

An overview of United States travel restrictions due to the COVID-19 outbreak (United States)

March 16, 2020

President Trump has recently issued several Presidential Proclamations in response to the 2019 Novel Coronavirus (COVID-19) outbreak, which have restricted the ability of foreign nationals to travel to the United States. A summary of the US travel restrictions that have resulted from the COVID-19 outbreak (that the World Health Organization declared a pandemic on March 11, 2020) appears below.

Suspension of entry for aliens physically present in China within the preceding 14 days

On January 31, 2020, President Trump signed the Presidential Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus (the First Proclamation). It suspends the entry of all aliens (i.e., non-citizens) who were physically present within the People's Republic of China (excluding the Special Administrative Regions of Hong Kong and Macau) during the 14-day period preceding their attempted entry into the United States.

The First Proclamation also provides a list of aliens who are not subject to the travel ban:

- Any lawful permanent resident of the United States (i.e., a green card holder);
- Any alien who is the spouse of a US citizen or lawful permanent resident;
- Any alien who is the parent or legal guardian of a US citizen or lawful permanent resident, provided that the US citizen or lawful permanent resident is unmarried and under the age of 21;
- Any alien who is the sibling of a US citizen or lawful permanent resident, provided that both are unmarried and under the age of 21;
- Any alien who is the child, foster child, or ward of a US citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States pursuant to an IR-4 or IH-4 visa (children from non-Hague Convention countries and Hague Convention countries who are coming to the US in order to be adopted);
- Any alien traveling at the invitation of the United States government for a purpose related to containment or mitigation of the virus;
- Any alien traveling under a C or D visa, as a crewmember or any alien otherwise traveling to the United States as air or sea crew;
- Any alien seeking entry into or transiting the United States pursuant to an A-1, A-2, C-2, C-3 (as a foreign government official or immediate family member of an official), G-1, G-2, G-3, G-4, NATO-1 through NATO-4, or

NATO-6 visa;

- Any alien whose entry would not pose a significant risk of introducing, transmitting or spreading the virus, as determined by the CDC Director or his designee;
- Any alien whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees based on a recommendation of the Attorney General or his designee; or
- Any alien whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security or their designees.

The First Proclamation took effect at 5 p.m. Eastern Standard Time on February 2, 2020.

Suspension of entry for aliens physically present in Iran within the preceding 14 days

On February 29, 2020, President Trump signed the Presidential Proclamation on the Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus (the Second Proclamation). It suspends the entry of all aliens who were physically present within the Islamic Republic of Iran during the 14-day period preceding their attempted entry into the United States.

The Second Proclamation also provides a list of aliens who are not subject to the travel ban. This list is virtually identical to the list contained in the First Proclamation, but also includes the following additional exemptions:

- Any alien seeking entry into or transiting the United States pursuant to an E-1 visa issued to an employee of TECRO or TECO, or the employee's immediate family members;
- Any alien whose travel falls within the scope of Section 11 of the United Nations Headquarters Agreement (which includes representatives of United Nations members and officials of the United Nations, who are transiting to and from the United Nations Headquarters District); and
- Members of the US Armed Forces, and spouses and children of members of the US Armed Forces.

The Second Proclamation took effect at 5 p.m. Eastern Standard Time on March 2, 2020. However, it did not apply to any persons aboard a flight scheduled to arrive in the United States that departed prior to the effective date and time of the Second Proclamation.

Suspension of entry for aliens physically present in the Schengen Area within the preceding 14 days

On March 11, 2020, President Trump signed the Presidential Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus (the Third Proclamation). It suspends the entry of all aliens who were physically present in any of the 26 European countries that make up the Schengen Area during the 14-day period preceding their attempted entry into the United States. The Schengen Area includes the following countries: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands,

Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

The Third Proclamation also provides a list of aliens who are not subject to the travel ban. This list is identical to the list of exemptions contained in the Second Proclamation.

The Third Proclamation took effect at 11:59 p.m. Eastern Daylight Time on March 13, 2020. However, it did not apply to any persons aboard a flight scheduled to arrive in the United States that departed prior to the effective date and time of the Third Proclamation.

Suspension of entry for aliens physically present in the United Kingdom or Ireland within the preceding 14 days

On March 14, 2020, President Trump signed the Proclamation on the Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus (the Fourth Proclamation). It suspends the entry of all aliens who were physically present in the United Kingdom (excluding overseas territories outside of Europe) or the Republic of Ireland during the 14-day period preceding their attempted entry into the United States.

The Fourth Proclamation also provides a list of aliens who are not subject to the travel ban. This list is identical to the list of exemptions contained in the Second and Third Proclamations.

The Fourth Proclamation takes effect at 11:59 p.m. Eastern Daylight Time on March 16, 2020. However, it will not apply to any persons aboard a flight scheduled to arrive in the United States that departed prior to the effective date and time of the Fourth Proclamation.

Arrival restrictions

The Department of Homeland Security has also imposed arrival restrictions in connection with the above Presidential Proclamations. Of course, as most nonimmigrants who have recently travelled to one of the areas subject to the travel ban are not permitted to board flights to the United States, these arrival restrictions affect US citizens, lawful permanent residents and other exempt individuals.

The Department of Homeland Security has already published notices relating to these arrival restrictions for China (which commenced at 5 p.m. Eastern Standard Time on February 2, 2020), and Iran (which commenced at 5 p.m. EST on March 2, 2020). Although the Department of Homeland Security has not yet published a notice for the Schengen Area, the United Kingdom, or the Republic of Ireland, an unpublished version applicable to the Schengen Area (which is scheduled to be published on March 17, 2020) is available online. Arrival restrictions for the Schengen Area already began at midnight Eastern Daylight Time on March 13, 2020.

The above notices all state that any flights to the United States, which are carrying persons who were recently present (i.e., within the 14-days preceding their attempted entry) in any of the areas covered by the Presidential Proclamations, will be directed to arrive at one of the designated US airports where health protocols have been implemented. The following airports have been designated for this purpose:

- John F. Kennedy International Airport (JFK) in New York;
- Chicago O'Hare International Airport (ORD) in Illinois;

- San Francisco International Airport (SFO) in California;
- Seattle-Tacoma International Airport (SEA) in Washington;
- Daniel K Inouye International Airport (HNL) in Hawaii;
- Hartsfield-Jackson Atlanta International Airport (ATL) in Georgia;
- Newark Liberty International Airport (EWR) in New Jersey;
- Dallas/Fort Worth International Airport (DFW) in Texas;
- Detroit Metropolitan Airport (DTW) in Michigan;
- Los Angeles International Airport (LAX) in California,
- Washington-Dulles International Airport (IAD) in Virginia;
- Boston Logan International Airport (BOS) in Massachusetts (added on March 13, 2020); and
- Miami International Airport (MIA) in Florida (added on March 13, 2020).

However, the notices confirm that flights carrying only cargo (i.e., no passengers or non-crew) are exempt from the above arrival restrictions.

The implementation of these arrival restrictions has been challenging. The media has already reported long waits at the designated airports.

In addition, the notices make air carriers responsible for complying with these arrival restrictions, but it may be difficult for them to identify passengers who have recently been physically present in the affected areas, especially if their flight is departing from an area that is unaffected by the travel ban.

There is also the possibility that an air carrier could identify a person who recently travelled to one of the affected areas after the flight has already departed but before it has arrived in the United States. In this situation, the air carrier could be required to divert the plane mid-flight to one of the designated airports. This could cause considerable inconvenience for the passengers on that flight.

Conclusion

The travel bans that have resulted from the COVID-19 outbreak currently apply only to aliens who have been physically present in China, Iran, the Schengen Area, the United Kingdom or Ireland within the 14 days preceding their attempted entry into the United States. However, the related arrival restrictions have caused long delays at designated airports, which have adversely affected US citizens, lawful permanent residents and non-immigrants who are not subject to the travel ban. The travel bans are also subject to change as COVID-19 outbreaks continue to occur around the world. Travellers should consult with a qualified US immigration expert if they are concerned about how these travel restrictions may affect their US travel plans.

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