

Administration of Joseph R. Biden, Jr., 2021

Proclamation 10315—Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease 2019

November 26, 2021

By the President of the United States of America

A Proclamation

The national emergency caused by the coronavirus disease 2019 (COVID–19) outbreak in the United States continues to pose a grave threat to our health and security. As of November 26, 2021, the United States has experienced more than 47 million confirmed COVID–19 cases and more than 773,000 COVID–19 deaths. It is the policy of my Administration to implement science-based public health measures, across all areas of the Federal Government, to act swiftly and aggressively to prevent further spread of the disease.

On November 24, 2021, the Republic of South Africa informed the World Health Organization (WHO) of a new B.1.1.529 (Omicron) variant of SARS–CoV–2, the virus that causes COVID–19, that was detected in that country. On November 26, 2021, the WHO Technical Advisory Group on SARS–CoV–2 Virus Evolution announced that B.1.1.529 constitutes a variant of concern. While new information is still emerging, the profile of B.1.1.529 includes multiple mutations across the SARS–CoV–2 genome, some of which are concerning. According to the WHO, preliminary evidence suggests an increased risk of reinfection with this variant, as compared to other variants of concern. Further, the WHO reports that the number of cases of this variant appears to be increasing in almost all provinces in the Republic of South Africa. Based on these developments, and in light of the extensive cross-border transit and proximity in Southern Africa, the detection of B.1.1.529 cases in some Southern African countries, and the lack of widespread genomic sequencing in Southern Africa, the United States Government, including the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services, has reexamined its policies on international travel and concluded that further measures are required to protect the public health from travelers entering the United States from the Republic of Botswana, the Kingdom of Eswatini, the Kingdom of Lesotho, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of South Africa, and the Republic of Zimbabwe. In addition to these travel restrictions, the CDC shall implement other mitigation measures for travelers departing from the countries listed above and destined for the United States, as needed.

Given the recommendation of the CDC, working in close coordination with the Department of Homeland Security, described above, I have determined that it is in the interests of the United States to take action to suspend and restrict the entry into the United States, as immigrants and nonimmigrants, of noncitizens of the United States ("noncitizens") who were physically present within the Republic of Botswana, the Kingdom of Eswatini, the Kingdom of Lesotho, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of South Africa, and the Republic of Zimbabwe during the 14-day period preceding their entry or attempted entry into the United States.

Now, Therefore, I, Joseph R. Biden Jr., President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that the unrestricted entry into the United States of persons described in section 1 of this proclamation would, except as provided for in

section 2 of this proclamation, be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. Suspension and Limitation on Entry. The entry into the United States, as immigrants or nonimmigrants, of noncitizens who were physically present within the Republic of Botswana, the Kingdom of Eswatini, the Kingdom of Lesotho, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of South Africa, and the Republic of Zimbabwe during the 14-day period preceding their entry or attempted entry into the United States is hereby suspended and limited subject to section 2 of this proclamation.

Sec. 2. Scope of Suspension and Limitation on Entry.

(a) Section 1 of this proclamation shall not apply to:

- (i) any lawful permanent resident of the United States;
- (ii) any noncitizen national of the United States;
- (iii) any noncitizen who is the spouse of a U.S. citizen or lawful permanent resident;
- (iv) any noncitizen who is the parent or legal guardian of a U.S. citizen or lawful permanent resident, provided that the U.S. citizen or lawful permanent resident is unmarried and under the age of 21;
- (v) any noncitizen who is the sibling of a U.S. citizen or lawful permanent resident, provided that both are unmarried and under the age of 21;
- (vi) any noncitizen who is the child, foster child, or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States pursuant to the IR-4 or IH-4 visa classifications;
- (vii) any noncitizen traveling at the invitation of the United States Government for a purpose related to containment or mitigation of the virus;
- (viii) any noncitizen traveling as a nonimmigrant pursuant to a C-1, D, or C-1/D nonimmigrant visa as a crewmember or any noncitizen otherwise traveling to the United States as air or sea crew;
- (ix) any noncitizen
 - (A) seeking entry into or transiting the United States pursuant to one of the following visas: A-1, A-2, C-2, C-3 (as a foreign government official or immediate family member of an official), E-1 (as an employee of TECRO or TECO or the employee's immediate family members), G-1, G-2, G-3, G-4, NATO-1 through NATO-4, or NATO-6 (or seeking to enter as a nonimmigrant in one of those NATO categories); or
 - (B) whose travel falls within the scope of section 11 of the United Nations Headquarters Agreement;
- (x) any noncitizen who is a member of the U.S. Armed Forces or who is a spouse or child of a member of the U.S. Armed Forces;
- (xi) any noncitizen whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees, based on a recommendation of the Attorney General or his designee; or

(xii) any noncitizen or group of noncitizens whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their designees.

(b) Nothing in this proclamation shall be construed to affect any individual's eligibility for asylum, withholding of removal, or protection under the regulations issued pursuant to the legislation implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws and regulations of the United States.

Sec. 3. Implementation and Enforcement. (a) The Secretary of State shall implement this proclamation as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish. The Secretary of Homeland Security shall implement this proclamation as it applies to the entry of noncitizens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

(b) The Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security shall endeavor to ensure that any noncitizen subject to this proclamation does not board an aircraft traveling to the United States, to the extent permitted by law.

(c) The Secretary of Homeland Security may establish standards and procedures to ensure the application of this proclamation at and between all United States ports of entry.

(d) Where a noncitizen circumvents the application of this proclamation through fraud, willful misrepresentation of a material fact, or illegal entry, the Secretary of Homeland Security shall consider prioritizing such noncitizen for removal.

Sec. 4. Relationship to Other Suspensions, Limitations, or Restrictions on Entry. Individuals described in section 2 of this proclamation may nevertheless be subject to an entry suspension, limitation, or restriction under Proclamation 10294 of October 25, 2021 (Advancing the Safe Resumption of Global Travel During the COVID-19 Pandemic). Nothing in this proclamation shall be construed to affect any other suspension, limitation, or restriction on entry.

Sec. 5. Termination. This proclamation shall remain in effect until terminated by the President. The Secretary of Health and Human Services shall, as circumstances warrant and no more than 30 days after the date of this proclamation and by the final day of each calendar month thereafter, recommend whether the President should continue, modify, or terminate this proclamation.

Sec. 6. Effective Date. This proclamation is effective at 12:01 a.m. eastern standard time on November 29, 2021. This proclamation does not apply to persons aboard a flight scheduled to arrive in the United States that departed prior to 12:01 a.m. eastern standard time on November 29, 2021.

Sec. 7. Severability. It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the national security, public safety, and foreign policy interests of the United States. Accordingly, if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its provisions to any other persons or circumstances shall not be affected thereby.

Sec. 8. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

In Witness Whereof, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.

JOSEPH R. BIDEN, JR.

[Filed with the Office of the Federal Register, 11:15 a.m., November 30, 2021]

NOTE: This proclamation was published in the *Federal Register* on December 1.

Categories: Proclamations : Immigrants and nonimmigrants who pose risk of transmitting 2019 novel coronavirus, suspension of U.S. entry.

Subjects: Diseases : Coronavirus, domestic prevention efforts; Immigration and naturalization : Foreign nationals and refugees, U.S. admission policy.

DCPD Number: DCPD202101003.