

ALERTS

Travel Bans Rescinded, Replaced With Vaccine Requirement

10.2021

The long awaited Presidential Proclamation rescinding the current COVID-19 travel bans was issued on October 25, 2021. The proclamation becomes effective on November 8, 2021 at 12:01 am EST and replaces the existing bans with a vaccination requirement for foreign nationals seeking nonimmigrant entry to the United States after international air travel. In addition, three Centers for Disease Control and Prevention (CDC) Orders on vaccination, testing, and contact tracing were issued as well as technical instructions to provide implementation details to the airlines and their passengers. Below is an overview of these orders and the technical instructions for implementation.

Fully Vaccinated Status

Starting on November 8, non-citizen, non-immigrant air travelers to the United States will be required to be, and to provide proof of, vaccination status prior to boarding an airplane to fly to the U.S. Note the vaccine requirement is in addition to the existing requirement for all international travelers two (2) years or older to provide a negative COVID test taken within three days of travel pursuant to the following updated guidelines:

- If you plan to travel internationally, you will need to get a COVID-19 viral test (regardless of vaccination status) before you travel by air into the United States. You must show your negative result to the airline before you board your flight.
 - Fully vaccinated: viral test must be conducted on a sample taken no more than 3 days before the flight's departure from a foreign country.
 - Not fully vaccinated: The viral test must be conducted on a sample taken no more than 1 day before the flight's departure from a foreign country.
 - Recently recovered from COVID-19: present documentation of recovery from COVID-19 (i.e., positive COVID-19 viral test result on a sample taken no more than 90 days before the flight's departure from a foreign country and a letter from a licensed healthcare provider or a public health official stating that you were cleared to travel).

Proof of Vaccination

Foreign nationals will be required to provide proof of vaccination status, unless eligible for a stated exception, in order to board an international flight to the U.S. Digital or paper documentation will be accepted by the airlines in order to verify vaccination status as long as documentation contains:

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- Biographical information that matches the foreign national's travel documents;
- Name of official source issuing the record in the country where the vaccine was given;
- Vaccine manufacturer; and
- Date(s) of vaccination

Examples of acceptable proof of COVID-19 vaccination, both digital and paper, include:

- Vaccination certificate with QR code¹, digital pass via Smartphone application with QR code¹ (e.g., United Kingdom National Health Service COVID Pass, European Union Digital COVID Certificate)
- Printout of COVID-19 vaccination record or a COVID-19 vaccination certificate issued at national or subnational level or by an authorized vaccine provider (e.g., the CDC vaccination card);
- Digital photos of vaccination card or record, downloaded vaccine record or vaccination certificate from official source (e.g., public health agency, government agency, or other authorized vaccine provider), or a mobile phone application without QR code¹

Airlines will verify an individual's vaccination status in the same way they currently have been verifying negative COVID tests for air travelers, prior to boarding. Passengers will sign an attestation certifying the validity of their documentation.

Accepted Vaccines

CDC has determined that for purposes of travel to the U.S., vaccines accepted will include FDA approved or authorized and World Health Organization (WHO) emergency use listed (EUL) vaccines. These lists currently include the Janssen/J&J, Pfizer-BioNTech, Moderna, AstraZeneca, Covishield, BIBP/Sinopharm, Sinovac vaccines.

Individuals can be considered fully vaccinated 2 weeks (14 days) after receipt of the last dose if they have received any single dose of an FDA approved/authorized or WHO EUL approved single-dose series (i.e., Janssen), or any combination of two doses of an FDA approved/authorized or WHO emergency use listed COVID-19 two-dose series (i.e. mixing and matching). Individuals who do not meet one of these requirements, are not considered fully vaccinated.

Exemptions & Exceptions

The Presidential Proclamation and CDC's Order do not apply to U.S. citizens, U.S. nationals, or U.S. lawful permanent residents. Immigrant visa holders are also not impacted by the proclamation. Notably, since October 1, 2021, immigrant visa applicants have been required to obtain a COVID-19 vaccine in order to complete their green card medical exam.

The following groups will qualify for exceptions under the new policy, and will not be required to be vaccinated in order to board a flight to the U.S.:

- Children under 18 years of age;

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- Individuals on diplomatic or official foreign government travel;
- Individuals with documented medical contraindications to receiving a COVID-19 vaccine;
- Individuals participating in certain COVID-19 vaccine trials;
- Individuals issued a humanitarian or emergency exception;
- Foreign nationals traveling on non-tourist visas from countries with low-vaccine availability (as determined by the CDC);
- Members of the U.S. Armed Forces or their spouses or children (under 18 years of age);
- Sea crew members traveling with to a C-1 and D nonimmigrant visa; and
- Individuals whose entry would be in the national interest, as determined by the Secretary of State, Secretary of Transportation, or Secretary of Homeland Security (or their designees).

Those who receive an exception will generally be required to attest they will comply with applicable public health requirements, including, with very limited exceptions, a requirement that they be vaccinated in the U.S. if they intend to stay here for more than 60 days.

Finally, the new vaccination requirements will apply to nonimmigrant air travel from anywhere abroad, including travel by air from Canada and Mexico, to the U.S. They will not, however, apply to land border travel; a separate Canada and Mexico land border travel policy is forthcoming. The new vaccine requirements do not prohibit visa issuance by a U.S. consulate, but visa appointment delays are likely as visa demand increases.

MVA continues to monitor the ongoing COVID-19 related impacts to U.S. immigration and will continue to provide alerts on these topics.

Please contact an MVA Immigration Team Member if you have any questions.