

## Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public an initial regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare an initial regulatory flexibility analysis for this rule.

## Signing Authority

This document is being issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to Section 403(l) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his or her delegate).

## List of Subjects in 19 CFR Part 103

Administrative practice and procedure, Confidential business information, Courts, Freedom of information, Law enforcement, Privacy, Reporting and recordkeeping requirements.

## Amendments to the Regulations

For the reasons set forth above, part 103 of the CBP regulations (19 CFR part 103) is amended as set forth below.

## PART 103—AVAILABILITY OF INFORMATION

■ 1. The authority citation for part 103 continues to read in part as follows:

**Authority:** 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

Section 103.31 also issued under 19 U.S.C. 1431;

\* \* \* \* \*

### § 103.0 [Amended]

■ 2. Section 103.0 is amended by removing the phrase “Except for 19 CFR 103.35, the” and adding, in its place, the word “The”.

### § 103.2 [Amended]

■ 3. Section 103.2 is amended by:

■ a. Removing from paragraph (a) the words “except as provided in paragraph (b) of this section,”;

■ b. Removing the paragraph designation “(a)” and the paragraph heading; and

■ c. Removing paragraph (b).

■ 4. Section 103.31 is amended by removing the word “Customs” and adding, in its place, the term “CBP” in paragraphs (a)(3), (b), and (c) and revising paragraphs (d)(1)(iii) and (iv) and (d)(2)(iii) to read as follows:

### § 103.31 Information on vessel manifests and summary statistical reports.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(iii) The certification must be submitted to the Vessel Manifest Program Manager, Office of Trade (Mail Stop 1354), U.S. Customs and Border Protection, 1801 N Beauregard Street, Alexandria, VA 22311; or submitted electronically via an email transmission at [vesselmanifestconfidentiality@cbp.dhs.gov](mailto:vesselmanifestconfidentiality@cbp.dhs.gov) or via the Vessel Manifest Confidentiality Online Application on CBP’s public website, [www.CBP.gov](http://www.CBP.gov).

(iv) Each initial certification will be valid for a period of two years from the date of receipt. Renewal certifications should be submitted to the Vessel Manifest Program Manager at least 60 days prior to the expiration of the current certification. Information so certified may be copied, but not published, by the press during the effective period of the certification. An importer or consignee shall be given written notification by CBP of the receipt of its certification of confidentiality.

(2) \* \* \*

(iii) The certification must be submitted to the Vessel Manifest Program Manager, Office of Trade (Mail Stop 1354), U.S. Customs and Border Protection, 1801 N Beauregard Street, Alexandria, VA 22311; or submitted electronically via an email transmission at [vesselmanifestconfidentiality@cbp.dhs.gov](mailto:vesselmanifestconfidentiality@cbp.dhs.gov) or via the Vessel Manifest Confidentiality Online Application on the CBP’s public website, [www.CBP.gov](http://www.CBP.gov).

\* \* \* \* \*

Dated: May 14, 2020.

**Mark A. Morgan,**

*Acting Commissioner, U.S. Customs and Border Protection.*

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## 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 document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. Such travel will be limited to “essential travel,” as further defined in this document.

**DATES:** These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on May 21, 2020 and will remain in effect until 11:59 p.m. EDT on June 22, 2020.

**FOR FURTHER INFORMATION CONTACT:** Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection (CBP) at 202–344–3788.

#### SUPPLEMENTARY INFORMATION:

#### Background

On March 24, 2020, DHS published notice of the Secretary’s 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 COVID–19 within the United States and globally, the Secretary had determined that the risk of continued transmission and spread of COVID–19 between the United States and Mexico posed a “specific threat to human life or national interests.” The Secretary later published a notification continuing

<sup>1</sup> 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of the Secretary’s 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).

such limitations on travel until 11:59 p.m. EDT on May 20, 2020.<sup>2</sup>

The Secretary has continued to monitor and respond to the COVID-19 pandemic. As of May 18, there are over 4.6 million confirmed cases globally, with over 310,000 confirmed deaths.<sup>3</sup> There are over 1.4 million confirmed and probable cases within the United States,<sup>4</sup> over 47,000 confirmed cases in Mexico,<sup>5</sup> and over 76,000 confirmed cases in Canada.<sup>6</sup>

### Notice of Action

Given the outbreak and continued transmission and spread of COVID-19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of COVID-19 between the United States and Mexico poses an ongoing “specific threat to human life or national interests.”

U.S. and Mexican officials have mutually determined that non-essential travel between the United States and Mexico poses additional risk of transmission and spread of COVID-19 and places the populace of both nations at increased risk of contracting COVID-19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations 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 COVID-19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),<sup>7</sup> I have

<sup>2</sup> 85 FR 22353 (Apr. 22, 2020). That same day, DHS also published notice of the Secretary’s decision to continue temporarily limiting 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 22352 (Apr. 22, 2020).

<sup>3</sup> WHO, Coronavirus disease 2019 (COVID-19) Situation Report—119 (May 18, 2020), available at [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200518-covid-19-sitrep-119.pdf?sfvrsn=4bd9de25\\_4](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200518-covid-19-sitrep-119.pdf?sfvrsn=4bd9de25_4).

<sup>4</sup> CDC, Cases of COVID-19 in the U.S. (last updated May 18, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

<sup>5</sup> WHO, Coronavirus disease 2019 (COVID-19) Situation Report—119 (May 18, 2020).

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

<sup>7</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

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 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

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).

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. EDT on June 22, 2020. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.

The Commissioner of U.S. Customs and Border Protection (CBP) 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. 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.”

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

**Chad R. Mizelle,**

*Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.*

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