



Proclamation Suspending Entry of Immigrants Who Present Risk to the U.S. Labor Market During the Economic Recovery Following the COVID-19 Outbreak: What You Need to Know

Updated April 22, 2020

Q: What is the new policy?

On April 22, 2020, President Trump signed a [Presidential Proclamation](#) temporarily suspending the entry into the United States of certain categories of immigrants in an effort to slow the spread of COVID-19 and preserve jobs for American workers. The Proclamation will deny entry to covered individuals for at least 60 days. Consular officers will determine if an individual has established eligibility for an exception. The Department of Homeland Security will implement the Proclamation as it relates to entry into the United States. Those who attempt to “circumvent” the policy through fraud, willful misrepresentation of a material fact, or illegal entry will be priorities for removal (deportation). The Proclamation took effect at 11:59 PM EDT on April 23, 2020.

Q: Who is covered by the new policy?

The Proclamation applies to individuals who:

- Were outside the United States on 11:59 PM EDT on April 23, 2020;
- Do not have an immigrant visa that is valid on 11:59 PM EDT on April 23, 2020;
- Do not have an official document other than a visa (such as a transportation letter, an appropriate boarding foil, or an advance parole document) that is valid on 11:59 PM EDT on April 23, 2020 or issued on any date thereafter that permits him or her to travel to the United States and seek entry or admission.

Q: Who is exempt from the policy?

The Proclamation does not apply to:

- Lawful permanent residents of the United States (green card holders);
- Spouses of U.S. citizens;
- Individuals who are under the age of 21 and are children of U.S. citizens, or prospective adoptees seeking to enter the United States pursuant to the IR-4 or IH-4 visa classifications;
- Individuals seeking to enter the United States on an immigrant visa as a physician, nurse, or other healthcare professional; to perform medical research or other research intended to combat the spread of COVID-19; or to perform work essential to combating, recovering from, or otherwise alleviating the effects of the COVID-19 outbreak, as well as their accompanying spouses and children under the age of 21;
- Individuals applying for a visa to enter the United States pursuant to the EB-5 Immigrant Investor Program;
- Any individual whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or

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their respective designees, based on a recommendation of the Attorney General or his designee;

- Members of the United States Armed Forces and their spouses and children;
- Individuals seeking to enter the United States pursuant to a Special Immigrant Visa in the SI or SQ classification, subject to such conditions as the Secretary of State may impose, and any spouse and children of any such individual; or
- Any individual whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees.

Consular officers will determine if an individual has established eligibility for an exception.

Q: Does this policy include refugees and asylum seekers?

The Proclamation states that it should not “be construed to limit the ability of an individual to seek asylum, refugee status, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws of the United States”.

Q: What is the effective date of the policy?

The effective date of the Proclamation is 11:59 PM EDT on April 23, 2020. The travel restrictions will remain in place for at least 60 days, and may be continued as necessary.

Q: What legal authority is the administration relying upon to issue this policy?

Section 212(f) of the Immigration and Nationality Act allows the President to “suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate” by proclamation when he determines that the entry of these immigrants into the United States would be “detrimental to the interests of the United States”.

Q: Has the administration invoked these immigration statutory sections before?

Over the years, Presidents have relied upon INA § 212(f) to restrict the entry into the United States of certain categories of immigrants. President Trump’s executive orders implementing the travel bans, the third-country asylum rule, and other immigration policies have been grounded in INA § 212(f). President Trump’s invocation of INA § 212(f) in the third iteration of the travel ban was challenged in a Supreme Court case, *Trump v. Hawaii*. The Court ultimately upheld the travel ban, holding that INA § 212(f) is very broad and gives the President great deference to prevent certain categories of individuals from entering the United States.

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Q: What is the rationale for this policy? The Proclamation states that restrictions on immigration are necessary to slow the spread of COVID-19 and help preserve jobs for American workers as the U.S. economy recovers from the effects the pandemic.

The Proclamation further states that: “In the administration of our Nation’s immigration system, we must be mindful of the impact of foreign workers on the United States labor market, particularly in an environment of high domestic unemployment and depressed demand for labor. We must also conserve critical State Department resources so that consular officers may continue to provide services to United States citizens abroad”.

Further, the Proclamation asserts that “existing immigrant visa processing protections are inadequate for recovery from the COVID-19 outbreak”, and that “introducing additional permanent residents when our healthcare resources are limited puts strain on the finite limits of our healthcare system at a time when we need to prioritize Americans and the existing immigrant population”.

Q: What are some of the countervailing views by some immigration advocates and scholars?

Marketa Lindt, the President of the American Immigration Lawyers’ Association stated in a [press release](#) that: “The latest announcement to suspend immigration is not a legitimate policy plan to respond to the current COVID-19 crisis. At this critical time, we need to focus our time and resources on policies that spur innovation and economic growth and that promote the health and safety of the American people. A rational immigration policy is a critical component of successfully addressing our nation’s public health needs and spurring an economic recovery.”

Law professors Jennifer M. Chacón and Erwin Chemerinsky argue in a New York Times [opinion piece](#) that the policy will cause “enormous hardships for those who have been granted immigrant visas”, separate families, and result in critical industries losing access to experienced workers.

Q: Where can I find more resources?

Presidential Proclamation:

<https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-immigrants-present-risk-u-s-labor-market-economic-recovery-following-covid-19-outbreak/>

Center for Immigrants’ Rights Clinic:

<https://pennstatelaw.psu.edu/immigration-time-of-trump>