



IMMIGRATION UPDATE - JUNE 29, 2020

Posted on June 29, 2020 by Cyrus Mehta

Headlines:

[Trump Issues Proclamation to Suspend Entry of Nonimmigrant Workers, With Exceptions](#) – A Presidential Proclamation issued June 22, 2020, extends an order to limit the entry of many immigrants that was issued in April, and amends it to include nonimmigrant workers, with exceptions.

[State Dept., USCIS Issue Statements on Proclamations Suspending Entry of Immigrants and Nonimmigrants](#) – DOS and USCIS, among others, have issued statements on President Trump's recent proclamations suspending the entry of immigrants and nonimmigrants, with exceptions.

[USCIS Final Rule Imposes New Restrictions on Asylum-Based Work Authorization](#) – The rule prevents those who, absent good cause, entered the United States without authorization from obtaining employment authorization based on a pending asylum application, and defines new bars and denials for employment authorization, among other things.

[Texas Service Center Has Moved](#) – TSC has moved as of June 26, 2020.

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Trump Issues Proclamation to Suspend Entry of Nonimmigrant Workers, With Exceptions

A Presidential Proclamation issued June 22, 2020, extends an order to limit the entry of many immigrants that was issued in April, and amends it to include nonimmigrant workers, with exceptions. The proclamation expires on

December 31, 2020, but "may be continued as necessary."

The June proclamation suspends and limits the entry of certain nonimmigrants outside of the United States as of June 24, 2020, with H-1B, H-2B, J (for those participating in intern, trainee, teacher, camp counselor, au pair, or summer work travel programs), and L visas, and those accompanying or following to join them. The June proclamation applies to those who, as of the effective date, do not have a nonimmigrant visa or an official travel document (e.g., transportation letter, boarding foil, or advance parole) valid on the effective date or issued on any date thereafter. The proclamation also calls for additional restrictions to be considered through rulemaking.

The June proclamation does not apply to permanent residents, spouses or children of U.S. citizens, those seeking to enter the United States to provide temporary labor or services essential to the United States food supply chain, and those whose entry is determined to be in the national interest, among others.

Reaction. The Migration Policy Institute estimates that 219,000 temporary workers are affected by the new proclamation, along with 158,000 green card applicants. The proclamation did not go over well in the tech industry, among others. Sundar Pichai, CEO of Alphabet Inc., and its subsidiary, Google LLC, tweeted, "Immigration has contributed immensely to America's economic success, making it a global leader in tech, and also Google the company it is today. Disappointed by today's proclamation—we'll continue to stand with immigrants and work to expand opportunity for all." Jessica Herrera-Flanigan, Twitter's vice president of public policy and philanthropy for the Americas, said, "Unilaterally and unnecessarily stifling America's attractiveness to global, high-skilled talent is short-sighted and deeply damaging to the economic strength of the United States." Indian IT association Nasscom said the new proclamation was misguided and harmful to the U.S. economy, and "will impose new challenges and possibly force more work to be performed offshore since local talent is not available."

Those affected include, among others, parents who rely on au pairs to fill gaps and help with childcare during irregular hours, including medical families where both parents are medical workers and military families when a spouse is deployed.

Earlier proclamation. The earlier Presidential Proclamation that took effect

April 23, 2020, and has now been extended until December 31, 2020, suspends the entry of many immigrants outside the United States for 60 days, with some exceptions. Excluded from that ban are lawful permanent residents; those seeking to enter the United States as physicians, nurses, or other healthcare professionals, to perform medical or other research intended to combat the spread of COVID-19; or to perform work essential to combating, recovering from, or otherwise alleviating the effects of, the COVID-19 pandemic; EB-5 immigrant investors; spouses and children of U.S. citizens; members of the U.S. armed forces; and some others.

Details:

- Presidential Proclamation (June 22, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-aliens-present-risk-u-s-labor-market-following-coronavirus-outbreak/>
- Presidential Proclamation (April 22, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-immigrants-present-risk-u-s-labor-market-economic-recovery-following-covid-19-outbreak/>
- Reuters, "Trump to Suspend H-1B Work Visas and Others Through End of Year," <https://www.reuters.com/article/us-usa-immigration-workers/trump-to-suspend-h-1b-work-visas-and-others-through-end-of-year-idUSKBN23T2ZW?il=0>
- CNN Business, "Tech Companies Slam Trump's Executive Order Restricting H-1B Visas," <https://www.cnn.com/2020/06/22/tech/executive-order-trump-immigration-tech/index.html>
- Today, "With Au Pair Visas Frozen, Working Parents are Scrambling for Child Care," <https://www.today.com/parents/parents-face-childcare-concerns-due-au-pair-program-halt-t185054>
- Times of India, "Tech Sector in India, U.S. Hits Out at Trump for Suspension of H-1Bs," <https://timesofindia.indiatimes.com/india/tech-sector-in-india-us-hits-out-at-trump-for-suspension-of-h-1bs/articleshow/76541123.cms>
- Migration Policy Institute tweets,

<https://twitter.com/MigrationPolicy/status/1275172048080449539>

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State Dept., USCIS Issue Statements on Proclamations Suspending Entry of Immigrants and Nonimmigrants

The Department of State (DOS) has issued several statements on President Trump's recent proclamations suspending the entry of immigrants and nonimmigrants, with exceptions. U.S. Citizenship and Immigration Services (USCIS) also issued a statement, as did several other entities. Highlights are below:

DOS statement issued June 23, 2020. This statement appears to restate certain details of the Presidential Proclamation issued June 22, 2020.

DOS statement issued June 17, 2020. This statement appears to restate certain details the Presidential Proclamation issued April 23, 2020, which was extended and amended by the proclamation issued June 22, 2020.

Both of the DOS statements note that routine visas services have been suspended at U.S. posts worldwide as a result of the COVID-19 pandemic, but that as resources allow, embassies and consulates will continue to provide emergency and mission critical visa services. Mission-critical immigrant visa categories may include applicants who may be eligible for an exception under this presidential proclamation, such as: IR/CR1, IR/CR2, IR/IH-3, IR/IH-4, SQ, SI, and certain medical professionals, as well as cases involving an applicant who may age out, the statements say. The June 23 statement also includes in the mission-critical category "certain aliens providing temporary labor or services essential to the United States food supply chain." The statements note that "hile embassies and consulates may process these types of cases, their ability to do so may be limited by local government restrictions and available resources. In addition, an applicant's ability to travel may be impacted by local laws, regulations, and travel restrictions."

USCIS statement issued June 23, 2020. The USCIS statement notes that the June 22 proclamation does not affect those currently working in the U.S. on valid H-1B "or similar" visas. USCIS said the proclamation also does not prevent individuals in possession of valid visas before the effective date of the proclamation from entering or re-entering the United States if they have been

abroad, provided they have not otherwise rendered themselves inadmissible. "The U.S. will continue to honor these already valid visas as we help American workers get back on their feet," said Joseph Edlow, USCIS Deputy Director for Policy.

CBP response. Also, in response to questions, a spokesperson from U.S. Customs and Border Protection said the proclamation does not apply to foreign nationals who are normally visa-exempt, such as most Canadians. For foreign nationals requiring a visa, he said that consular officers will determine if exemptions apply before issuing a visa.

U.S. Embassy FAQ. In addition to the statements noted above, the U.S. Embassy and Consulate in Spain and Andorra posted a FAQ on visa questions on June 18, 2020, which mentions the earlier proclamation.

Details:

- DOS statement, June 23, 2020, <https://bit.ly/2AcRnyk>
- DOS statement, June 17, 2020, <https://bit.ly/3ibpxn5>
- USCIS statement, June 23, 2020, <https://www.uscis.gov/news/alerts/uscis-statement-presidential-proclamation>
- S. Embassy and Consulate in Spain and Andorra FAQ, June 18, 2020, <https://es.usembassy.gov/covid-19-related-faq/>
- Washington Post, "Trump's New Restrictions on Foreign Workers, Explained," June 23, 2020, <https://wapo.st/388QIQa>

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USCIS Final Rule Imposes New Restrictions on Asylum-Based Work Authorization

U.S. Citizenship and Immigration Services (USCIS) published a final rule on June 26, 2020, "to deter aliens from illegally entering the United States and from filing frivolous, fraudulent, or otherwise non-meritorious claims for asylum to obtain an employment authorization document." The rule, effective August 25, 2020, does not alter asylum eligibility criteria, the agency said.

The rule prevents those who, absent good cause, entered the United States without authorization from obtaining employment authorization based on a pending asylum application. Additionally, the rule defines new bars and denials for employment authorization, such as for certain criminal behavior; extends

the wait time before an asylum applicant can apply for employment authorization from 150 days to 365 calendar days; limits the maximum employment authorization validity period to two years; and automatically terminates work authorization when an applicant's asylum denial is administratively final.

This final rule follows on the heels of USCIS's final rule to eliminate the 30-day timeframe for processing asylum applicants' employment authorization documents, effective August 21, 2020.

Details:

- USCIS final rule (June 26, 2020),
<https://www.govinfo.gov/content/pkg/FR-2020-06-26/pdf/2020-13544.pdf>
- USCIS final rule (June 22, 2020),
<https://www.govinfo.gov/content/pkg/FR-2020-06-22/pdf/2020-13391.pdf>

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Texas Service Center Has Moved

U.S. Citizenship and Immigration Services' Texas Service Center has moved as of June 26, 2020. The new address is:

Texas Service Center
6046 N. Belt Line Rd.
Irving, TX 75038-0001

USCIS said those submitting forms should refer to the form filing address pages at uscis.gov to find the specific address information, including suite numbers, to be included depending on which form is being submitted. USCIS noted that service centers do not provide in-person services, conduct interviews, or receive walk-in applications, petitions, or questions.

Details:

- USCIS notice,
<https://www.uscis.gov/news/alerts/texas-service-center-moving-new-address-june-26>

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Firm in the News

Cyrus Mehta was interviewed by Nikita Natarajan, IANS TV,
<https://bit.ly/2BKq1jp>

Mr. Mehta was featured on Sree's Covid-19 Show in partnership with Scroll.In,
<https://bit.ly/2Acjlc3>

Mr. Mehta was quoted in the following media on President Trump's work visa proclamation:

- Economic Times, "Trump's H-1B Order Makes it Impossible for Many Indians to Return to Their Lives in the US, Economic Times,"
<https://bit.ly/2YEZE7n>
- Outlook India, "New Red Flags Inside Trump H-1B Crackdown: Top U.S. Immigration Attorney,"
<https://www.outlookindia.com/newscroll/new-red-flags-inside-trump-h1b-crackdown-top-us-immigration-attorney/1875552>
- Times of India, Tech Sector in India, U.S. Hits Out at Trump for Suspension of H-1Bs,"
http://timesofindia.indiatimes.com/articleshow/76541123.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
- Forbes, "What Trump's H-1B Visa Ban Means for India,"
<https://www.forbes.com/sites/kenrapoza/2020/06/24/what-trumps-h-1b-visa-ban-means-for-india/#960d8a149158>
- India West, "Trump Issues Proclamation Suspending H-1B Workers From Entering U.S.; Includes H-2B, L-1 and J-1 Workers,"
https://www.indiawest.com/news/business/trump-issues-proclamation-banning-h-1b-workers-from-entering-u-s/article_35bca504-b4f5-11ea-b98c-63e63f46ea11.html
- Times of India, Trump's New Ban: A Longer Wait for H-1B Aspirants, But U.S.-Based OPT Students Can Change Status to Work Visas,"
http://timesofindia.indiatimes.com/articleshow/76523632.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

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