

International Travel Restrictions on Workers Coming from Canada

There has been considerable confusion about how New York's travel advisory applies to international workers, especially regular commuters traveling to work in New York from Canada. On October 21, Bond attorneys Hermes Fernandez and Caitlin Anderson spoke with high-ranking officials in Gov. Cuomo's office about the travel advisory. We received clarification about how the quarantine requirement applies to travelers coming to New York from countries with a CDC Level 2 or Level 3 advisory. We discuss what we learned below.

International Travel Advisory

On September 28, 2020, Gov. Cuomo issued [Executive Order 205.1](#) which requires travelers coming to New York from any country with a CDC Level 2 or Level 3 countries to quarantine. On October 8, 2020, the Department of Health updated its [Interim Guidance for Quarantine Restrictions on Travelers Arriving in New York State Following Out of State Travel](#) (the Guidance). Under the Guidance, there is an exemption from the quarantine requirement for essential workers who travel to New York from a restricted state for work. (For more information on this, please see this [information memo](#)). The stated exemption, however, does not apply to international travelers. International travelers coming to New York must quarantine if coming from a Level 2 or Level 3 country, unless they were in such country for less than 24 hours.

The treatment of essential workers from other countries generated questions on the Canadian-New York border. Canada is a Level 3 country, which would mean that the quarantine rule applies. Many New York employers along the Canadian border—from Buffalo to Plattsburg—rely on Canadian employees. The questions arose because there had been an exemption in place for essential workers from Canada. As we have learned, there still is.

On March 24, 2020, U.S. Customs and Border Control put forth a rule, [85 FR 16548](#) (the Rule), regarding the agreement between the U.S. and Canada to allow "essential" travel between the nations. As defined by the Rule, essential travel includes, but is not limited to:

- U.S. citizens and lawful permanent residents returning to the U.S.;
- Individuals traveling for medical purposes (e.g., to receive medical treatment in the U.S.);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the U.S. (e.g., individuals working in the farming or agriculture industry who must travel between the U.S. and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes;
- Individuals engaged in lawful cross-border trade (e.g., truck drivers supporting the movement of cargo between the U.S. and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the U.S.; and
- Individuals engaged in military-related travel or operations.

The Rule explicitly notes that traveling for tourism purposes (e.g., sightseeing, recreation, gambling, or attending cultural events) is not considered essential travel.

Because of the omission of Canadian essential workers from the NYS Department of Health Guidance, we reached out to the governor's office. As a result, we can confirm that Canadian commuters traveling into New York for work are generally exempt from the quarantine. The federal rule is a statement of an international agreement between the U.S. and Canada. The New York travel advisory cannot interfere with an agreement between the U.S. and another country. The purpose of the Rule is to keep the economy open along the U.S. and Canadian border. As a result, although unstated in the New York Travel Advisory, essential workers from Canada can continue to come into New York for work without quarantining.

The governor's office, however, did distinguish between traveling for regular work (e.g., driving into Buffalo and working each day) versus a special work trip (e.g., flying into New York City from Vancouver for a work meeting). The first scenario is arguably the only scenario covered by the Rule, meaning the quarantine would not apply.

If you have questions, or want to effect the standards applicable to your industry, please contact [Hermes Fernandez](#), [Caitlin Anderson](#) or the attorney at the firm with whom you are regularly in contact.



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