDA) Commissioner Hahn to discuss his agency's review of Pfizer's COVID-19 vaccine.
  - The media [reported](#) that White House Chief of Staff Meadows called for the meeting out of concern that FDA is not moving quickly enough to approve the vaccine for use in the United States.
  - This week, British regulators [approved](#) the vaccine for use in the United Kingdom.
  - An FDA spokesperson [said](#) that the agency is currently reviewing "thousands of pages of technical information," including data on the vaccine's effect on various subgroups of clinical trial participants and data on the company's manufacturing controls.
  - FDA's outside advisory panel of experts is scheduled to meet to discuss the Pfizer vaccine candidate on December 10, and FDA is expected to approve Pfizer's request for an EUA in mid-December.

## World Health Organization (WHO)

- [\*WHO COVID-19 Updates\*](#), December 3
  - WHO published technical [guidance](#) on the feasibility and potential value of a challenge study for vaccines in healthy adult volunteers. Challenge studies intentionally infect participants to test vaccine or treatment effectiveness quickly.
  - WHO published interim [guidance](#) on mask use in the context of COVID-19, including advice on how to manufacture non-medical masks.

## U.S. Centers for Disease Control and Prevention (CDC)

- [\*CDC Advisory Panel Votes on COVID-19 Vaccination Priorities\*](#), December 1
  - Advisory Committee on Immunization Practices (ACIP), a committee of medical and public health experts who develop recommendations regarding the use of vaccines in the United States, [recommended](#) that health care workers and residents of long-term care facilities receive the first COVID-19 vaccines.
  - CDC Director Redfield adopted this recommendation as formal agency guidance for state governments, who will be responsible for distributing the vaccines and will make final decisions regarding prioritization.
  - ACIP [noted](#) that their recommendation is an interim recommendation that could change as the panel learns more about how the vaccines work in different age groups and about the number of vaccines available.
  - ACIP is expected to make additional recommendations regarding vaccine prioritization in the coming weeks. Other groups ACIP is [considering](#) for prioritization include essential workers, people with underlying medical conditions that increase the risk of severe disease, and people aged 65 years and older.
- [\*CDC Updates Guidance Regarding Quarantining After COVID-19 Exposure\*](#), December 2
  - CDC released updated guidance for individuals exposed to COVID-19.
  - The updated guidance continues to recommend that individuals quarantine for 14 days after exposure. However, it acknowledges that quarantining for 14 days may negatively affect exposed persons' physical and mental health and/or impose economic burdens.

- In effort to balance the burdens of quarantining against the risk of transmission and promote compliance, the updated guidance outlines two circumstances in which exposed individuals may reduce the length of their quarantines.
- Under the guidance, individuals may shorten their quarantines to ten days if they develop no symptoms during that time. CDC estimates that individuals who do so have a one percent chance of transmitting the virus post-quarantine, with an upper limit of approximately ten percent.
- Individuals may shorten their quarantines to seven days if they develop no symptoms *and* they test negative. CDC estimates that individuals who do so have a five percent chance of transmitting the virus post-quarantine, with an upper limit of twelve percent. CDC notes that the individual's specimen should be collected and tested within 48 hours of the discontinuation of quarantine.
- [\*COVIDView Weekly Surveillance Summary of U.S. COVID-19 Activity\*](#), November 30
  - CDC summarized key COVID-19 disease indicators for the week ending November 21.
  - The national average of respiratory specimens testing positive for COVID-19 decreased from 12% to 10.6% from November 14 to November 21.
  - Regionally, the percentage of respiratory specimens testing positive for COVID-19 decreased in eight of ten regions.
  - The overall cumulative hospitalization rate is 243.8 per 100,000, up from 228.7 per 100,000 during the previous week. The overall weekly hospitalization rate is at its highest point in the pandemic, with steep increases in individuals aged 65 years and older.
  - Based on death certificate data, the percentage of total deaths attributed to pneumonia, influenza, or COVID-19 decreased 3.9% from November 14 (15.2%) to November 21 (11.3%). However, the weekly percentages of death due to pneumonia, influenza, or COVID-19 increased for five weeks from early October through November and are expected to increase for the most recent weeks as additional data are reported.

### **New York State**

- [\*New York State COVID-19 Updates\*](#), December 3
  - New York reported 61 deaths and 4,063 hospitalizations, and 783 COVID-19 patients in intensive care on Thursday, December 2, 2020.
  - Approximately 9,855, or 4.84%, of the 203,440 tests administered in New York on December 2 were positive for COVID-19.
  - New York's latest contact-tracing data [\*indicates\*](#) that 70% of new COVID-19 cases originated in homes and small gatherings. Governor Cuomo encouraged New Yorkers to avoid gatherings to reduce the spread of the virus.
- [\*New York Will Initially Get Enough COVID-19 Vaccine for 170,000 People\*](#), December 2
  - Governor Cuomo [\*announced\*](#) that New York expects to receive enough doses of the COVID-19 vaccine on December 15 to immunize 170,000 people. The governor plans to distribute the vaccine to nursing home patients and staff, and plans to send second doses of the vaccine to nursing homes three weeks later.

- Governor Cuomo said he was following CDC advice regarding vaccine prioritization. The governor said hospital-based health-care workers in the state would be vaccinated after people who live and work in nursing homes.
- While the number of nursing home residents (85,000) and staff (130,000) exceed the number of vaccines that will be available, Governor Cuomo expects that some will decline to take the vaccine.
- This initial batch will be manufactured by Pfizer in partnership with BioNTech SE. A second batch of vaccines from Moderna will be distributed later in December.
- Given challenges associated with distributing vaccines and building public buy-in for vaccination programs, as well as the limited supply of vaccines, Governor Cuomo said he expects a critical mass of New Yorkers to be inoculated by as early as June or as late as September 2021.

## **New York City**

- [\*New York City COVID-19 Updates\*](#), December 3
  - The New York City Police Department is [solving](#) fewer crimes during the pandemic compared to before. The NYPD solved 26.5% of serious crimes during the second quarter, compared to 35.8% during the second quarter of 2019, a 26.5% drop. The NYPD cited a number of factors that caused the decline, including increased sick days among the police force and staffing changes due to social-justice protests this summer.
  - On December 1, New York City's health commissioner [advised](#) older residents and people with underlying health conditions to avoid nonessential activities outside their homes as the number of COVID-19 hospitalizations reached a level not seen since early June. Those who care for such vulnerable residents were also advised to limit their nonessential activities. As of Sunday, November 29, the City's positivity rate was 5.72% - nearly four times as high as the positivity rate on October 1.
  - Foot traffic is [down](#) as much as 50% in business districts in the Flatiron, Union Square, and Chelsea neighborhoods compared to pre-pandemic levels. Although an improvement from the spring, when foot traffic fell by 75%, the recovery is slower than in outer boroughs, such as Staten Island, where foot traffic has almost completely [recovered](#) to pre-pandemic levels. Partly due to the decline in foot traffic, the number of closed or vacant storefronts in these neighborhoods has increased by 36%.
- [\*JFK's Busiest Terminal Seen Recovering from Covid-19 Slowly\*](#), December 1
  - The operator of John F. Kennedy International Airport's busiest terminal, Terminal 4, said that its passenger numbers might not return to pre-pandemic levels until 2024. Of the 62 million passengers who traveled through JFK last year, roughly one-third used Terminal 4. A Port Authority spokesperson said that passenger volumes at New York City's three major airports are down between 65% and 71% through September of this year compared to the same period last year.
  - Reduced passenger levels may require Terminal 4 to scale back or delay a planned \$3.8 billion renovation to the terminal, part of a larger \$15 billion renovation to the entire airport. For now, only the smallest portion of the renovation, a \$400 million renovation to Terminal 8, which is financed by American Airlines Group, Inc, will proceed.
  - Delta, which operated out of Terminals 2 and 4, said that it will consolidate service in Terminal 4. Delta reported a net loss of \$12.4 billion for the second and third quarters

of this year. Roughly 17,000 of its 91,000 workers have chosen to retire early or accept a voluntary buyout package.

- The LLC that operates the terminal made a \$1 billion bond offering to refinance debt from a previous construction.

### **Other Related Updates**

- [\*Department of Labor Unemployment Insurance Weekly Claims Report\*](#), December 3
  - Department of Labor (DOL) [reports](#) that another 712,000 workers filed initial claims for unemployment benefits last week, down from 787,000 claims the week prior.
  - The number of new claims has been trending downward since March, when nearly seven million people filed for unemployment insurance in a single week, but spiked briefly last month.
  - 288,701 new claims were filed for Pandemic Unemployment Assistance, the federal program intended to help freelancers, gig workers, the self-employed, and others not normally eligible for state jobless benefits.
- [\*Bipartisan Group of Lawmakers Proposes \\$908 Billion Stimulus Package\*](#), December 2
  - A bipartisan group of Senators [proposed](#) a \$908 billion stimulus package to address economic consequences of the pandemic, including \$160 billion for state and local governments, \$180 billion in unemployment aid, and nearly \$300 billion for small businesses.
  - Senate Minority Leader Chuck Schumer and House Speaker Nancy Pelosi expressed support for reviving stimulus negotiations but did not agree to adopt the framework wholesale. In a joint statement, they said “the bipartisan framework introduced should be used as the basis for immediate bipartisan, bicameral negotiations.”
  - Earlier this year, the White House and Congressional leaders engaged in months of negotiations regarding a second round of stimulus spending but failed to reach a deal. Democratic leaders proposed a package worth several trillion dollars, and Republicans favored a much smaller bill.
  - Senate Majority Leader McConnell continues to push for a smaller package; he circulated a scaled-down proposal on the same day the bipartisan group put forth its proposal. However, Senator John Thune, one of McConnell’s top deputies, said that McConnell’s proposal could be merged with the bipartisan’s group framework.
  - President-elect Biden expressed support for a bipartisan, emergency stimulus bill but noted that such a package “at best, is only going to be a down payment.” Biden and his transition team have previously signaled their intent to pass a sweeping stimulus package after Biden takes office in January.
- [\*Tribal Health Programs and Urban Indian Organizations Choose How They Will Access the COVID-19 Vaccine\*](#), December 1
  - Department of Health and Human Services (DHHS) [announced](#) that all tribal health programs and urban Indian organizations (“UIOs”) had chosen their preferred method for receiving the COVID-19 vaccine.
  - Tribal health programs and UIOs had the option to receive the vaccine through the Indian Health Service, an agency housed within the Department of Health and Human Services, or through their respective states.

- [United Kingdom Regulators Authorize Pfizer/BioNTech COVID-19 Vaccine](#), December 2
  - United Kingdom regulators [granted](#) emergency authorization to Pfizer/BioNTech's COVID-19 vaccine, becoming the first Western country to approve vaccine distribution.
  - The move put pressure on United States regulators to approve the vaccine quickly.
  - United States vaccine regulators meticulously reanalyze thousands of pages of data before approval, whereas British and European regulators rely more heavily on the companies' own analysis.
  - Roughly 800,000 doses of the Pfizer/BioNTech vaccine will arrive in the United Kingdom soon, but precisely how and when is unknown for security reasons.
  - Due to the complex logistics of moving, defrosting, and preparing the vaccine, only 50 hospitals will receive the initial doses.
  - Doctors and nurses in the country's National Health Service, along with nursing home workers, will be first in line to receive the vaccine.
  - Britain has suffered one of Europe's highest per capita death rates from the virus.
  
- [Pfizer to Ship Half of Planned Vaccines in 2020 Due to Supply Chain Issues](#), December 3
  - Pfizer will ship [half](#) as many vaccines as originally planned before the end of 2020 due to supply chain problems. A company spokesperson explained, “[s]caling up the raw material supply chain took longer than expected.”
  - Pfizer spokespeople noted this delay is a result of the unprecedented challenge of scaling up supply chain and production of a vaccine that was still in trial phases over the previous 9 months.
  - Pfizer planned to ship out 100 million vaccine doses worldwide by the end of 2020, but will now ship around 50 million. Pfizer still expects to ship out more than 1 billion doses in 2021.
  
- [Study Finds SARS-CoV-2 May Have Been Present in U.S. in December 2019](#), November 30
  - A [study](#) reviewing 7,389 samples of blood donated between December 13, 2019 and January 17, 2020 from donors in nine states found SARS-CoV-2 antibodies present in 106 samples, indicating COVID-19 may have been present in the United States far earlier than previously known.
  - The first confirmed COVID-19 case in the United States was identified on January 19, 2020. Two other later-identified cases had illness onset dates of January 14, 2020.
  - A small percentage of blood samples from California, Oregon, and Washington showed SARS-CoV-2 antibodies as early as December 13-16, 2019. Similar antibodies were identified in donations in early January in Connecticut, Iowa, Massachusetts, Michigan, Rhode Island, and Wisconsin.
  - Researchers note that while these blood samples are evidence of COVID-19 presence in the United States over a month before it was first identified, the blood samples cannot be considered “true positives,” because the carriers did not have a positive molecular diagnostic test, and antibody presence could have been triggered by factors other than SARS-CoV-2 infection.

- [FDA COVID-19 Updates](#), December 3
  - Food and Drug Administration (FDA) [announced](#) it will host an advisory committee meeting to consider approval of Moderna's COVID-19 vaccine on December 17.
  - FDA will [host](#) a webinar on Respirators and Other Personal Protective Equipment for Health Care Personnel Use During the COVID-19 Pandemic on December 8 at 12 p.m.

Other recent events covered in detail elsewhere:

- [Navigating Inability-To-Pay Claims With DOJ Amid COVID-19](#), November 20
- [SBA Proposes Detailed New Questionnaire to Evaluate Post-Hoc the Good Faith of PPP Applicants' Prior Certifications of Loan "Necessity"](#), November 11

Send questions to:

- [COVID-19-Implications@ropesgray.com](mailto:COVID-19-Implications@ropesgray.com)
- [COVID-19RecoveryPolicies@ropesgray.com](mailto:COVID-19RecoveryPolicies@ropesgray.com)