

Clarification on Restrictions to Travel from Canada to the U.S.

By [Elizabeth M. Klarin](#)

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Confusion abounds regarding who can (and can't) come to the U.S. right now. Most Canadians are aware that there are restrictions, but many are confused about what the restrictions are, where they apply, and whether quarantine is required when coming to the U.S. (similar to the quarantine or self-isolation required when returning to Canada from the U.S.).

Quarantine

While Canada has a definitive emergency order in place under the Quarantine Act (requiring quarantine or self-isolation for a 14-day period for most travelers going or returning to Canada from the U.S.), the U.S. does not. So long as you are healthy and depending on your method of entry, you may be admitted to the U.S., and will only need to quarantine or self-isolate if the specific state to which you are going requires it. If you are not healthy when crossing in, you may be denied entry.

Specifics regarding self-isolation or quarantine requirements on a state level should be evaluated on a state-by-state basis prior to travel. Where applicable, states are generally “recommending” rather than “requiring” quarantine or self-isolation at this point, but restrictions are likely to be fluid as the COVID-19 situation evolves over the remainder of the year and beyond.

Entry by Land, Passenger Rail/Ferry, or Pleasure Boat: Essential Travelers Only

If you are entering via a land port of entry to the U.S., passenger rail, passenger ferry, or a pleasure boat to the U.S., processing for entry will only be permitted for those travelers engaged in essential travel. “Essential travelers” are defined as the following:

- **Individuals traveling to work in the United States ;**
- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (e.g., to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling for emergency response and public health purposes (e.g., government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID-19 or other emergencies);
- Individuals engaged in lawful cross-border trade (e.g., truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

Thus far, we have been seeing entry permitted for Canadian nonimmigrant work visa holders (e.g. E-1 treaty traders and E-2 treaty investors) and Canadians applying for or with advance authorization from USCIS to be admitted in a work-authorized status not requiring a visa (e.g., L-1, TN). We are also continuing to see entry permitted for many B-1 business visitors, so long as they carry legitimate and verifiable evidence of the business engagement/meeting/etc. that requires their entry.

However, essential travelers who are traveling with someone who is not deemed an “essential traveler” (such as a friend, parent, etc.) may be denied entry upon application for admission to the U.S.

Individuals traveling for tourism purposes (e.g., sightseeing, recreation, gambling, or attending cultural events) do not fall within the definition of “essential traveler,” and will continue to be denied entry at this time.

Entry by Air

Those entering the U.S. from Canada by air, freight rail or sea travel are currently not subject to the “essential traveler” restrictions. For this reason, traveling by air is the most likely to result in an individual being granted entry to the U.S. at this time, as no evaluation of the essential nature of the travel is required. Individuals traveling for tourism purposes (e.g., sightseeing, recreation, gambling, or attending cultural events) may be admitted if traveling by air. However, at this time and considering the inconsistent application of rapidly-changing immigration policies and rules, travelers should be prepared that this could change at any time and may be being applied inconsistently from one inspecting officer to another.

Limitations Based on Prior Travel Within Certain Countries

The only outright restrictions for those traveling to the U.S. by air (and the other methods of entry listed above) stem from having recently—within 14 days prior to attempted entry to the U.S.—been in one of the countries subjecting them to a bar to entry under a presidential proclamation due to COVID-19—currently including China, Iran, the Schengen Area of Europe, the UK, Ireland and Brazil. This list of countries is likely to shift as the rates of COVID-19 infection wax and wane.

Also, certain exemptions to the travel bar for those in the above-listed countries exist. For example, citizens and lawful permanent residents of the United States, certain family members, and other individuals who meet specified exceptions and who have been in one of the countries listed above in the past 14 days will be allowed to enter the United States through one of 15 airports. After arriving to the United States from one of these countries, the U.S. Center for Disease Control and Prevention recommends that travelers stay home and monitor their health for 14 days.

Please contact your LMWF immigration professional with questions about this post or other COVID-19-related changes and restrictions on entry to the U.S.

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**Lippes
Mathias**
Wexler Friedman LLP

ALBANY | 54 State Street, Suite 1001 • Albany, NY 12207 • 518.462.0110

BUFFALO | 50 Fountain Plaza, Suite 1700 • Buffalo, NY 14202 • 716.853.5100

CHICAGO | 332 S. Michigan Ave., 9th Floor • Chicago, IL 60604 • 872.254.5500

GREATER TORONTO AREA (PRACTICE FOCUSED ON U.S. LAW) | 1100 Burloak Drive, Suite 300 • Burlington, ON L7L 6B2 • 905.319.8964

JACKSONVILLE | 10151 Deerwood Park Blvd. , Bldg. 300, Suite 300 • Jacksonville, FL 32256 • 904.660.0020

NEW YORK CITY | 477 Madison Avenue, 6th Floor • New York City, NY 10022 • 646.673.8633

WASHINGTON D.C. | 1900 K Street, NW, Suite 730 • Washington, DC 20006 • 202.888.7610