

frequency exceeding 2.7 GHz up to and including 2.9 GHz;

d.1.b. A peak saturated power output greater than 55 W (47.4 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

d.1.c. A peak saturated power output greater than 40 W (46 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; or

d.1.d. A peak saturated power output greater than 20 W (43 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

d.2. Rated for operation at frequencies exceeding 6.8 GHz up to and including 16 GHz with a “fractional bandwidth” greater than 10%, and having any of the following:

d.2.a. A peak saturated power output greater than 10W (40 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz; or

d.2.b. A peak saturated power output greater than 5W (37 dBm) at any frequency exceeding 8.5 GHz up to and including 16 GHz;

d.3. Rated for operation with a peak saturated power output greater than 3 W (34.77 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz, and with a “fractional bandwidth” of greater than 10%;

d.4. Rated for operation with a peak saturated power output greater than 0.1n W (-70 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

d.5. Rated for operation with a peak saturated power output greater than 1 W (30 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz, and with a “fractional bandwidth” of greater than 10%;

d.6. Rated for operation with a peak saturated power output greater than 31.62 mW (15 dBm) at any frequency exceeding 43.5 GHz up to and including 75 GHz, and with a “fractional bandwidth” of greater than 10%;

d.7. Rated for operation with a peak saturated power output greater than 10 mW (10 dBm) at any frequency exceeding 75 GHz up to and including 90 GHz, and with a “fractional bandwidth” of greater than 5%; or

d.8. Rated for operation with a peak saturated power output greater than 0.1 nW (-70 dBm) at any frequency exceeding 90 GHz;

e. “Technology” according to the General Technology Note for the “development” or “production” of electronic devices and circuits, “specially designed” for telecommunications and containing “components” manufactured from “superconductive” materials, “specially designed” for operation at temperatures below the “critical temperature” of at least one of the “superconductive” constituents and having any of the following:

e.1. Current switching for digital circuits using “superconductive” gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than  $10^{-14}$  J; or

e.2. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000.

■ 17. In supplement no. 1 to part 774, Category 5—Part 2, ECCN 5A004 is revised to read as follows:

**5A004 “Systems,” “equipment” and “components” for defeating, weakening or bypassing “information security,” as follows (see List of Items Controlled).**

#### License Requirements

*Reason for Control:* NS, AT, EI

<i>Control(s)</i>	<i>Country chart (See Supp. No. 1 to part 738)</i>
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.
EI applies to entire entry.	Refer to § 742.15 of the EAR.

**License Requirements Note:** See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating “information security” functionality, and associated “software” and “technology” for the “production” or “development” of such microprocessors.

#### List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

*LVS:* Yes: \$500 for “components.”

*N/A* for systems and equipment.

*GBS:* N/A

*ENC:* Yes for certain EI controlled commodities. See § 740.17 of the EAR for eligibility.

#### List of Items Controlled

*Related Controls:* ECCN 5A004.a controls “components” providing the means or functions necessary for “information security.” All such “components” are presumptively “specially designed” and controlled by 5A004.a. Defense articles described in USML Category XI(b), and software directly related to a defense article, are “subject to the ITAR”; see § 120.10(a)(4).

*Related Definitions:* N/A

#### Items:

a. Designed or modified to perform ‘cryptanalytic functions.’

**Note:** 5A004.a includes systems or equipment, designed or modified to perform ‘cryptanalytic functions’ by means of reverse engineering.

**Technical Note:** ‘Cryptanalytic functions’ are functions designed to defeat cryptographic mechanisms in order to derive confidential variables or sensitive data, including clear text, passwords or cryptographic keys.

b. Items, not specified by ECCNs 4A005 or 5A004.a, designed to perform all of the following:

b.1. ‘Extract raw data’ from a computing or communications device; and

b.2. Circumvent “authentication” or authorisation controls of the device, in order to perform the function described in 5A004.b.1.

**Technical Note:** ‘Extract raw data’ from a computing or communications device means to retrieve binary data from a storage medium, e.g., RAM, flash or hard disk, of the device without interpretation by the device’s operating system or filesystem.

**Note 1:** 5A004.b does not apply to systems or equipment specially designed for the “development” or “production” of a computing or communications device.

**Note 2:** 5A004.b does not include:

- a. Debuggers, hypervisors;
- b. Items limited to logical data extraction;
- c. Data extraction items using chip-off or JTAG; or
- d. Items specially designed and limited to jail-breaking or rooting.

\* \* \* \* \*

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2021–22774 Filed 10–20–21; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Chapter I

#### Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

**AGENCY:** Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** Notification of continuation of temporary travel restrictions.

**SUMMARY:** This Notification announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the non-essential travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. This Notification further announces that the Secretary intends to lift these limitations for individuals who are fully vaccinated for COVID–19 (as defined by the Centers for Disease Control and Prevention) to align with anticipated changes to international travel by air.

**DATES:** This Notification goes into effect at 12 a.m. Eastern Daylight Time (EDT) on October 22, 2021 and will remain in effect until 11:59 p.m. Eastern Standard Time (EST) on January 21, 2022, unless amended or rescinded prior to that time.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

## SUPPLEMENTARY INFORMATION:

## Background

On March 24, 2020, DHS published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel,” as further defined in that document.<sup>1</sup> The document described the developing circumstances regarding the COVID-19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID-19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID-19 between the United States and Mexico posed a “specific threat to human life or national interests.” DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on October 21, 2021.<sup>2</sup>

DHS continues to monitor and respond to the COVID-19 pandemic. As of the week of October 13, 2021, there have been over 237 million confirmed cases globally, with over 4.8 million confirmed deaths.<sup>3</sup> There have been over 44.4 million confirmed and probable cases within the United States,<sup>4</sup> over 1.6 million confirmed

cases in Canada,<sup>5</sup> and over 3.7 million confirmed cases in Mexico.<sup>6</sup> DHS also notes that the Delta variant has driven an increase in cases, hospitalizations, and deaths in the United States, Canada, and Mexico in recent months.<sup>7</sup>

Notwithstanding these realities, vaccines are effective against Delta and other known variants, protecting people from getting infected and severely ill, as well as significantly reducing the likelihood of hospitalization and death, according to the CDC.<sup>8</sup> As such, the risks posed by and to fully vaccinated travelers differ materially from those posed by unvaccinated travelers. As a result, in late September, the White House COVID-19 Response Coordinator indicated the United States plans to revise standards and procedures for incoming international air travel, so as to enable the air travel of fully vaccinated travelers beginning in early November. On October 12, 2021, DHS announced that it intends to do the same with respect to travelers crossing the land border from Mexico and Canada, so as to align the treatment of the land and air ports of entry and allow those who are fully vaccinated for COVID-19 to travel to the United States for non-essential purposes.<sup>9</sup>

Therefore, this Notification extends the limits on non-essential travel and also announces the Secretary’s intent to lift these restrictions for certain such individuals who are fully vaccinated.

## Notice of Action

Given the outbreak and continued transmission and spread of COVID-19 within the United States and globally, I have determined that the risk of

continued transmission and spread of the virus associated with COVID-19 between the United States and Mexico poses an ongoing “specific threat to human life or national interests.”

In March 2020, U.S. and Mexican officials mutually determined that non-essential travel between the United States and Mexico posed additional risk of transmission and spread of the virus associated with COVID-19 and placed the populace of both nations at increased risk of contracting the virus associated with COVID-19. Given the sustained human-to-human transmission of the virus, coupled with risks posed by new variants, non-essential travel to the United States places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID-19.

Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),<sup>10</sup> I have determined that land ports of entry along the U.S.-Mexico border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in “essential travel,” as defined below. Given the definition of “essential travel” below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials

<sup>10</sup> 19 U.S.C. 1318(b)(1)(C) provides that “[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,” is authorized to “[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.” On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. See 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities “related to Customs revenue functions” were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. See Treas. Dep’t Order No. 100-16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that “[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.” Congress has vested in the Secretary of Homeland Security the “functions of all officers, employees, and organizational units of the Department,” including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

<sup>1</sup> 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to “essential travel,” as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

<sup>2</sup> See 86 FR 52609 (Sept. 22, 2021); 86 FR 46964 (Aug. 23, 2021); 86 FR 38556 (July 22, 2021); 86 FR 32764 (June 23, 2021); 86 FR 27802 (May 24, 2021); 86 FR 21188 (Apr. 22, 2021); 86 FR 14812 (Mar. 19, 2021); 86 FR 10815 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel.” See 86 FR 52611 (Sept. 22, 2021); 86 FR 46963 (Aug. 23, 2021); 86 FR 38554 (July 22, 2021); 86 FR 32766 (June 23, 2021); 86 FR 27800 (May 24, 2021); 86 FR 21189 (Apr. 22, 2021); 86 FR 14813 (Mar. 19, 2021); 86 FR 10816 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).

<sup>3</sup> WHO, Coronavirus disease 2019 (COVID-19) Weekly Epidemiological Update (Oct. 12, 2021), available at Weekly operational update on COVID-19—12 October 2021 (who.int) (accessed Oct. 13, 2021).

<sup>4</sup> CDC, COVID Data Tracker: United States COVID-19 Cases, Deaths, and Laboratory Testing

(NAATs) by State, Territory, and Jurisdiction, CDC COVID Data Tracker. (accessed Oct. 13, 2021).

<sup>5</sup> WHO, Situation by Region, Country, Territory & Area, available at <https://covid19.who.int/table> (accessed Oct. 13, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> See CDC, Delta Variant: What We Know About the Science, <https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html> (accessed Sept. 9, 2021). See Government of Canada, Coronavirus Disease (COVID-19) For Health Professionals, <https://health-infobase.canada.ca/covid-19/epidemiological-summary-covid-19-cases.html#VOC> (accessed Sept. 9, 2021). See Government of Mexico, Ministry of Health, COVID-19 National General Information, <https://datos.covid-19.conacyt.mx/#DOView> (accessed Aug. 16, 2021); Mexican Consortium of Genomic Surveillance (CoViGen-Mex), *Reportes*, <http://mexcov2.ibt.unam.mx:8080/COVID-TRACKER/> (accessed Sept. 9, 2021).

<sup>8</sup> What You Need to Know about Variants √ CDC (accessed Oct. 13, 2021).

<sup>9</sup> DHS Press Release, Secretary Mayorkas to Allow Fully Vaccinated Travelers from Canada and Mexico to Enter U.S. at Land Borders and Ferry Crossings, [www.dhs.gov/news/2021/10/12/secretary-mayorkas-allow-fully-vaccinated-travelers-canada-and-mexico-enter-us-land](https://www.dhs.gov/news/2021/10/12/secretary-mayorkas-allow-fully-vaccinated-travelers-canada-and-mexico-enter-us-land) (last accessed Oct. 14, 2021).

reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to “essential travel,” which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (e.g., to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (e.g., individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (e.g., government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID-19 or other emergencies);
- Individuals engaged in lawful cross-border trade (e.g., truck drivers supporting the movement of cargo between the United States and Mexico);
- 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 United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of “essential travel” for purposes of this Notification—

- Individuals traveling for tourism purposes (e.g., sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EST on January 21, 2022. These restrictions also can be modified by the Secretary at any point prior to January 21, 2022 to allow non-essential travel through land ports of entry and ferry terminals for individuals who are fully vaccinated and have appropriate proof of vaccination. Any such modifications to the restrictions will be accomplished via a posting to the DHS website (<https://www.dhs.gov>)

and followed by a publication in the **Federal Register**. Moreover, this Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The CBP Commissioner is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification including any appropriate procedures regarding the lifting of restrictions for fully vaccinated travelers. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute “essential travel” under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in “essential travel.”

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

[FR Doc. 2021-23005 Filed 10-20-21; 8:45 am]

**BILLING CODE 9112-FP-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Chapter I

#### Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

**AGENCY:** Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** Notification of continuation of temporary travel restrictions.

**SUMMARY:** This Notification announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the non-essential travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. This Notification further announces that the Secretary intends to lift these limitations for individuals who are fully vaccinated for COVID-19 (as defined by the Centers for Disease Control and Prevention) to align with anticipated changes to international travel by air.

**DATES:** This notification goes into effect at 12 a.m. Eastern Daylight Time (EDT)

on October 22, 2021 and will remain in effect until 11:59 p.m. Eastern Standard Time (EST) on January 21, 2022, unless amended or rescinded prior to that time.

#### FOR FURTHER INFORMATION CONTACT:

Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202-325-0840.

#### SUPPLEMENTARY INFORMATION:

##### Background

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DHS continues to monitor and respond to the COVID-19 pandemic. As of the week of October 13, 2021, there have been over 237 million confirmed cases globally, with over 4.8 million

<sup>1</sup> 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel,” as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

<sup>2</sup> See 86 FR 52609 (Sept. 22, 2021); 86 FR 46964 (Aug. 23, 2021); 86 FR 38556 (July 22, 2021); 86 FR 32764 (June 23, 2021); 86 FR 27802 (May 24, 2021); 86 FR 21188 (Apr. 22, 2021); 86 FR 14812 (Mar. 19, 2021); 86 FR 10815 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel.” See 86 FR 52611 (Sept. 22, 2021); 86 FR 46963 (Aug. 23, 2021); 86 FR 38554 (July 22, 2021); 86 FR 32766 (June 23, 2021); 86 FR 27800 (May 24, 2021); 86 FR 21189 (Apr. 22, 2021); 86 FR 14813 (Mar. 19, 2021); 86 FR 10816 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).