



AILA and American Immigration Council

Summary of the April 22, 2020 Proclamation Suspending Entry of Immigrants Who Present Risk to the U.S. Labor Market During the Economic Recovery Following the COVID-19 Outbreak

Authority: Immigration and Nationality Act sections 212(f) and 215(a) and 3 U.S.C. section 301

The proclamation becomes effective on Thursday, April 23, 2020 at 11:59 PM (ET), and suspends the entry of any individual seeking to enter the U.S. as an immigrant who:

- Is outside the United States on the effective date of the proclamation;
- Does not have a valid immigrant visa on the effective date; *and*
- Does not have a valid official travel document (such as a transportation letter, boarding foil, or advance parole document) on the effective date, or issued on any date thereafter that permits travel to the United States to seek entry or admission.

The following categories are **exempted** from the proclamation:

1. Lawful permanent residents (LPR)
2. Individuals and their spouses or children seeking to enter the U.S. on an immigrant visa as a physician, nurse, or other healthcare professional to perform work essential to combatting, recovering from, or otherwise alleviating the effects of the COVID-19 outbreak (as determined by the Secretaries of State and Department of Homeland Security (DHS), or their respective designees)
3. Individuals applying for a visa to enter the U.S. pursuant to the EB-5 immigrant investor visa program
4. Spouses of U.S. citizens
5. Children of U.S. citizens under the age of 21 and prospective adoptees seeking to enter on an IR-4 or IH-4 visa

6. Individuals who would further important U.S. law enforcement objectives (as determined by the Secretaries of DHS and State based on the recommendation of the Attorney General (AG), or their respective designees)
7. Members of the U.S. Armed Forces and their spouses and children
8. Individuals and their spouses or children eligible for Special Immigrant Visas as an Afghan or Iraqi translator/interpreter or U.S. Government Employee (SI or SQ classification)
9. Individuals whose entry would be in the national interest (as determined by the Secretaries of State and DHS, or their respective designees).

Discretion. It is within the discretion of the consular officer to determine if an individual is within one of the exempted categories outlined above.

Nonimmigrant visa holders are not included in the proclamation. However, the proclamation requires that within 30 days of the effective date, the Secretaries of Labor and DHS, in consultation with the Secretary of State, shall review nonimmigrant programs and recommend to the President other appropriate measures to stimulate the U.S. economy and ensure “the prioritization, hiring and employment” of U.S. workers.

Asylum seekers are not included in the ban. The proclamation states that it does not limit the ability of individuals to apply for asylum, refugee status, withholding of removal or protection under the Convention Against Torture.

Prioritized Removal. Individuals who circumvent the application of this proclamation through fraud, willful misrepresentation or illegal entry will be prioritized for removal.

Expiration. The proclamation expires 60 days from its effective date and may be continued as necessary. Within 50 days from the effective date, the Secretary of DHS shall, in consultation with the Secretaries of State and Labor, recommend whether the President should continue or modify the proclamation.

Severability Clause. If any provision of the proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of the proclamation shall not be affected.