

Update on Issues and Concerns at U.S. Ports of Entry - January 28, 2021

By [Elizabeth M. Klarin](#)

January 28, 2021 | **IMMIGRATION**

Issue with granting of National Interest Exceptions at certain ports of entry (likely temporary)

The [American Immigration Lawyers Association \(AILA\)](#) has notified us that starting January 26th, it began receiving reports that at some ports of entry to the U.S., Customs and Border Protection officers have stated that they no longer have jurisdiction to grant National Interest Exceptions (NIEs) related to the COVID-19 country-specific, health-related travel restrictions imposed on the Schengen Area, UK, Ireland and Brazil, which were recently reinstated by the Biden Administration pursuant to a [presidential proclamation on January 25, 2021](#). CBP officers at these ports also stated that they do not have jurisdiction yet for NIE requests relating to South Africa, as restrictions under the recent proclamation do not become effective until January 30th, 2021. According to the notification from AILA, it does appear that NIE requests relating to the health-related restrictions for China (proclamation 9984) and Iran (proclamation 9992), and NIE requests related to immigrant visa and nonimmigrant visa suspensions, are not affected.

Specific ports where individuals have reported encountering issues include:

- Los Angeles International Airport (LAX)
- Baltimore/Washington International Thurgood Marshall Airport (BWI)
- Newark Liberty International Airport (EWR)

AILA has further stated that it has “learned that CBP is waiting for a formal delegation from the Secretary of Homeland Security” on this issue, and anticipates that they “will ultimately receive this authority”—so the problem appears to be temporary. AILA’s notification further states that “This is a rapidly developing situation but appears to be driven at the local level rather than a national policy mandate.”

COVID testing and quarantine/isolation requirements, and mask mandate

Yesterday, we posted notification that COVID-19 testing and proof of negative results, or sufficient documentation of having recovered from COVID-19, is now required for all air travelers requesting entry to the U.S., within 72 hours of boarding their flight to the U.S. No specifics regarding the type of COVID-19 testing or proof of having recovered from COVID-19 (or the time frame that is acceptable as proof of having recovered) has been provided at this time, but these are issues that the U.S. government is currently reviewing. We expect additional guidance to be forthcoming in the coming month.

In addition, masks are now federally mandated (to be worn in compliance with [Centers for Disease Control and Prevention guidelines](#)) in airports and on commercial aircraft, trains, public maritime vessels, inter-city bus services within the U.S., and all other forms of public transportation in the U.S.

Federal government agencies are also currently considering:

- Additional measures, such as mandatory quarantine or isolation, both for international and domestic (U.S.) travelers
- Implementing additional COVID-19 safety measures at land and sea ports of entry
- The possible use of International Certificates of Vaccination or Prophylaxis (ICVPs) for COVID-19

LMWF is keeping a close eye on all changes as they are discussed and occur, and we will continue to post updates to this blog as information is confirmed with reliable sources and implemented. Please feel free to reach out to your LMWF immigration professional with questions.

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