
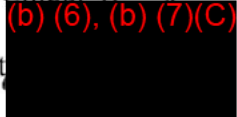




**U.S. Customs and  
Border Protection**

HQBOR 50/1.1

MEMORANDUM FOR: All Chief Patrol Agents  
All Directorate Chiefs   
(b) (6), (b) (7)(C)

FROM: Rodney S. Scott   
Chief  
U.S Border Patrol

SUBJECT: 42 U.S. Code Title 42 – The Public Health and Welfare

U.S. Customs and Border Protection (CBP), and specifically the United States Border Patrol (USBP), are supporting the U.S. Government's response to the COVID-19 virus.

Effective March 21, 2020 at 0001 hrs EST, USBP will exercise authorities derived under U.S. Code Title 42, Section 265, "...suspension of entries and imports from designated places to prevent spread of communicable diseases..." as laid out in the attached Operation Order Capio. The Director of the Centers for Disease Control and Prevention (CDC), under the Authority of the Public Health Service Act, has directed CBP to prohibit the introduction of certain persons into the United States who, due to the existence of COVID-19 in countries or places from which persons are traveling, create a serious danger of the introduction of such disease into the United States.

While operating under this authority, USBP will use Title 42 authority to immediately expel any individual encountered attempting to enter the United States in violation of travel restrictions. USBP will only apply Titles 8 and 19 authorities to subjects who are not amenable to expulsion under Title 42, or would otherwise be considered a high risk for the population (e.g., aggravated felons, relations to terrorism, agent assaults, etc.). Watch commander approval is required for any authority used outside of Title 42 during this timeframe. During this time, Border Patrol Agents will rely on their training and experience in detecting, apprehending and determining whether persons are subject to the CDC order, including but not limited to the following considerations: physical observation, use of sensors and technology, physical indicators and tracking techniques, information from third-parties, and deductive techniques.

The threat of COVID-19 continues to increase globally at an unprecedented rate. As part of the whole of government response to the pandemic crisis, the USBP's role in preventing the virus from spreading further into the United States is critical.

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USBP's primary focus now, as always, remains the protection of our nation and our workforce. Our objective for the duration of the operation will be to expel subjects who are encountered upon entering the United States illegally in an expeditious manner to minimize exposure to agents in the field, to subjects in our custody, and to the American public.

As a reminder, the sectors are to implement an operational risk management approach to minimize exposure. This includes dedicated field transport vehicles, transport agents, and processing agents where operationally feasible.

The USBP continues to explore solutions to the challenges associated with increased cross border activity, prolonged periods of custody, and expulsion of subjects to countries that are similarly fearful of potential COVID-19 infections.

USBP will closely monitor evolving situations related to the containment and spread of the virus as it pertains to national security and encountered populations along the United States borders.

Attached to this memorandum are guiding documents that will assist agents in their daily operations and making determinations as the threats present themselves. While we are not able to address every possible scenario, these documents lay the foundation to make decisions.

Any issue that prevents full implementation of the attached guidance must be raised to USBP HQ via the Emergency Operations Center at (b) (7)(E) within two hours.

With any questions or concerns related to the COVID-19 response efforts, contact the USBP COVID-19 taskforce at (b) (7)(E)

Attachments:  
Title 42, Section 265  
Operation Capio

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