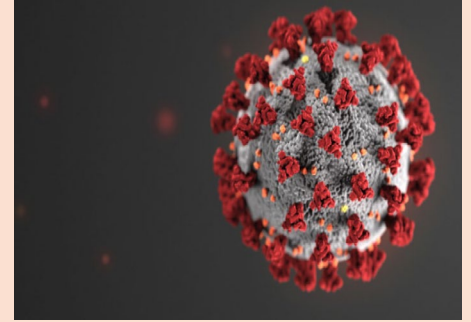


# COVID-19 and the Impact on U.S. Immigration

April 24, 2020

By James Prappas



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# COVID-19 and the Impact on U.S. Immigration

## Introduction

- ▶ Current U.S. immigration climate
- ▶ Uncertainty from COVID-19, energy demand and global energy markets
- ▶ Continuous Change

# COVID-19 and the Impact on U.S. Immigration



# COVID-19 and the Impact on U.S. Immigration



# COVID-19 and the Impact on U.S. Immigration

## Topic Covered

- ▶ Executive Order issued April 22, 2020
- ▶ USCIS and U.S. Embassy Closings
- ▶ Travel Bans
- ▶ Border Closings
- ▶ Visa Waiver Program and Satisfactory Departure
- ▶ Impact of Furloughs and Terminations on L-1, H-1B and E visas
- ▶ Recommendations

# COVID-19 and the Impact on U.S. Immigration

## April 22, 2020 Executive Order

- ▶ Effective April 23<sup>rd</sup> at 11:49 p.m.
- ▶ Temporarily suspends the entry of certain employment-based, family-based and other *immigrants* for 60 days, if they are outside the U.S., and have not been issued an immigrant visa or similar official travel documents.
- ▶ Certain groups including the following are exempt from the EO:
  - Lawful permanent residents, aka green cardholders
  - Spouses of U.S. citizens
  - Other specific categories

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## April 22, 2020 Executive Order (cont.)

- ▶ EO does not have an immediate impact on the H-1B, L-1 and other nonimmigrant worker programs.

However, within 30 days of the EO effective date, DHS and DOL are ordered to review nonimmigrant programs and recommend measures to stimulate the U.S. economy and ensure the prioritization, hiring and employment of U.S. workers. The results of that report *could lead to future restrictions on nonimmigrant employment categories.*

- ▶ EO does not limit immediately nonimmigrant visa programs. *Future restrictions cannot be ruled out.*



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## USCIS and Embassy Closings

- ▶ USCIS and ASC offices are closed through May 3, 2020 for interviews and biometric appointments.
- ▶ USCIS is accepting and adjudicating cases. The USCIS is approving some “green card” cases w/o the required in person interview.
- ▶ USCIS has suspended Premium Processing for the immediate future.



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## USCIS and Embassy Closings (cont.)

- ▶ Embassies are closed and visa interviews have been cancelled with limited exceptions.
- ▶ See:  
<https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>.
- ▶ Planning Tips:  
Monitor I-94 (see <https://i94.cbp.dhs.gov/I94/#/home>) and visa expiration dates; and assuming appropriate and qualified, consider filing timely visa extensions ASAP to avoid delays.

# COVID-19 and the Impact on U.S. Immigration Travel Bans

## CORONAVIRUS TRAVEL RESTRICTIONS:

To safeguard the homeland against the further spread of the coronavirus, President Trump has suspended the entry of foreign nationals who have been in China, Iran, and certain European countries at any point in the 14 days before their scheduled arrival to the U.S.

### AFFECTED:

#### FOREIGN NATIONALS

The ban applies to foreign nationals of any country with qualifying travel within the impacted countries listed.

#### COUNTRIES IMPACTED

**Asia/Middle East:** China and Iran.

**Europe:** Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and the U.K.

### NOT AFFECTED:

#### AMERICAN CITIZENS

U.S. citizens, legal permanent residents, and their immediate family members can travel to the U.S. but are subject to a 14-day self-quarantine.

#### TRAVELERS FROM THE U.S.

Passengers, regardless of nationality, traveling to Europe or Asia are not impacted.

#### CARGO SHIPMENTS

Air and maritime cargo are not impacted.



Homeland  
Security

## CORONAVIRUS UPDATE

CHINA

EUROPE

IRAN

# COVID-19 and the Impact on U.S. Immigration

## Travel Bans (cont.)

- ▶ President Trump has issued multiple proclamations in recent weeks suspending the entry into the U.S., as immigrants or nonimmigrants, of individuals who were physically present within the U.K., Ireland, Schengen Area, the Islamic Republic of Iran, and the PRC during the 14-day period preceding their entry or attempted entry into the U.S., subject to certain exceptions.
- ▶ The exceptions include a spouse of USC and LPR.

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## Travel Bans (cont.)

- ▶ Anecdote– With BA flights departing out of Heathrow, I understand a U.S. citizen with a British spouse was permitted to travel. It was reported that their marriage certificate and passports were checked 3 times by BA staff at Heathrow prior to boarding a flight to Chicago.

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## Border Crossing Issues

- ▶ There are travel restrictions in place on the U.S. Canada and U.S. Mexico border.
- ▶ Travel on the Canadian and Mexican border is closed to “Non-Essential” traffic. Non-essential travel is currently defined as “travel that is considered tourism or recreational in nature.”
- ▶ Travel to the U.S. for business and work is considered “essential”.

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## Border Crossing Issues (cont.)

- ▶ On April 20, 2020, the U.S., Mexico, and Canada agreed to extend restrictions on non-essential travel across their shared borders for 30 additional days.
- ▶ Recommendation – Consult with an attorney prior to any travel.

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## Visa Waiver Program and Satisfactory Departure

- ▶ VWP permits entry for up to 90 days for persons who hold passports from VWP countries including the U.K.
- ▶ VWP applicants may be admitted to the U.S. for up to 90 days. Need to check I-94 expiration date.
- ▶ VWP travelers already in the U.S. who are unable to depart the U.S before their authorized period of admission ends may contact CBP Ports of Entry (POE) including deferred inspection (DI) locations to request satisfactory departure to remain an additional 30 days.
- ▶ Why is this important?



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## Visa Waiver Program and Satisfactory Departure (cont.)

- ▶ Individuals admitted under the VWP/ESTA program who find themselves unable to depart the U.S. before the expiration of their current period of admission due to COVID-19 related issues *and who were admitted to the U.S. through IAH, Houston Hobby, DFW, Austin and San Antonio airports (only) or are temporarily residing with the Houston Field Office area of responsibility can contact the Deferred Inspections office at the locations below starting Thursday, March 19, 2020 to request Satisfactory Departure (up to 30 days)*. Individuals or their attorneys will need to provide the affected individual's name, DOB and passport information at the time of the request. Individuals and their attorneys may be asked to provide the original departure flight itinerary along with the new flight itinerary.
- ▶ Individuals and their attorneys are permitted to request Satisfactory Departure if the individual's period of stay will expire in 14 days or less from the day they contact the deferred inspection locations listed below. If their period of admission has expired, the decision to grant satisfactory departure will be considered on a case by case basis.

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## Visa Waiver Program and Satisfactory Departure (cont.)

- ▶ The Deferred Inspection hours and contact numbers are listed below:

Location, Contact Number and Hours of Operation:

- **Houston Intercontinental Airport (IAH)**
  - (281) 230-4886; Mon-Fri 8:00-4:00
- **San Antonio International Airport (SAT)**
  - (210) 821-6965; Mon-Fri 8:00-4:00
- **Oklahoma City, Oklahoma (OKC)**
  - (405) 942-3405; Mon-Fri 10:00-3:00
- **Dallas/Fort Worth International Airport (DFW)**
  - (972) 456-2250; Mon-Thurs 8:00-2:00

Appointment Requests e-mail: [dfwairporti94@cbp.dhs.gov](mailto:dfwairporti94@cbp.dhs.gov)

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## Visa Waiver Program and Satisfactory Departure (cont.)

- ▶ Need to check the CBP local office procedures.
- ▶ On April 17, 2020, CBP announced that VWP entrants who have been granted satisfactory departure may apply for an additional 30-day extension of their admission period if they remain unable to depart the U.S. because of the COVID-19 pandemic. Travelers may seek satisfactory departure by contacting any local CBP Port of Entry or Deferred Inspection Site or the USCIS Contact Center.

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## Nonimmigrant Visa and Status Issues

- ▶ Difference between a visa and status
- ▶ Extensions
- ▶ Working from home
- ▶ Impact of furloughs & terminations on H-1B status
  - Maintaining status – Why is this important?
  - Employer obligations
  - Worksite location(s)
  - Payment of actual wage
  - 60 day grace period

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## Nonimmigrant Visa and Status Issues (Cont.)

- ▶ Impact of furloughs and terminations on L-1 and E visa status
  - Maintaining status- Why is this important?
  - Grace period
- ▶ Change of status to B-2 visitor to remain lawfully in the U.S.?
- ▶ Unemployment Insurance – Consult with a labor and employment attorney

# COVID-19 and the Impact on U.S. Immigration

## Recommendations

- ▶ Stay tuned – U.S. immigration laws are dynamic and ever changing especially with COVID-19, Executive Orders and the upcoming elections.
- ▶ Be proactive and prepared.
- ▶ Obtain fact specific advice based upon a review of current facts and documents, existing laws, regulations, policies and executive orders.

# COVID-19 and the Impact on U.S. Immigration

## Recommendations (cont.)

- ▶ Proceed and file petitions ASAP assuming otherwise qualified for the immigration benefit(s). The USCIS is open and adjudicating cases.
- ▶ Consult with your attorney and request he/she advise you concerning ongoing developments.
- ▶ If eligible and qualified, consider applying for naturalization as a U.S. citizen.



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# Questions

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