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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 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 temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security 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 this document.

DATES: These restrictions go into effect at 11:59 p.m. Eastern Daylight Time (EDT) on March 20, 2020 and will remain in effect until 11:59 p.m. EDT on April 20, 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

Coronavirus Disease 2019 (COVID-19), a communicable disease caused by a new (novel) coronavirus named SARS-CoV-2, is a respiratory disease that can cause fever, cough, and difficulty breathing, with reported illnesses ranging from mildly symptomatic to severe illness and death. Although the virus that causes COVID-19 was originally detected in China, it has

resulted in a pandemic with cases in 158 countries, including in the United States and Canada. On January 30, 2020, the Director-General of the World Health Organization declared the outbreak a "public health emergency of international concern" under the International Health Regulations (2005).[1] On January 31, 2020, the Secretary of the Department of Health and Human Services declared a nationwide "public health emergency" under section 319 of the Public Health Service Act, 42 U.S.C. 274d, as a result of confirmed cases of COVID-19.[2] On March 11, 2020, the World Health Organization announced that the COVID–19 outbreak can be characterized as a pandemic. On March 13, 2020, the President determined that the ongoing COVID-19 pandemic is of sufficient severity and magnitude to warrant an emergency determination under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207. In addition, on March 13, 2020, the President declared a national emergency under sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 et seq.[3] To protect against the COVID-19 threat in Canada, the Government of Canada announced measures effective March 18, 2020 to close its borders to foreign nationals entering the country and to redirect international flight arrivals to predesignated airports. Additionally, multiple provinces within Canada declared states of emergency due to the COVID-19 outbreak.

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

[1] Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV) (Jan. 30, 2020), available at https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov).
[2] HHS, "Determination that a Public Health Emergency Exists," https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx.
[3] Proclamation 9994 of Mar. 13, 2020 on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 FR 15337 (Mar. 18, 2020).

COVID-19 between the United States and Canada poses a "specific threat to human life or national interests."

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada 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, maintaining the current level of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, 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),[4] I have determined that land ports of entry along the U.S.-Canadian border will suspend normal operations and process for entry only those travelers engaged in "essential travel," defined below, for entry into the United States. 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.

[4] 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 "take 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).

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-Canada 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 Canada 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 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 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 Canada, but does apply to passenger rail and ferry travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on April 20, 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 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 Mizelle, who is the Acting General Counsel for DHS, for purposes of publication in the Federal Register.

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Chad R. Mizelle,

Acting General Counsel,

U.S. Department of Homeland Security.

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