

COVID-19: Restrictions on Travelers at U.S. Land Borders

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New actions by the federal government in response to the COVID-19 pandemic restrict the entry of certain foreign nationals into the United States. [Customs and Border Protection](#) (CBP), within the [Department of Homeland Security](#) (DHS), and the [Centers for Disease Control and Prevention](#) (CDC), within the [Department of Health and Human Services](#) (HHS), have recently issued orders regarding travelers arriving at land ports of entry (POEs) at both the northern and southern borders of the United States.

DHS: Non-essential Travel Restrictions

DHS has issued two orders to temporarily restrict non-essential travel through [ports of entry](#) on the borders between the United States and [Canada](#) and [Mexico](#) to reduce the risk of exposure to and transmission of COVID-19. These orders restrict “all non-essential travel across borders,” loosely defined as recreational travel or tourism between the countries. “[Essential travel](#)” includes returning U.S. citizens, lawful permanent residents, and U.S. military and their immediate family members, among others. Cross-border travel associated with lawful trade is not subject to these restrictions. Under these orders, at land POEs individuals (regardless of nationality) who are not considered “essential travelers” by an immigration officer will not be permitted to enter the United States. The order does not apply to air, freight rail, or sea travel between the United States and Mexico or Canada, but it does apply to personal vehicles, pedestrians, passenger rail, and ferry travel.

CDC: Suspending the Introduction of Certain Persons

A CDC order, citing public health concerns [related to the COVID-19 pandemic](#), bars the entry of many individuals under the authority of Sections 362 and 365 of the Public Health Service Act (42 U.S.C. §§[265](#), [268](#)). These provisions allow the CDC Director to suspend the “introduction” of foreign nationals

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from countries where a communicable disease exists if the director determines that their admission would create an increased public health danger to the United States. The restrictions were originally in effect through April 20, 2020, but have been [extended an additional 30 days](#).

DHS has informed CDC that CBP's facilities are not equipped to effectively quarantine, isolate, or conduct social distancing onsite for COVID-19. Those that [must be held](#) in congregate settings at POEs or in border patrol stations to facilitate immigration processing would typically be aliens "seeking to enter the United States at POEs who do not have proper travel documents, aliens whose entry is otherwise contrary to law, and aliens who are apprehended near the border seeking to unlawfully enter the United States between POEs." These non-U.S. nationals are considered "[covered aliens](#)" by the CDC order. The order calls for the "immediate suspension of the introduction of these aliens" and "requires the movement of all such aliens to the country from which they entered the United States, or their country of origin, or another location as practicable, as rapidly as possible."

The CDC order [allows for individualized exceptions](#) to these rules, based on "the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests."

Implications for Migrants without Valid Documents

These new orders disrupt the [standards](#) in place for migrants who request [asylum](#) either at a POE or when encountered by CBP's [U.S. Border Patrol](#) (USBP) after crossing a land border without detection into the United States. Many migrants approaching POEs without valid documents or crossing into the United States between POEs (i.e., covered aliens) [intend to request asylum](#). Ordinarily, under standard practices, foreign nationals arriving at POEs without entry documents would be subject to inadmissibility determinations under statute ([8 U.S.C. §1182](#)), but others may be able to request asylum. Under the new orders, those who might have been admitted for the purposes of seeking asylum will likely be returned immediately either to the country they transited through (e.g., Canada or Mexico) or, in some cases, their country of origin.

At this time, there are [media reports](#) that the [usual protocol](#) to screen migrants to [initiate claims of asylum](#) in the United States is not being followed. However, the orders described above may not restrict those who request asylum affirmatively directly to USBP. Moreover, [unaccompanied children are not exempt](#) from the CDC order. Guidance to CBP immigration officers has not been made public and asylum processing, for the most part, [appears to be on hold](#), raising a number of [legal issues](#).

Currently, by [agreement](#) with Mexico, only [migrants from Mexico and the Northern Triangle](#) countries of Guatemala, El Salvador, and Honduras are sent back to Mexico. Migrants from other Latin American countries may be put into the [Migrant Protection Protocol](#) program (MPP, also known as "Remain in Mexico"). Those from all other countries are sent to ICE detention with removal orders.

For migrants already enrolled in the MPP program, a [joint statement](#) from DHS and the Executive Office of Immigration Review of the Department of Justice says that court dates presently scheduled through May 1 will be rescheduled. Migrants are instructed to present themselves at their designated POE on their previously scheduled court date to receive a notice containing their new hearing dates.

Other International Travel Restrictions Currently in Place

Due to the coronavirus pandemic, [international travel restrictions](#) to the United States have been put into place to slow its spread.

On January 31, President Trump issued a [proclamation](#) restricting the entry of most non-U.S. nationals who had been physically present in mainland China in the prior two weeks. This entry restriction was

subsequently extended to [Iran](#), the [Schengen area](#) of Europe, and the [UK and Ireland](#). In addition, all U.S. citizens, lawful permanent residents, and immediate family members entering from these areas are asked to [stay home and self-monitor their health for 14 days](#). Although these existing restrictions have been primarily directed toward incoming air travelers, they also include all incoming travelers at maritime and land POEs.

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