



COVID-19: U.S.-CANADA AND U.S.-MEXICO TRAVEL RESTRICTIONS

Syracuse ♦ Ithaca ♦ New York City

March 2020

Non-Essential Travel is Suspended

On March 20, 2020, the Department of Homeland Security announced agreements with Canada and Mexico to restrict unnecessary travel across the borders shared with each country. Each agreement became effective on March 21, 2020 and remains in effect for 30 days (and may be extended). Unnecessary travel includes tourism or recreation, but the agreements do not prohibit cross-border trade, supplies, or individuals engaged in essential travel.

In particular, the following is considered “essential” travel for the purposes of entering the United States:

- U.S. citizens and lawful permanent residents returning to the U.S.
- Travel for medical purposes
- Travel to attend educational institutions
- Travel for emergency response and public health purposes
- Lawful cross-border trade
- Travel to work in the U.S.
- Travel for emergency response and public health purposes
- Official government or diplomatic travel
- Members of the U.S. Armed Forces and their spouses and children returning to the U.S.
- Military-related travel or operations

TN and L-1 Applications and Renewals

Although traveling for work is considered “essential” travel, we are receiving mixed reports concerning adjudications of L-1 (Intracompany Transferee) and TN (Trade NAFTA) work visa petitions at the U.S. – Canada border. Some CBP ports confirmed that they are, for the moment, and unless directed otherwise, continuing to process L-1 and TN visa applications as usual. Others have indicated that they deny applications if the intended work in the United States is not essential. Thus, individuals seeking to apply or extend their existing TN and L-1 visa classifications are now recommended to do so by filing a petition with the U.S. Citizenship and Immigration Service (“USCIS”). As long as an extension petition is timely filed before the employee's current status expires, the employee may lawfully remain in the U.S. and continue employment in the U.S. for up to 240 days while the petition remains pending.

As posts in Canada and Mexico have cancelled nonimmigrant visa appointments, except for emergency situations, it is crucial that Mexican nationals with an expired TN visa do not depart the United States, even if they receive a TN approval through USCIS because they may be unable to obtain a TN visa to return to the U.S.

Canadian nationals do not require a TN visa to return to the United States. However, if a Canadian national departs the United States, it is not clear whether he/she will be permitted to return through a land port of entry if such individual's work in the U.S. will be deemed “non-essential”.

As a general precaution, those who have travelled to any of the countries covered by the temporary COVID-19 related bans (China, Iran, 26 European countries), in the 14 days before their scheduled arrival in the United States will not be allowed admission.

It is important to keep in mind that the procedures are constantly changing, and our immigration group is closely monitoring the developments on these issues. For questions and/or additional information, please contact:

Anna Putintseva • APutintseva@bhlawpllc.com • (315) 701-6372