



Rutgers Global FAQs on June 22 US Presidential Proclamation Suspending the Entry of Nonimmigrants Holding Certain Work Visas (Updated 8/17/2020)

On August 12, the Department of State posted guidance on **national interest waivers** of Proclamation 10052 for H-1B visa applicants. For more information on **national interest waivers** under Proclamation 10052, see [National Interest Exceptions to Presidential Proclamations 10014 & 10052](#). Note that the proclamation does not limit national interest waivers to these bases, so DOS and DHS retain full discretion to determine what constitutes "national interest" in individual cases.

We have therefore updated the FAQs in order to incorporate the Department of State's new guidance regarding the National Interest Exceptions to President Trump's June 22nd [presidential proclamation](#), which suspended entry to the United States of certain foreign nationals in certain temporary visa categories.

Q: Which visas are affected with the Presidential Proclamation (June 22, 2020)?

A: The Presidential Proclamation announced on June 22, 2020 extends Proclamation 10014, which impacted certain immigrant visas, and includes new restrictions impacting certain H-1B, H-2B, L, and J nonimmigrant visa applications. <https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-aliens-present-risk-u-s-labor-market-following-coronavirus-outbreak/>

Q: I have an approved (H-1B, H-2B, J, or L) petition and I am waiting for my interview. What does this mean for me?

A: Suspension of entry only applies to "any alien who does not have a nonimmigrant visa that is valid on the effective date of this proclamation."

See below for more information on exceptions to the proclamation.

Q: I am already in the United States on a H-1B, H-2B, J, or L visa. What does this mean for me?

A: The Proclamation is not retroactive. No valid visas will be revoked under this Proclamation.

Q: Can I apply for a change of status to H-1B status or an extension of H-1B status within the U.S.?

A: Yes. it is possible to change your status from one nonimmigrant status to another provided you meet certain conditions.

Q: Are all J-1s (and their dependents) affected by the Presidential Proclamation?

A: No, exchange visitors in the following J-1 categories (and their dependents) are not affected:

- Research Scholar
- Professor
- Short-Term Scholar

- Student (degree & non-degree seeking)

Q: I am a public health professional, healthcare professional, or researcher. Am I exempt?

A: Physicians and research scholars applying for a J visas are not subject to the proclamation.

Public health professionals, healthcare professionals, and researchers seeking to enter the U.S. on an H-1B visa may be exempt from the proclamation if they will be traveling to alleviate the effects of the COVID-19 pandemic, or to conduct ongoing medical research in an area with a substantial public health benefit (e.g. cancer or communicable disease research). This includes those traveling to alleviate effects of the COVID-19 pandemic that may be a secondary effect of the pandemic (e.g., travel by a public health or healthcare professional, or researcher in an area of public health or healthcare that is not directly related to COVID-19, but which has been adversely impacted by the COVID-19 pandemic).

Q: I am seeking to resume ongoing H-1B employment in the United States in the same position with the same employer and visa classification. Am I exempt?

A: The Department of State has confirmed that H-1B visa applicants seeking to resume ongoing employment in the United States in the same position with the same employer and visa classification may be exempt under the national interest exception.

Consular officers will refer to Part II, Question 2 of the approved Form I-129 to determine if the applicant is continuing in “previously approved employment without change with the same employer.”

Q: I am a technical specialist, senior level manager, and other type of worker whose travel is necessary to facilitate the immediate and continued economic recovery of the United States. Am I exempt?

A: The Department of State has confirmed that certain H-1B visa applicants who are technical specialists, senior level managers, or other workers may be exempt from the proclamation if their travel is necessary to facilitate the immediate and continued economic recovery of the United States.

Consular officers may determine that an H-1B applicant falls into this category when specific factors are met. See the [Department of State’s announcement](#) for more information these factors. Please consult with Rutgers Global – ISSS if you are seeking to qualify under this exception.

Q: My spouse is a U.S. citizen, I was outside of the U.S. as of 6/24/2020, and I do not have a valid H-1B visa. Am I eligible to apply for H-1B visa?

A: Yes. Because your spouse is a U.S. citizen, you are exempted from the Presidential Proclamation. Although you are eligible to apply for an H-1B visa and enter the U.S., consular services are very limited right now. Be prepared that it may take a while to secure a consular appointment.

Q: I have a valid Advance Parole document. Can I travel into the U.S. without a valid visa in my passport?

A: Yes. The Presidential Proclamation does not apply to you.

Q: I am in the U.S. on an H-1B, H-2B, L, or J visa but my visa will expire before December 31. Can I extend my stay?

A: The visa foil in your passport is separate from your nonimmigrant status (authorized stay). Visa expiration does not affect your authorized stay in the U.S. Therefore, you may remain in the U.S.

with an expired visa foil. Accordingly, you may extend your stay in the U.S. provided your nonimmigrant status (e.g. H-1B I-797 approval notice) remains valid.

Q: My H-1B visa is still valid but I am outside of the U.S. Can I travel to the U.S. before December 31, 2020?

A: Yes, if your H-1B visa is still valid, you will be able to travel to the U.S. prior to December 31, 2020. We would recommend returning to the U.S. before your visa expires as it is not yet known whether consular posts will be renewing such visas.

Q: I was in the U.S. as of June 24th in valid H-1B nonimmigrant status and with a valid visa. I wish to travel but my visa has already expired. Can I renew my visa before December 31, 2020?

A: Visa holders already legally in the U.S. do not need to renew their visa to remain in the U.S. If you depart the U.S., you will need a valid visa to return. Currently, Consular Affairs is not issuing H-1B, H-2B, L, or certain J visas, and their derivatives through December 31 unless an exception applies. You must have a valid travel document, such as Advance Parole, to enter the U.S.

See above for more information on the exceptions available to H-1B visa applicants (including those seeking to resume ongoing employment in the United States in the same position with the same employer and visa classification).

As of now, consular services are still very limited. We would caution against traveling outside of the U.S. if you are in one of the affected categories and your visa will expire before December 31, 2020.

Q: I am a Canadian citizen and do not require a visa. Am I exempt?

A: Yes, Customs and Border Protection (CBP) Headquarters has confirmed that Canadian citizens entering in H, J, or L status are exempt from the Presidential Proclamation issued on 6/22/2020 and that guidance has been provided to local Port of Entries (POEs). Please note that the TN nonimmigrant classification was not affected by the Proclamation. Therefore, individuals seeking to enter the U.S. in TN status may still do so.

Q: I am affected by the Presidential Proclamation and will not be able to return to the U.S. until December 31, 2020. Can I apply for an H/L/J visa before December 31, 2020?

A: The Department of State has not yet announced whether it will be issuing visas for affected individuals prior to the lifting of the entry bar.

Q: I am currently in the U.S. in H-1B status but my spouse and/or child is outside of the U.S. Can they enter the U.S. in H-4 status?

A: If your spouse and/or child already has a valid H-4 visa or travel document such as Advance Parole, they are not subject to the proclamation and can travel to the U.S.

The Department of State has also confirmed that a national interest exception is not required by an H-4 derivative if the principal applicant is not subject to P.P. 10052 (e.g. if the principal was in the United States on the effective date, June 24, or has a valid visa that the principal will use to seek entry to the United States). In the case of a principal visa applicant who is not subject to P.P. 10052, the derivative will not be subject to the proclamation either.

If your child's/spouse's H-4 visa is still valid but will expire soon, they may want to consider traveling to the U.S. before the visa expires. Again, as of now, consular services are very limited.

Q: I was in the process of a green card application when the President issued the US Presidential Proclamation. Can I continue with my green card process?

A: Yes. The proclamation did not affect green card applications – new and/or pending.

Interaction with Other COVID-19 Measures

The President has issued several COVID-19-related proclamations, and there are also other COVID-19 travel restrictions. Currently all are in effect. They are also independent one from another. For example, if someone is exempt from the June 22, 2020 proclamation on H, J, and L nonimmigrant visas, they may still be subject to one of the country-specific COVID-19 proclamations (i.e. if present in China, Iran, European Schengen Area, U.K, Ireland, or Brazil in the 14-day period before attempting entry to the U.S.) unless specifically exempt from those as well.

Rutgers Global note: Individual circumstances can vary, as can the interpretations of consular officials and immigration inspectors. This page should not be construed as legal advice. Individuals who need advice on whether the proclamation applies to them or their families in order to make decisions on traveling to or from the United States should be encouraged to contact our office for further guidance pertaining to your specific situation.

