

Entries across the U.S.-Canadian border during Coronavirus

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May 15, 2020 | **IMMIGRATION**

The U.S.-Canadian border is often described as the longest undefended international boundary. However, the current pandemic has caused a significant shift in how it is viewed. Many people describe it as “shut down.” But is it, really?

Travel to the U.S.

On the U.S. side of this border, U.S. Customs and Border Protection is preventing entries for non-essential purposes, defined as tourism and recreation. The U.S. is also preventing entry by people who have been located in certain countries that have been hard-hit by the coronavirus in the last 14 days. U.S. citizens, family members and work permit applicants are entering via processes that are similar to before the pandemic.

Travel to Canada

On the Canadian side of the border, Canadian Border Services Agency (“CBSA”) is admitting people in much more limited instances. Pursuant to the CBSA website, “if you are a foreign national, you must have an essential reason to travel to Canada,” including family members and partners of Canadians. The news reports stories of spouses and children unable to enter Canada to be with their Canadian family members.

In addition to Canada’s limits on who can enter and why, is the 14-day self-isolation period that follows a successful entry. The successful traveler, Canadian or not, must be ready to share their self-isolation plan with CSBA. If the plan is found lacking, the traveler may be quarantined by the Canadian government. The penalty for breaking self-isolation is up to \$1 million (CND) and 3 years in prison. Leaving Canada before the 14 days is over may have a serious and significant negative impact on future entries to Canada.

Applying for Work Authorization at the Border

The 14-day Canada-imposed quarantine is affecting those with U.S. immigration issues. Many foreign nationals have lost the ability to leave the U.S. and re-enter in order to re-start their U.S. immigration status. The removal of this U.S. immigration strategy has forced many who have or need a change in status to file expensive mail-in applications with lengthy processing times.

Also, some Canadians requiring U.S. work permits have in the past strategically chosen the ports of entry at which they wished to file, returning to Canada shortly thereafter. Many times, this is to ensure issuance of the work permit before quitting a job or undertaking extensive travel plans to the U.S. Now, those applicants cannot expect to re-

enter Canada without being subject to the 14-day period of self-isolation.

Further, many Canadians work in the U.S. on an as-needed basis, or with regular periodic travel to Canada. Gone are the days of working in the U.S. for a few days or weeks, returning to Canada for a week or long weekend, and heading back to the U.S. to work. No longer can workers expect to spend a few days in the U.S. followed by a return to Canada to resume their jobs (unless among the defined essential services) and family life.

Canada's border rules have been extended out until June 21, so far. Fingers crossed that cross-border travel will then resume for all travelers, with no mandatory self-isolation days attached.

What if I Have an Urgent Need to Travel?

Workers can still travel to the U.S. for business purposes, and U.S ports of entry are still accepting and processing requests for immigration status such as B-1 (business visitor), TN (NAFTA) status or L-1 (Intracompany Transferee) status. Be sure to plan properly and to reach out with any questions to your immigration professionals, to make sure that you are prepared for any limitations, requirements and consequences associated with travel at this time. Travel options, opportunities and government policies have changed rapidly and without warning during this time, so proper planning is essential to ensure that you understand the risks and consequences of travel.

LMWF is closely monitoring the situation and will continue to update this blog with new information as the travel situation evolves.

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