

Crossing the U.S.-Canada border during COVID-19

By Eileen M. Martin

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The U.S.-Canada 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" with restrictions in place until June 21 at the earliest, lasting likely into July. Here is information on what that means in practice.

On the U.S. side of this border, U.S. Customs and Border Protection is preventing entries (by land only, not by air) for non-essential purposes, defined as tourism and recreation. The United States is also preventing entry by people who have been located in certain countries that have been hard-hit by COVID-19 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.

On the Canada side of the border, Canada 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 ." News stories of spouses and children unable to enter Canada to be with their Canadian family members have resulted in modifications, permitting entry of close family under certain circumstances.

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

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 restart 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 eligible to apply for U.S. work authorization at the border have, in the past, strategically chosen the U.S. port of entry at which they wished to file, returning to Canada shortly thereafter. Many times, this is to ensure issuance of the work authorization before quitting a job or undertaking extensive travel plans to the U.S. Now, those applicants may not be able to re-enter Canada without being subject to the 14-day period of self-isolation.

Further, many Canadians work in the United States on an as-needed basis, or with regular periodic travel back into 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 the U.S. to work. No longer can workers expect to spend a few days south of the

border followed by a return to Canada to resume their jobs (unless among the defined essential services) and family life.

Workers can still travel to the U.S. for business purposes, and both U.S. air and land 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.

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