

fully vaccinated, because such travel is currently defined as essential travel.

**DATES:** The lifting of these restrictions began at 12 a.m. Eastern Standard Time (EST) on November 8, 2021.

**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:**

**Notice of Action**

On October 21, 2021, the Secretary announced his decision to continue to temporarily restrict the non-essential travel of individuals from Canada into the United States via land POEs and ferry terminals along the United States-Canada border.<sup>1</sup> The Secretary further announced that he intended to lift these restrictions for individuals who are fully vaccinated against COVID–19 and have appropriate proof of vaccination to align with changes to international travel by air.<sup>2</sup> The Secretary stated that any such modifications to the restrictions would be accomplished via a posting to the DHS website (<https://www.dhs.gov>) and followed by a publication in the **Federal Register**.<sup>3</sup>

On October 29, 2021, DHS posted to its website an announcement that beginning November 8, 2021, non-essential travel would be permitted through land POEs and ferry terminals, provided that the traveler is fully vaccinated against COVID–19 and can present proof of COVID–19 vaccination status. DHS stated that unvaccinated travelers may continue to cross the U.S.-Canada border at land POEs and ferry terminals for essential travel, including lawful trade, emergency response, and public health purposes.<sup>4</sup> Thus, starting November 8, 2021, when arriving at a U.S. land POE or ferry terminal, travelers who are traveling for a non-essential reason should be prepared to: (1) Present proof of COVID–19 vaccination as outlined on the CDC website;<sup>5</sup> and (2) verbally attest to the

reason for their travel and COVID–19 vaccination status. The lifting of restrictions for fully vaccinated individuals does not affect U.S. citizens and lawful permanent residents returning to the United States, regardless of whether the individual is fully vaccinated, because such travel is currently defined as essential travel.

Consistent with the October 21, 2021 **Federal Register** notice and the October 29, 2021 web posting, DHS is publishing this notice of the lifting of the non-essential travel restrictions for certain individuals as described above.

**Alejandro N. Mayorkas,**  
*Secretary, U.S. Department of Homeland Security.*

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**DEPARTMENT OF HOMELAND SECURITY**

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

**19 CFR Chapter I**

**Notification of the Lifting of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico for Certain Individuals Who Are Fully Vaccinated Against COVID–19 and Can Present Proof of COVID–19 Vaccination Status**

**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 the lifting of temporary travel restrictions for certain travelers.

**SUMMARY:** This Notification announces the decision of the Secretary of Homeland Security (Secretary) to lift the temporary restrictions that apply to non-essential travel by certain individuals. Specifically, the Secretary has lifted such restrictions for individuals who have been fully vaccinated against COVID–19, can present proof of COVID–19 vaccination status, and are seeking to enter the United States via land ports of entry (POEs) and ferry terminals along the U.S.-Mexico border. The lifting of restrictions for such fully vaccinated individuals does not affect U.S. citizens and lawful permanent residents returning to the United States, regardless of whether the individual is fully vaccinated, because such travel is currently defined as essential travel.

**DATES:** The lifting of these restrictions began at 12 a.m. Eastern Standard Time (EST) on November 8, 2021.

**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:**

**Notice of Action**

On October 21, 2021, the Secretary announced his decision to continue to temporarily restrict the non-essential travel of individuals from Mexico into the United States via land POEs and ferry terminals along the United States-Mexico border.<sup>1</sup> The Secretary further announced that he intended to lift these restrictions for individuals who are fully vaccinated against COVID–19 and have appropriate proof of vaccination to align with changes to international travel by air.<sup>2</sup> The Secretary stated that any such modifications to the restrictions would be accomplished via a posting to the DHS website (<https://www.dhs.gov>) and followed by a publication in the **Federal Register**.<sup>3</sup>

On October 29, 2021, DHS posted to its website an announcement that beginning November 8, 2021, non-essential travel would be permitted through land POEs and ferry terminals, provided that the traveler is fully vaccinated against COVID–19 and can present proof of COVID–19 vaccination status. DHS stated that unvaccinated travelers may continue to cross the U.S.-Mexico border at land POEs and ferry terminals for essential travel, including lawful trade, emergency response, and public health purposes.<sup>4</sup> Thus, starting November 8, 2021, when arriving at a U.S. land POE or ferry terminal, travelers who are traveling for a non-essential reason should be prepared to: (1) Present proof of COVID–19 vaccination as outlined on the CDC website;<sup>5</sup> and (2) verbally attest to the reason for their travel and COVID–19 vaccination status. The lifting of restrictions for fully vaccinated individuals does not affect U.S. citizens and lawful permanent residents

<sup>1</sup> 86 FR 58218.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 58220.

<sup>4</sup> See DHS, Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals, <https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals> (released Oct. 29, 2021; last updated Nov. 23, 2021); see also DHS, *Frequently Asked Questions: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals*, <https://www.dhs.gov/news/2021/10/29/frequently-asked-questions-guidance-travelers-enter-us-land-ports-entry-and-ferry> (released Oct. 29, 2021; last updated Nov. 23, 2021).

<sup>5</sup> See CDC, Requirement for Proof of COVID–19 Vaccination for Air Passengers <https://www.cdc.gov/coronavirus/2019-ncov/travelers/proof-of-vaccination.html> (updated Nov. 24, 2021).

<sup>1</sup> 86 FR 58216.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 58218.

<sup>4</sup> See DHS, Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals, <https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals> (released Oct. 29, 2021; last updated Nov. 23, 2021); see also DHS, *Frequently Asked Questions: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals*, <https://www.dhs.gov/news/2021/10/29/frequently-asked-questions-guidance-travelers-enter-us-land-ports-entry-and-ferry> (released Oct. 29, 2021; last updated Nov. 23, 2021).

<sup>5</sup> See CDC, Requirement for Proof of COVID–19 Vaccination for Air Passengers <https://www.cdc.gov/coronavirus/2019-ncov/travelers/proof-of-vaccination.html> (updated Nov. 24, 2021).

returning to the United States, regardless of whether the individual is fully vaccinated, because such travel is currently defined as essential travel.

Consistent with the October 21, 2021 **Federal Register** notice and the October 29, 2021 web posting, DHS is publishing this notice of the lifting of the non-essential travel restrictions for certain individuals as described above.

**Alejandro N. Mayorkas,**

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

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## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### 31 CFR Part 1010

RIN 1506–AB53

#### Bank Secrecy Act Regulations— Reports of Foreign Financial Accounts Civil Penalties

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Final rule.

**SUMMARY:** FinCEN is amending the Bank Secrecy Act civil penalty regulations relating to the requirements for reporting foreign financial accounts and for reporting transactions with foreign financial agencies. The amendments remove civil penalty language, which was made obsolete with the enactment of the American Jobs Creation Act of 2004. The American Jobs Creation Act of 2004 revised the manner for computing the penalty, including providing a greater maximum penalty for willful violations than was previously authorized.

**DATES:** *Effective Date:* The final rule is effective December 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at <https://fincen.gov/contact>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purposes of the Bank Secrecy Act (BSA), Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5336, include, among other things, requiring certain reports or records that are highly useful in criminal, tax, or regulatory investigations. The regulations implementing the BSA appear at 31 CFR chapter X. The Secretary’s authority to

administer the BSA has been delegated to the Director of FinCEN.<sup>1</sup>

Pursuant to 31 U.S.C. 5314, the Secretary is authorized to require any “resident or citizen of the United States or a person in, and doing business in, the United States, to . . . keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency.” The regulations implementing 31 U.S.C. 5314 appear at 31 CFR 1010.350, 1010.360, and 1010.420. Section 1010.350 sets forth the requirements for filing a Foreign Bank Account Report (FBAR), which generally require each U.S. person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country to report such relationship for each year in which such relationship exists. Section 1010.420 outlines the recordkeeping requirements associated with foreign financial accounts required to be reported under Section 1010.350. Section 1010.360, commonly referred to as the report of foreign financial agency transactions, provides that FinCEN may promulgate regulations requiring specified financial institutions to file reports of certain transactions with designated foreign financial agencies.

##### II. Civil Monetary Penalty

Section 5321 of Title 31 of the U.S. Code describes civil monetary penalties for violations of the BSA. In October 1986, Congress amended 31 U.S.C. 5321 to add a provision—31 U.S.C. 5321(a)(5)—authorizing a civil monetary penalty for willful violations of section 5314. (Pub. L. 99–570, section 1357(c), October 26, 1986) (“the Anti-Drug Abuse Act of 1986” or the “1986 Act”). The terms of the 1986 amendment were incorporated into the BSA implementing regulations at 31 CFR 1010.820(g).<sup>2</sup>

The American Jobs Creation Act of 2004 amended 31 U.S.C. 5321(a)(5). The amendments revised the manner in which the penalty is calculated, including an increase to the maximum amount that could be assessed for willful violations of section 5314.

##### III. Section by Section Analysis

Section 821 of the American Jobs Creation Act of 2004 is self-executing, and the penalty provisions apply to violations occurring after the date of its enactment. For those reasons, the provisions in 31 CFR 1010.820(g) are obsolete and superseded by statute.

<sup>1</sup> See Treasury Order 180–01 (Jan. 14, 2020).

<sup>2</sup> 52 FR 11436, April 8, 1987.

FinCEN is therefore rescinding 31 CFR 1010.820(g). The remaining paragraphs (h) and (i) in § 1010.820 are redesignated as paragraphs (g) and (h).

##### IV. Administrative Procedure Act and Effective Date

Under 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act (APA), an agency may, for good cause, find (and incorporate the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. The final rule rescinds civil penalty regulations at 31 CFR 1010.820(g)(1) and (2) because they have been rendered obsolete with the 2004 amendments to 31 U.S.C. 5321(a)(5). The agency has therefore determined that publishing a notice of proposed rulemaking and providing opportunity for public comment is unnecessary. This amendment to the regulations merely conforms the regulations to the current statute.

Under 5 U.S.C. 553(d)(3) of the APA, the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule. FinCEN finds that there is good cause for shortened notice since 31 CFR 1010.820(g) is obsolete and the revisions made by this final rule are non-substantive and technical. This final rule takes effect on December 23, 2021.

##### V. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. As noted above, FinCEN has determined that it is unnecessary to publish a notice of proposed rulemaking for this final rule. Accordingly, the RFA’s requirements relating to an initial and final regulatory flexibility analysis do not apply.

##### VI. Executive Order 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. FinCEN