

U.S. Customs and Border Protection



19 CFR PART 4
CBP DEC. 18-16
RIN 1651-AB32

CIVIL MONETARY PENALTY ADJUSTMENTS FOR INFLATION

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This rule adjusts for inflation the amounts that U.S. Customs and Border Protection (CBP) can assess as civil monetary penalties for the following two violations—transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions; and employing a vessel in a trade without a required Certificate of Documentation. These adjustments are being made in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) which was enacted on November 2, 2015. Other CBP civil penalty amounts were adjusted pursuant to this 2015 Act in rule documents published in the **Federal Register** on July 1, 2016; January 27, 2017; December 8, 2017; and April 2, 2018, but the adjustments for these two civil penalties were inadvertently left out of those documents.

DATES: This rule is effective on December 28, 2018. The adjusted penalty amounts will be applicable for penalties assessed after December 28, 2018 if the associated violations occurred after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Millie Gleason, Office of Field Operations, U.S. Customs and Border Protection. Phone: (202) 325-4291.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

(Pub. L. 114–74 section 701 (Nov. 2, 2015)) (2015 Act).¹ The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) (1990 Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through issuance of an interim final rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the “catch-up” adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates. The 2015 Act directed the Office of Management and Budget (OMB) to issue guidance to agencies on implementing the initial “catch-up” adjustment. The 2015 Act required that agencies publish their IFRs in the **Federal Register** no later than July 1, 2016 and that the adjusted amounts were to take effect no later than August 1, 2016.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

The Department of Homeland Security (DHS) undertook a review of the civil penalties that DHS and its components administer to determine which penalties would need adjustments. On July 1, 2016, DHS published an IFR adjusting the civil monetary penalties with an initial “catch-up” adjustment, as required by the 2015 Act. *See* 81 FR 42987. DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance issued by OMB on February 24, 2016.² The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR) where the associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act).³ On January 27, 2017, DHS published a final rule adopting as final the civil monetary penalty adjustment methodology from the IFR and making the 2017 annual inflation adjustment pursuant to the 2015 Act and upon guidance

¹ The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015).

² OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, February 24, 2016. <https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

³ DHS published a correction to the IFR on August 23, 2016 to correct one amendatory instruction. *See* 81 FR 57442.

OMB issued to agencies on December 16, 2016.⁴ See 82 FR 8571. On April 2, 2018, DHS published a final rule making the 2018 annual inflation adjustment pursuant to the 2015 Act and the guidance OMB issued to agencies on December 15, 2017.⁵ See 83 FR 13826.

As discussed in Section II below, several civil monetary penalties assessed by CBP and subject to the 2015 Act were inadvertently omitted from these DHS rulemakings.

II. CBP Penalties

CBP assesses or enforces penalties under various titles of the United States Code (U.S.C.) and the Code of Federal Regulations (CFR). These penalties include civil monetary penalties for certain violations of title 8 of the CFR pursuant to the Immigration and Nationality Act of 1952,⁶ as well as certain civil monetary penalties for customs violations for laws codified in title 19 of the U.S.C. and the CFR. CBP assesses many of the title 19 penalties under the Tariff Act of 1930, as amended, and as discussed in the IFR preamble at 81 FR 42987, the 2015 Act specifically exempts Tariff Act penalties from the inflation adjustment requirements in the 2015 Act. For that reason, DHS did not list those penalties in the tables of CBP penalty adjustments in the DHS rulemakings. There are also various other monetary penalties found throughout the U.S.C. and CFR which CBP may seek to issue or enforce but which were not included in the tables because they fall within the purview of another Department or Agency for purposes of the 2015 Act.⁷

Several non-Tariff Act penalties that are assessed by CBP were inadvertently omitted from the DHS rulemakings. On December 8, 2017, CBP published a rule, correcting for three penalties that had been omitted from the DHS rulemakings for the following three violations—transporting passengers between coastwise points in the

⁴ OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.

⁵ OMB, Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 15, 2017. <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf>.

⁶ Public Law 82–414, as amended (INA). The INA contains provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. While CBP is responsible for enforcing various provisions of the INA and assessing penalties for violations of those provisions, all the penalty amounts CBP can assess for violations of the INA are set forth in one section of title 8 of the CFR—8 CFR 280.53. For a complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the IFR preamble at 81 FR 42989–42990.

⁷ For example, CBP may enforce the Clean Diamond Trade Act penalty set forth in 19 U.S.C. 3907, which falls within the purview of the Department of the Treasury. See 31 CFR part 501, app. A.

United States by a non-coastwise qualified vessel; towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel; and dealing in or using an empty stamped imported liquor container after it has already been used once. *See* 82 FR 57821.

However, two additional non-Tariff Act penalties that are assessed by CBP were inadvertently omitted from the DHS rulemakings and the CBP correction rulemaking. The first is a penalty set forth at 46 U.S.C. 12118(f)(3) for transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions. This penalty is incurred if a vessel that is used primarily in manufacturing or mineral industries and owned by a Bowaters corporation transports passengers for hire except as a service for a parent or subsidiary of the corporation owning the vessel or under a bareboat charter to a corporation otherwise qualifying as a citizen of the United States.⁸ The conditions under which a vessel identified as a Bowaters vessel under the authority of 46 U.S.C. 12118 may transport passengers coastwise for hire are detailed in 46 U.S.C. 12118(d)(2) and 19 CFR 4.80(d). The penalty amount is only set forth in the statute and is not reflected in the CBP regulations. The second is a penalty for employing a vessel in a trade without a required Certificate of Documentation pursuant to 19 U.S.C. 1706a and 19 CFR 4.80(i). A Certificate of Documentation is form CG-1270 issued by the U.S. Coast Guard. This form is required for the operation of a vessel in certain trades. *See* 19 CFR 4.0(c) and 46 CFR part 67.

This final rule adjusts these penalty amounts using the same civil monetary penalty adjustment methodology that DHS announced in the IFR (81 FR 42987) and finalized in the DHS final rule (82 FR 8571), and detailed below.

III. Inflation Adjustment Methodology Required by 2015 Act

A. Overview

The 2015 Act provides a new method for calculating inflation adjustments. The new method differs substantially from the methods that agencies used in the past when conducting inflation adjustments pursuant to the 1990 Inflation Adjustment Act. The new method is intended to more accurately reflect inflation. Previously, when agencies conducted adjustments to civil penalties, they did so under rules

⁸ The term “Bowaters corporation” is defined in 46 U.S.C. 12118(a)(1). It means a corporation that has filed a certificate under oath with the Secretary of Homeland Security stating that the corporation meets the conditions set forth in 46 U.S.C. 12118(a)(1)(A)–(F). Among other things, the corporation must be incorporated under the laws of the United States or a State, the majority of the officers and directors must be citizens of the United States, and it must buy or produce in the United States at least 75 percent of the raw materials used or sold in its operations.

that required significant rounding of figures. For example, an agency would round a penalty increase that was greater than \$1,000, but less than or equal to \$10,000, to the nearest multiple of \$1,000. While this allowed penalties to be kept at round numbers, it meant that agencies would often not increase penalties at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent, which meant that longer periods without an inflation adjustment could cause a penalty to rapidly lose value in real terms. Over time, the formula used in the 1990 Inflation Adjustment Act calculations frequently caused penalties to lose value relative to actual inflation. The 2015 Act removed these rounding rules, and instead instructs agencies to round penalties to the nearest \$1. While this creates penalty values that are no longer round numbers, it does ensure that agencies will increase penalties each year to a figure commensurate with the actual calculated inflation.

To better reflect the original impact of civil penalties, the 2015 Act “resets” the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act. To do this, the 2015 Act requires agencies to identify, for each penalty, the year that Congress originally enacted the maximum penalty level/range of minimum and maximum penalty levels or the year that the agency last adjusted the penalty amount other than pursuant to the Inflation Adjustment Act, and the corresponding penalty amount(s). The 2015 Act then requires agencies to perform an initial “catch-up” adjustment, using the original amounts of civil penalties as a baseline, so that the 2016 penalty levels are equal, in real terms, to the penalty amounts as they were originally established. The 2015 Act also requires agencies to make subsequent annual adjustments to increase the penalty amounts by a cost-of-living adjustment.

B. Catch-Up Adjustment

This section sets forth the initial “catch-up” adjustment for the two civil monetary penalties assessed by CBP that were inadvertently omitted from the DHS rulemakings and CBP correction rulemaking. The catch-up adjustments for these two penalties are listed in Table 1 below. This table shows how DHS would have initially increased the penalties pursuant to the 2015 Act. The table contains the following information:

- In the first column (penalty name), we provide a description of the penalty.

- In the second column (citation), we provide the statutory cite from the United States Code (U.S.C.) and the regulatory cite from the Code of Federal Regulations (CFR).
- In the third column (current penalty), we list the existing penalty in effect on November 2, 2015.
- In the fourth column (baseline penalty (year)), we provide the amount and year of the penalty as enacted by Congress or as last changed through a mechanism other than pursuant to the Inflation Adjustment Act, whichever is later.
- In the fifth column (2016 multiplier), we list the multiplier used to adjust the penalty pursuant to the initial OMB catch-up guidance. The multiplier is determined by the year of enactment or last adjustment of the penalty. The multiplier is based upon the Consumer Price Index (CPI-U) for the month of October 2015, not seasonally adjusted.
- In the sixth column (preliminary new penalty), we list the amount obtained by multiplying the Baseline Penalty from column 4 with the Multiplier from column 5. This amount will be the catch-up adjustment amount, if, in accordance with the 2015 Act, this level does not increase penalty levels by more than 150 percent of the corresponding levels in effect on November 2, 2015.
- In the seventh column (adjusted 2016 penalty), we provide the number for the penalty as it would have been adjusted for 2016. To derive this number, we compare the preliminary new penalty with the current penalty from column 3. The adjusted new penalty is the lesser of either the preliminary new penalty or an amount equal to 150 percent more than the current penalty.

TABLE 1—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES INITIAL CATCH-UP ADJUSTMENTS

Penalty name	Citation	Current penalty	Baseline penalty * (year)	2016 Multiplier **	Preliminary new penalty [2016 multiplier × baseline penalty]	Adjusted 2016 penalty [increase capped at 150% more than current penalty]
Penalty for transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions.	46 U.S.C. 12118(f)(3)	\$200	\$200 (1958)	8.22969	\$1,646	\$500
Penalty for employing a vessel in a trade without a required Certificate of Documentation.	19 U.S.C. 1706a, 19 CFR 4.80(i).	500	\$500 (1980)	2.80469	1,402	1,250

* The amount of the penalty and the year when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.

** OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016. <https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

C. 2017 Adjustments

This table shows how DHS would have made the 2017 annual inflation adjustment for the two civil monetary penalties assessed by CBP that were inadvertently omitted from the DHS rulemakings and CBP correction rulemaking, pursuant to the 2015 Act and the guidance OMB issued to agencies on December 16, 2016.⁹ In Table 2 below, we show: (1) The civil penalty (or penalties) name, (2) the penalty statutory and/or regulatory citation, (3) the penalty amount as it would have been adjusted in 2016 (See Table 1), (4) the cost-of-living adjustment multiplier for 2017 that OMB provided in its December 16, 2016 guidance, and (5) the 2017 adjusted penalty.

⁹ See footnote 4.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL
PENALTIES 2017 ADJUSTMENTS

Penalty name	Citation	Adjusted 2016 penalty (see Table 1)	2017 Multiplier *	Adjusted 2017 penalty
Penalty for transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions.	46 U.S.C. 12118(f)(3) ..	\$500	1.01636	\$508
Penalty for employing a vessel in a trade without a required Certificate of Documentation.	19 U.S.C. 1706a, 19 CFR 4.80(i).	1,250	1.01636	1,270

* OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.

D. 2018 Adjustments

This final rule also makes the 2018 annual inflation adjustment pursuant to the 2015 Act and the guidance OMB issued to agencies on December 15, 2017.¹⁰ Pursuant to 28 U.S.C. 2461 note sec. 6, as amended by the 2015 Act, the penalty amounts adjusted by this final rule will be applicable for penalties assessed after December 28, 2018 where the associated violation occurred after November 2, 2015 (*i.e.*, the date the 2015 Act was signed into law). Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

In Table 3 below, we show: (1) The civil penalty (or penalties) name, (2) the penalty statutory and/or regulatory citation, (3) the penalty amount as it would have been adjusted in 2017 (See Table 2), (4) the cost-of-living adjustment multiplier for 2018 that OMB provided in its December 15, 2017 guidance, and (5) the new 2018 adjusted penalty.

Additionally, we have made conforming edits to the regulatory text for the new adjusted penalty amounts in 19 CFR 4.80(i). Because the 46 U.S.C. 12118 penalty is not included in 19 CFR 4.80(d), there are no conforming edits to be made to the regulatory text. However, this penalty is listed in Table 3 for informational purposes.

¹⁰ See footnote 5.

TABLE 3—U.S. CUSTOMS AND BORDER PROTECTION CIVIL
PENALTIES 2018 ADJUSTMENTS

Penalty name	Citation	Adjusted 2017 penalty (see Table 2)	2018 Multiplier *	New penalty as adjusted by this final rule
Penalty for transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions.	46 U.S.C. 12118(f)(3)	\$508	1.02041	**\$518
Penalty for employing a vessel in a trade without a required Certificate of Documentation.	19 U.S.C. 1706a, 19 CFR 4.80(i).	1,270	1.02041	1,296

* OMB, Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 15, 2017. <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf>.

** No applicable conforming edit to regulatory text.

IV. Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b)) and to provide interested persons with the opportunity to submit comments (5 U.S.C. 553(c)). The APA also requires agencies to provide a delayed effective date (of not less than 30 days) for substantive rules. 5 U.S.C. 553(d). The 2015 Act, however, specifically instructed that agencies are to make the required annual adjustments notwithstanding section 553 of title 5 of the U.S.C.

DHS is promulgating this final rule to ensure that the amounts for civil penalties that CBP assesses or enforces that were inadvertently omitted from the DHS rulemakings reflect the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear non-discretionary formula for adjustment of the civil penalties; DHS and CBP have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. Additionally, although the 2015 Act requires publication of an IFR to take effect not later than August 1, 2016, that date has passed and publishing a separate IFR to account for these inadvertently omitted penalty adjustments would cause unnecessary delay. Further, this final rule merely applies the adjustment methodology that DHS provided for public comment in the 2016 IFR and finalized in the 2017 final rule. DHS finds that it is unnecessary to seek further public comment regarding the application of the finalized methodology to these two penalties. For these reasons, and as

specified in the 2015 Act, DHS finds good cause to promulgate these CBP civil monetary penalty adjustments as a final rule and finds that the prior public notice-and-comment procedures and delayed effective date requirements of the APA are unnecessary and do not apply to this rule.

As described in Section I above, the 2015 Act requires agencies to make annual adjustments to civil monetary penalties no later than January 15 of each year and to publish the adjustments in the **Federal Register**. DHS will make future annual inflation adjustments required pursuant to the 2015 Act by final rule notwithstanding the notice-and-comment and delayed effective date requirements of the APA, as required by the 2015 Act. For future annual adjustments, DHS will update the penalty amounts by applying a cost-of-living adjustment multiplier pursuant to OMB guidance. DHS will publish a final rule that provides a table with the adjusted penalty amounts and that updates the numbers in the regulatory text accordingly. DHS will incorporate the two CBP penalties adjusted in this final rule into such future annual adjustment final rules.

V. Regulatory Analyses

A. *Executive Orders 12866, 13563, and 13771*

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the 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. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

OMB has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action it is not subject to the requirements of Executive Order 13771. *See* OMB’s Memorandum, “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’ ” (April 5, 2017) at Q2.

This final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.¹¹ DHS therefore did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this final rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act applies only to rules for which an agency publishes a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule because a notice of proposed rulemaking was not required for the reasons stated above.

C. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

D. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this document is signed by the Secretary of Homeland Security.

List of Subjects in 19 CFR Part 4

Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

¹¹ See footnotes 2 and 4.

Amendments to the Regulations

For the reasons stated in the preamble, CBP amends 19 CFR part 4 as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

* * * * *

■ 2. Revise § 4.80(i) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(i) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is issued under the vessel documentation laws (see § 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of \$500 for each port at which it arrives without the proper Certificate of Documentation on or before November 2, 2015, and \$1296 for each port at which it arrives without the proper Certificate of Documentation after November 2, 2015 (19 U.S.C. 1706a, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

CLAIRE M. GRADY,
*Under Secretary for Management
and Senior Official
Performing the Duties of the Deputy Secretary.*

DEPARTMENT OF THE TREASURY**19 CFR PART 12****CBP DEC. 19-02****RIN 1515-AE42****EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON CERTAIN ARCHAEOLOGICAL MATERIAL FROM CHINA**

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain archaeological material from China. The restrictions, which were originally imposed by CBP Dec. 09-03 and last extended by CBP Dec. 14-02, are due to expire on January 14, 2019. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determination for extending the import restrictions that previously existed and entering into a new Memorandum of Understanding (MOU) with China to reflect the extension of these import restrictions. The new MOU supersedes the existing agreement that became effective on January 14, 2009. Accordingly, these import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this further extension through January 14, 2024. This document also contains the amended Designated List that describes the types of archaeological material to which the restrictions apply, including a new subcategory of glass objects from the Zhou period through the Tang period.

DATES: Effective January 14, 2019.

FOR FURTHER INFORMATION CONTACT: For regulatory aspects, Lisa L. Burley, Branch Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0215, *ot-otrrculturalproperty@cbp.dhs.gov*. For operational aspects, Christopher N. Robertson, Branch Chief, Commercial Targeting & Analysis Center, Trade Policy and Programs, Office of Trade, (202) 325-6586, *CTAC@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et seq.* (hereinafter, “the Cultural Property Implementation Act” or “the Act”), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, “1970 UNESCO Convention” or “the Convention” (823 U.N.T.S. 231 (1972))), the United States entered into a bilateral agreement with the People’s Republic of China (China) on January 14, 2009, to impose import restrictions on certain archaeological material representing China’s cultural heritage from the Paleolithic Period (c. 75,000 B.C.) through the end of the Tang Period (A.D. 907), and monumental sculpture and wall art at least 250 years old. On January 16, 2009, U.S. Customs and Border Protection (CBP) published a final rule (CBP Dec. 09–03) in the **Federal Register** (74 FR 2838), which amended § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions, and included a list covering certain archaeological material from China.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists.

On April 1, 2013, the United States Department of State proposed in the **Federal Register** (78 FR 19565) to extend the agreement through a memorandum of understanding (“MOU”) between the United States and China concerning the imposition of import restrictions on archaeological material from the Paleolithic Period through the Tang Dynasty and monumental sculpture and wall art at least 250 years old. On August 1, 2013, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, made the necessary determinations to extend the import restrictions for an additional five years. On January 13, 2014, CBP published a final rule (CBP Dec. 14–02) in the **Federal Register** (79 FR 2088), which amended § 12.104g(a) to reflect the extension of these import restrictions for an additional five years. By request of China, this document also amended the Designated List to clarify that the restrictions as to monumental sculpture and wall art at least 250 years old should be calculated as of January 14, 2009, the date the MOU became effective. These import restrictions are due to expire on January 14, 2019.

On April 4, 2018, the United States Department of State proposed in the **Federal Register** (83 FR 14537) to extend the MOU between the United States and China concerning the imposition of import restrictions on certain archaeological material and monumental sculpture and wall art at least 250 years old for an additional five years.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendations by the Cultural Property Advisory Committee, determined that the cultural heritage of China continues to be in jeopardy from pillage of certain archaeological material and that the import restrictions should be extended for an additional five years. Subsequently, a new MOU was concluded between the United States and China. The new MOU supersedes and replaces the prior MOU, extends the import restrictions that went into effect under the prior MOU for an additional five years and adds a new subcategory of glass objects from the Zhou period through the Tang period. This new MOU is titled: “Memorandum of Understanding Between the Government of the United States of America and the Government of the People’s Republic of China Concerning the Imposition of Import Restrictions on Categories of Archaeological Material of China.” The new MOU revises the Designated List of cultural property described in CBP Dec. 14–02, as set forth below. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of these import restrictions.

The restrictions on the importation of archaeological material from China are to continue in effect through January 14, 2024. Importation of such material from China continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Amended Designated List

The Designated List, covering articles from the Paleolithic Period (c. 75,000 B.C.) through the end of the Tang Period (A.D. 907) and monumental sculpture and wall art at least 250 years old as of January 14, 2009, that are protected pursuant to the existing MOU, has been revised. Under the new MOU, a new subcategory of objects under “Section VIII Glass” has been added to include “beads”, pursuant to 19 U.S.C. 2606, and the word “mostly” preceding the word “tablewares” in the same section has been removed. Grammatical changes have been made to the Designated List in “Section II Stone” for Other Stone sculptures associated with Buddhism, and in “Section III Metal” for Bronze musical instruments of the Zhou through Tang period and miscellaneous Bronze items. Additionally, the words “Dynasty” or “Dynasties” and “period” have been added for clarity,

where appropriate, throughout the Designated List. The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> under “China.” For ease of reference, the Designated List that was published in CBP Dec. 14–02, including the revisions mentioned above, is reproduced below:

Amended Designated List of Archaeological Material of China

Simplified Chronology

Paleolithic period (c. 75,000–10,000 BC).

Neolithic period (c. 10,000–2000 BC).

Erlitou and other Early Bronze Age cultures (c. 2000–1600 BC).

Shang Dynasty and other Bronze Age Cultures (c. 1600–1100 BC).

Zhou Dynasty (c. 1100–256 BC).

Qin Dynasty (221–206 BC).

Han Dynasty (206 BC–AD 220).

Three Kingdoms (AD 220–280).

Jin Dynasty (AD 265–420).

Southern and Northern Dynasties (AD 420–589).

Sui Dynasty (AD 581–618).

Tang Dynasty (AD 618–907).

I. Ceramic

The ceramic tradition in China extends back to at least the 6th millennium BC and encompasses a tremendous variety of shapes, pastes, and decorations. Chinese ceramics include earthenwares, stonewares and porcelains, and these may be unglazed, glazed, underglazed, painted, carved, impressed with designs, decorated with applied designs or a combination of all of these. Only the most distinctive are listed here. Vessels are the most numerous and varied types of ceramics. Ceramic sculptures include human, animal, mythic subjects, and models of scenes of daily life. Architectural elements include decorated bricks, baked clay tiles with different glaze colors, and acroteria (ridge pole decorations).

A. Vessels

1. Neolithic Period

Archaeological work over the past thirty years has identified numerous cultures of the Neolithic period from every part of China, all producing distinctive ceramics. Early Neolithic cultures (c. 7500–5000 BC) include such cultures as Pengtoushan (northern Hu-

nan Province), Peiligang (Henan Province), Cishan (Hebei Province), Houli (Shandong Province), Xinglongwa (eastern Inner Mongolia and Liaoning Province), Dadiwan and Laoguantai (Gansu and Shaanxi Province), and Xinle (Liaodong peninsula, Liaoning Province), among others. Examples of Middle Neolithic cultures (c. 5000–3000 BC) include Yangshao (Shaanxi, Shanxi, and Henan Provinces), Daxi (eastern Sichuan and western Hubei Provinces), Hemudu (lower Yangzi River valley, Zhejiang Province), Majiabang (Lake Tai/Taihu area to Hangzhou Bay, Zhejiang and southern Jiangsu Provinces), Hongshan (eastern Inner Mongolia, Liaoning, and northern Hebei Provinces), and Dawenkou (Shandong Province), among others. Later Neolithic cultures (c. 3500–2000 BC) include Liangzhu (lower Yangzi River Valley), Longshan (Shandong and Henan Provinces), Taosi (southern Shanxi Province), Qujialing (middle Yangzi River valley in Hubei and Hunan Provinces), Baodun (Chengdu Plain, Sichuan Province), Shijiahe (western Hubei Province), and Shixia (Guangdong Province), among many others.

Neolithic vessels are sometimes inscribed with pictographs. When present, they are often single incised marks on vessels of the Neolithic period, and multiple incised marks (sometimes around the rim) on late Neolithic vessels.

a. *Yangshao*: The “classic” form of Neolithic culture, c. 5000–3000 BC in Shanxi, Shaanxi, Gansu, Henan, and adjacent areas. Hand-made, red paste painted with black, sometimes white motifs that are abstract, and depict plants, animals, and humans. Forms include bulbous jars with lug handles, usually with a broad shoulder and narrow tapered base, bowls, open mouth vases, and flasks (usually undecorated) with two lug handles and a pointed base.

b. *Shandong Longshan*: Vessels are wheel-made, black, very thin-walled, and highly polished, sometimes with open cut-out decoration. Forms include tall stemmed cups (*dou*), tripods (*li* and *ding*), cauldrons, flasks, and containers for water or other liquids.

2. Erlitou, Shang, and Zhou Vessels

a. Vessels are mostly utilitarian gray paste cooking tripod basins, cooking and storage jars, wide mouth containers, pan circular dishes with flat base, and broad three legged versions of pans. The latter also appear in fine gray and black pastes. The forms of these include the kettle with lid (*he*), tripod liquid heating vessel with pouring spout (*jue*), tripod cooking pot (*ding*), goblet or beaker (*gu*), and tripod water heater without pouring spout (*jia*).

b. *Shang and Zhou*: Vessels may be wheel-made or coiled. Vessels can be utilitarian gray paste cooking vessels, often cord-impressed, or

more highly decorated types. Surfaces can be impressed and glazed yellow to brown to dark green. White porcelain-like vessels also occur. Forms include those of the Erlitou plus wide-mouth containers and variously shaped jars and serving vessels.

3. Qin Through Southern and Northern Vessels

Most vessels are wheel-made. The main developments are in glazing. Earthenwares may have a lead-based shiny green glaze. Grey stonewares with an olive color are called Yue ware.

4. Sui and Tang Vessels

Note: Most vessels are wheel-made.

a. *Sui*: Pottery is plain or stamped.

b. *Tang*: A three-color glazing technique is introduced for earthenwares (*sancai*). Green, yellow, brown, and sometimes blue glazes are used together on the same vessel. For stoneware, the olive glaze remains typical.

B. Sculpture

1. *Neolithic*: Occasional small figurines of animals or humans. From the Hongshan culture come human figures, some of which appear pregnant, and human faces ranging from small to life-size, as well as life-size and larger fragments of human body parts (ears, belly, hands, and others).

2. *Shang through Eastern Zhou*: Ceramic models and molds for use in the piece-mold bronze casting process. Examples include frontal animal mask (*taotie*), birds, dragons, spirals, and other decorative motifs.

3. *Eastern Zhou, Qin and Han*: Figures are life-size or smaller. They are hand- and mold-made, and may be unpainted, painted, or glazed. Figures commonly represent warriors on foot or horseback, servants, acrobats, and others. Very large numbers date to the Han Dynasty. In some cases, the ceramic male and female figurines are anatomically accurate, nude, and lack arms (in these cases, the figures were originally clad in clothes and had wooden arms that have not been preserved). Other ceramic objects, originally combined to make scenes, take many forms including buildings, courtyards, ships, wells, and pig pens.

4. *Tang*: Figures depicting Chinese people, foreigners, and animals may be glazed or unglazed with added paint. Approximately 15 cm to 150 cm high.

C. Architectural Decoration and Molds

1. *Han*: Bricks having a molded surface with geometric or figural design. These depict scenes of daily life, mythic and historical stories, gods, or demons.

2. *Three Kingdoms through Tang*: Bricks may be stamped or painted with the same kinds of scenes as in the Han Dynasty.

3. *Han through Tang*: Roof tiles may have a corded design. Eaves tiles with antefixes have Chinese characters or geometric designs. Glazed acroteria (ridge pole decorations) in owl tail shape.

II. Stone

A. Jade

Ancient Chinese jade is, for the most part, the mineral nephrite. It should be noted, however, that many varieties of hard stone are sometimes called “jade” (*yu*) in Chinese. True nephrite jade can range in color from white to black, and from the familiar shades of green to almost any other color. Jade has been valued in China since the Neolithic period. Types commonly encountered include ornaments, amulets, jewelry, weapons, insignia, and vessels.

1. Ornaments and Jewelry

a. *Neolithic (Hongshan)*: Types are mostly hair cylinders or pendant ornamental animal forms such as turtles, fish-hawks, cicadas, and dragons. One common variety is the so-called “pigdragon” (*zhulong*), a circular ring form with a head having wrinkled snout (the “pig”) and long dragon-like body.

b. *Neolithic (Liangzhu)*: Types include awl-shaped pendants, three-prong attachments, openwork crown-shapes, beads, birds, fishes, and frogs.

c. *Neolithic (Shandong Longshan) and Erlitou*: Ornaments for body and clothing such as stick pins and beads.

d. *Shang and Zhou*: Earrings, necklaces, pectorals, hair stickpins, ornaments, sometimes in the shape of small animals, dragons, or other forms; belt buckles, and garment hooks. During the Zhou Dynasty, elaborate pectorals made of jade links, and jade inlay on bronze appear.

e. *Qin, Han and Three Kingdoms*: Pectoral ornaments and small-scale pendants continue to be produced. Types include pectoral slit earrings, large disks (*bi*), openwork disks (*bi*), openwork plaques

showing a mythic bird (*feng*), and various types of rings. Entire burial suits of jade occur during the Han Dynasty. More frequently occurring are Han Dynasty belthooks decorated with dragons, and garment hooks.

2. Weapons, Tools, and Insignia

a. *Neolithic (Liangzhu)*: Types include weapons such as broad-bladed axes (*yue*), long rectangular or trapezoidal blades (*zhang*), often with holes along the back (non-sharpened) edge for hafting; and tools such as hoe, adze, knife blades.

b. *Neolithic (Shandong Longshan) and Erlitou*: Broad axe (*yue*) and halberd or “dagger axe” (*ge*).

c. *Shang and Zhou*: Broad axes (*yue*) and halberd (*ge*) may be attached to turquoise inlaid bronze shafts.

d. *Neolithic (Liangzhu) to Zhou*: Tool types include hoe, adze, knife blades.

e. *Neolithic (Shandong Longshan) to Zhou*: Insignia blades based on tool shapes such as long hoe, flat adze, and knife.

3. Ceremonial Paraphernalia

Neolithic—Han: Types include flat circular disks (*bi*) with a cut-out central hole and prismatic cylindrical tubes (*cong*), usually square on the outside with a circular hole through its length, often with surface carving that segments the outer surface into three or more registers. The *cong* tubes are often decorated with a motif on each corner of each register showing abstract pairs of eyes, animal and/or human faces. *Cong* tubes, while most closely linked with the Liangzhu culture, were widely distributed among the many late Neolithic cultures of China.

4. Vessels

a. *Shang through Han*: Types include eared cups and other tableware.

b. *Qin through Tang*: Tableware forms such as cups, saucers, bowls, vases, and inkstones.

5. Other

Chimes from all eras may be rectangular or disk-shaped.

B. Amber

Amber is used for small ornaments from the Neolithic through Tang Dynasties.

C. Other Stone

1. Tools and Weapons

a. *Paleolithic and later eras*: Chipped lithics from the Paleolithic and later eras including axes, blades, scrapers, arrowheads, and cores.

b. *Neolithic and later eras*: Ground stone including hoes, sickles, spades, axes, adzes, pestles, and grinders.

c. *Erlitou through Zhou*: As with jade, weapon types include blades, broad axes (*yue*), and halberds (*ge*).

2. Sculpture

Stone becomes a medium for large-scale images in the Qin and Han Dynasties. It is put to many uses in tombs. It also plays a major role in representing personages associated with Buddhism, Daoism, and Confucianism.

a. Sculpture in the round

Note: This section includes monumental sculpture at least 250 years old as of January 14, 2009.

i. *Shang*: Sculpture includes humans, often kneeling with hands on knees, sometimes with highly decorated incised robes, owls, buffalo, and other animals. The Jinsha site near Chengdu, Sichuan, dating to the late Shang Dynasty, has yielded numerous examples of stone figurines in a kneeling position, with carefully depicted hair parted in the center, and with hands bound behind their back.

ii. *Han to Qing*: The sculpture for tombs includes human figures such as warriors, court attendants, and foreigners. Animals include horse, tiger, pig, bull, sheep, elephant, and fish, among many others.

iii. The sculpture associated with Buddhism is usually made of limestone, sandstone, schist and white marble. These may be covered with clay, plaster, and then painted. Figures commonly represented are the Buddha and disciples in different poses and garments.

iv. The sculpture associated with Daoism is usually sandstone and limestone, which may be covered and painted. Figures commonly represented are Laozi or a Daoist priest.

v. The sculpture associated with Confucianism represents Confucius and his disciples.

b. Relief Sculpture

i. *Han*: Relief sculpture is used for all elements of tombs including sarcophagi, tomb walls, and monumental towers. Images include

hunting, banqueting, historical events, processions, scenes of daily life, fantastic creatures, and animals.

ii. *Tang*: Tomb imagery now includes landscapes framed by vegetal motifs.

c. Art of Cave or Grotto Temples

Note: This section includes monumental sculpture at least 250 years old as of January 14, 2009.

Han—Qing: These temples, mostly Buddhist, combine relief sculpture, sculpture in the round, and sometimes mural painting. The sculptures in the round may be stone or composites of stone, wood, and clay and are painted with bright colors.

d. Stelae

Note: This section includes monumental sculpture at least 250 years old as of January 14, 2009.

Han—Qing: Tall stone slabs set vertically, usually on a tortoise-shaped base and with a crown in the form of intertwining dragons. Stelae range in size from around 0.60m to 3m. Some include relief sculpture consisting of Buddhist imagery and inscription, and others are secular memorials with long memorial inscription on front and back faces.

3. Architectural Elements

a. *Erlitou through Zhou*: Marble or other stone is used as a support for wooden columns and other architectural or furniture fixtures.

b. *Qing*:

Note: This section includes monumental sculpture at least 250 years old as of January 14, 2009.

Sculpture is an integral part of Qing Dynasty architecture. Bridges, archways, columns, staircases and terraces throughout China are decorated with reliefs. Colored stones may be used, including small bright red, green, yellow and black ones. Statue bases are draped with imitations of embroidered cloths. Stone parapets are carved with small, elaborately adorned fabulous beasts.

4. Musical Instruments

Neolithic through Han, and later: Chimestones, chipped and/or ground from limestone and other resonant rock. They may be highly polished, carved with images of animals or other motifs, and bear inscriptions in Chinese characters. They usually have a chipped or ground hole to facilitate suspension from a rack.

III. Metal

The most important metal in traditional Chinese culture is bronze (an alloy of copper, tin and lead), and it is used most frequently to cast vessels, weapons, and other military hardware. Iron artifacts are not as common, although iron was used beginning in the middle of the Zhou Dynasty to cast agricultural tool types, vessels, weapons and measuring utensils. As with ceramics, only the most distinctive are listed here.

A. Bronze

1. Vessels

Note: Almost any bronze vessel may have an inscription in archaic Chinese characters.

a. *Erlitou*: Types include variations on pots for cooking, serving and eating food including such vessels as the cooking pot (*ding*), liquid heating vessel with open spout (*jue*), or with tubular spout (*he*), and water heater without spout (*ja*).

b. *Shang*: Bronze vessels and implements include variations on the ceramic posts used for cooking, serving, and eating including but not limited to the tripod or quadripod cooking pot (*ding*), water container (*hu*), and goblet (*gu*). Animal-shaped vessels include the owl, mythic bird, tiger, ram, buffalo, deer, and occasionally elephant and rhinoceros. Most types are decorated with symbolic images of a frontal animal mask (*taotie*) flanked by mythical birds and dragons, or with simpler images of dragons or birds, profile cicadas, and geometric motifs, including a background “cloud and thunder” pattern of fine squared spirals.

c. *Zhou*: Types include those of previous eras. Sets begin to be made with individual vessels having similar designs. Late innovations are made to surface treatment: Relief decorations of intertwined dragons and feline appendages; inlay with precious stones and gems; inlay with other metals such as gold and silver; gilding; pictorial narratives featuring fighting, feasting and rituals; and various geometric designs.

d. *Qin and Han*: All vessel types and styles popularized of the immediately preceding era continue.

2. Sculpture

a. *Shang and other Bronze Age Cultures through Zhou*: Wide variety of cast human and animal sculptures. Particularly distinctive are the bronze sculptures from the Sanxingdui Culture in Sichuan which include life-sized human heads (often with fantastic features and

sometimes overlaid with gold leaf) and standing or kneeling figurines ranging in size from 5 cm to more than 2 meters; tree-shaped assemblages; birds, dragons, and other real and fantastic animals. Bronze sculpture from Chu and related cultures include supports for drums and bell sets (often in the shape of guardian figures, fantastic animals, or intertwined snakes).

b. *Qin and Han*: Decorative bronze types include statues of horses, lamps in the shape of female servants, screen supports in the shape of winged immortals, incense burners in the shape of mountains, mirrors, and inlaid cosmetic boxes.

c. *Buddhist*: In the Han Dynasty, there first appear small portable images of Sakyamuni Buddha. During the next historical eras, such images proliferate and become more varied, in terms of size and imagery. Most of these are free-standing, depicting such subjects as the historical Buddha Sakyamuni, Buddhas associated with paradises, Buddha's disciples, and scenes from the *Lotus Sutra*. Gilt bronzes are made from the Han to Tang Dynasties.

3. Coins

a. *Zhou Media of Exchange and Tool-shaped Coins*: Early media of exchange include bronze spades, bronze knives, and cowrie shells. During the 6th century BC, flat, simplified, and standardized cast bronze versions of spades appear and these constitute China's first coins. Other coin shapes appear in bronze including knives and cowrie shells. These early coins may bear inscriptions.

b. Later, tool-shaped coins began to be replaced by disc-shaped ones, which are also cast in bronze and marked with inscriptions. These coins have a central round or square hole.

c. *Qin*: In the reign of Qin Shi Huangdi (221–210 BC), the square-holed round coins become the norm. The new Qin coin is inscribed simply with its weight, expressed in two Chinese characters *ban liang*. These are written in small seal script and are placed symmetrically to the right and left of the central hole.

d. *Han through Sui*: Inscriptions become longer, and may indicate that the inscribed object is a coin, its value in relation to other coins, or its size. Later, the period of issue, name of the mint, and numerals representing dates may also appear on obverse or reverse. A new script, clerical (*lishu*), comes into use in the Jin Dynasty.

e. *Tang*: The clerical script becomes the norm until AD 959, when coins with regular script (*kaishu*) also begin to be issued.

4. Musical Instruments

a. *Shang*: Instruments include individual clapper-less bells (*nao*), singly and in sets. Barrel drums lay horizontally, have a saddle on top, and rest on four legs.

b. *Zhou through Tang*: Bells and bell sets continue to be important. The bells vary considerably in size and in shape. Other instruments include mouth organs (*hulu sheng*), gongs, cymbals, and a variety of types of drums, including drums (*chunyu*) and large “kettledrums” from south and southwest China.

5. Tools and Weapons

Tools and implements of all eras include needles, spoons, ladles, lifting poles, axes, and knives. Weapons and military gear include the broad axe, dagger axe, knives, spear points, arrowheads, helmets, chariot fittings, combination of spear and dagger (*ji*), cross-bow, and horse frontlets.

6. Miscellaneous

Other bronze items include but are not limited to mirrors, furniture parts, and utensils such as belt buckles, garment hooks, weights, measuring implements, incense burners, lamps, spirit trees, tallies, seals, rings, bells, and cosmetic containers.

B. Iron

Iron is used for such utilitarian objects as axes, hammers, chisels, and spades. At the end of the Zhou Dynasty, steel swords with multi-faceted metal inlay are produced.

1. *Zhou through Han*: Bimetallic weapons such as iron-bladed swords and knives with a bronze hilt.

2. *Three Kingdoms through Sui*: Small-scale Buddhist images are cast.

3. *Tang*: Large-scale castings include Buddhist statues, bells, lions, dragons, human figures, and pagodas.

C. Gold and Silver

During the Shang and Zhou Dynasties, gold is used to produce jewelry and a limited number of vessel types, and as gilding, gold leaf, or inlay on bronze. Gold and silver become widely used in the Han Dynasty and remain so through the Tang Dynasty. Objects include vessels such as cups, ewers, jars, bowls; utensils such as lamps, containers, jewelry, liturgical wares, furniture parts; and Buddhist sculpture such as images of Buddha and reliquaries.

IV. Bone, Ivory, Horn, and Shell

Neolithic through Tang: The most important uses of these materials is for vessels, seals, small-scale sculptures, and personal ornaments. In the Neolithic period, Erlitou culture, and Shang Dynasty, bone (bovine scapula and tortoise plastrons, or lower shells) is used for divination: A carefully prepared bone or shell was thinned by drilling series of holes almost through the bone, to which heat was applied to make the bone crack. In some cases from the Late Shang Dynasty, the bones carry inscriptions revealing the date and nature of the question asked and, occasionally, the outcome of the event. The cowrie shells used as money in the Shang Dynasty and later periods show signs of use. Worked shell imitations of cowries are also known. Ivory and horn are used to craft tableware utensils such as cups and containers as early as the Shang Dynasty; these are sometimes inlaid with turquoise or other stones.

V. Silks and Textiles

Neolithic through Tang: Silk worms are domesticated in China as early as the Neolithic period. Silk cloth is preserved as garments and parts thereof, as a covering for furniture, and as painted or embroidered banners. Techniques include flat weave, moiré, damask, gauze, quilting, and embroidery.

VI. Lacquer and Wood

Neolithic through Tang: Lacquer is a transparent sap collected from the lac tree. When dissolved, it may be repeatedly applied to a wood or fabric form. The resulting product is sturdy and light. Lacquer vessels first appear in the Neolithic period, and become highly sophisticated and numerous by the middle Zhou through Han Dynasties. In the Sui and Tang Dynasties, the practice is invented of creating a hard, thick surface of lacquer with the application of many thin layers. The resulting object may be carved and or inlaid before it hardens completely. Common colors for lacquer are red and black. Object types include: Vessels such as bowls, dishes, and goblets; military gear such as shields and armor; musical instruments such as zithers (*qin*) and drums, related supports for drums and for bell sets; and boxes and baskets with painted or carved lids.

Wooden objects from this era are mainly preserved when painted with lacquer. These include architectural elements, utensils, coffins, musical instruments, and wood sculptures.

VII. Bamboo and Paper

Zhou through Tang: Types include texts on bamboo and wooden slips, and on paper. The slips may be found singly, or in groups numbering into the thousands. Some Buddhist sutras were printed with movable wooden type.

VIII. Glass

Zhou through Tang: Glass types include beads and tablewares, such as cups, plates, and saucers.

IX. Painting and Calligraphy

A. Wall Painting

Note: This section includes wall art at least 250 years old as of January 14, 2009.

The painted bricks of the Han through Tang tomb walls have already been mentioned. That tradition is partially concurrent with a fresco tradition that runs from the Han through Qing Dynasties. Temples including those in caves or grottos have wall paintings with Buddhist, Confucian, and Daoist themes.

B. Other Painting

Han through Tang: Paintings, dating to as early as the Southern and Northern Dynasties, are on such media as banners, hand-scrolls, and fans. Subjects are drawn from Buddhism, Confucianism, and Daoism. Other subjects include landscapes and hunting scenes.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Orders 12866 and 13771

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 or Executive Order 13771 because it pertains to a foreign affairs function of the United

States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866 and section 4(a) of Executive Order 13771.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury's authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g, in paragraph (a), the table is amended in the entry for People's Republic of China by removing the words "CBP Dec. 09–03 extended by CBP Dec. 14–02" in the column headed "Decision No.", and adding in their place the words "CBP Dec. 19–02".

Dated: January 9, 2019.

KEVIN K. McALEENAN,
Commissioner,
U.S. Customs and Border Protection.

DAVID J. KAUTTER,
Assistant Secretary of the Treasury.

DEPARTMENT OF THE TREASURY**19 CFR PART 12****CBP DEC. 19-1****RIN 1515-AE41****EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON
CERTAIN ARCHAEOLOGICAL AND ECCLESIASTICAL
ETHNOLOGICAL MATERIAL FROM BULGARIA**

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

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain archaeological and ecclesiastical ethnological material from Bulgaria. The restrictions, which were originally imposed by CBP Dec. 14-01, are due to expire on January 14, 2019. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determination for extending the import restrictions that previously existed and entering into a new Memorandum of Understanding (MOU) with Bulgaria to reflect the extension of these import restrictions. The new MOU supersedes and replaces the existing agreement that became effective on January 14, 2014. This new MOU also corrects an inconsistency existing between the previous MOU and the Designated List that describes the types of archaeological and ecclesiastical ethnological material to which the restrictions apply.

DATES: Effective January 14, 2019.

FOR FURTHER INFORMATION CONTACT: For regulatory aspects, Lisa L. Burley, Branch Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0215, *ot-otrrculturalproperty@cbp.dhs.gov*. For operational aspects, Christopher N. Robertson, Branch Chief, Commercial Targeting & Analysis Center, Trade Policy and Programs, Office of Trade, (202) 325-6586, *CTAC@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97-446, 19 U.S.C. 2601 *et seq.* (hereinafter, “the Cultural Property Implementation Act” or “the Act”), which imple-

ments the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, “1970 UNESCO Convention” or “the Convention” (823 U.N.T.S. 231 (1972))), the United States entered into a bilateral agreement with the Republic of Bulgaria (Bulgaria) on January 14, 2014, to impose import restrictions on: (1) Archaeological material from Bulgaria ranging in date from 7500 B.C through approximately 1750 A.D.; and (2) ecclesiastical ethnological material from Bulgaria ranging in date from the beginning of the 4th century A.D. through approximately 1750 A.D. On January 16, 2014, U.S. Customs and Border Protection (CBP) published a final rule (CBP Dec. 14–01) in the **Federal Register** (79 FR 2781), which amended § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions, and included a list covering certain archaeological and ecclesiastical ethnological material from Bulgaria.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors that justified the initial agreement still pertain and no cause for suspension of the agreement exists.

On June 13, 2018, the United States Department of State proposed in the **Federal Register** (83 FR 27649) to extend the Memorandum of Understanding (MOU) between the United States and Bulgaria concerning the imposition of import restrictions on certain archaeological and ecclesiastical ethnological material from Bulgaria for an additional five years.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendations by the Cultural Property Advisory Committee, determined that the cultural heritage of Bulgaria continues to be in jeopardy from pillage of certain archaeological material and ecclesiastical ethnological material and that the import restrictions should be extended for an additional five years. Subsequently, the United States and Bulgaria entered into and concluded a new MOU, superseding and replacing the existing MOU (dated January 14, 2014), to reflect the extension of those import restrictions for an additional five years. This new MOU is titled: “Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Bulgaria Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ecclesiastical Ethnological Material of the Republic of Bulgaria.” This new MOU also

corrects an inconsistency existing between the previous MOU and the Designated List that describes the types of archaeological and ecclesiastical ethnological material from Bulgaria to which the restrictions apply. The inconsistency involved the 2014 MOU incorrectly listing the ecclesiastical ethnological material ranging in date from the beginning of 681 A.D. rather than as listed in the Designated List as from the beginning of the 4th century A.D.

Because of the new MOU, CBP is republishing the Designated List of cultural property described in CBP Dec. 14–01 in this document. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of these import restrictions and to reflect the appropriate dates for ecclesiastical ethnological material.

The restrictions on the importation of archaeological and ecclesiastical ethnological material from Bulgaria are to continue in effect through January 14, 2024. Importation of such material from Bulgaria continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by clicking on “Bulgaria.”

Designated List of Archaeological and Ecclesiastical Ethnological Material of Bulgaria

The bilateral agreement between the United States and Bulgaria includes, but is not limited to, the categories of objects described in the designated list set forth below. These categories of objects are subject to the import restrictions set forth above, in accordance with the above explained applicable law and the regulation amended in this document (19 CFR 12.104(g)(a)).

The import restrictions include complete examples of objects and fragments thereof.

The archaeological materials represent the following periods and cultures: Neolithic, Chalcolithic, Bronze Age, Iron Age, Thracian, Hellenistic, Roman, Middle Ages, First Bulgarian Empire, Byzantine, Second Bulgarian Empire, and Ottoman. The ecclesiastical ethnological materials represent the following periods and cultures: Middle Ages, First Bulgarian Empire, Byzantine, Second Bulgarian Empire, and Ottoman. Ancient place-names associated with the region of Bulgaria include Odrysian Kingdom, Thrace, Thracia, Moesia Inferior, Moesia Superior, Coastal Dacia, Inner Dacia, Rhodope, Haemimontus, Europa, Bulgaria, and Eyalet of Rumeli.

I. Archaeological Material

A. Stone

1. Sculpture

a. *Architectural Elements*—In marble, limestone, gypsum, and other kinds of stone. Types include acroterion, antefix, architrave, base, capital, caryatid, coffer, column, crowning, fountain, frieze, pediment, pilaster, mask, metope, mosaic and inlay, jamb, tile, triglyph, tympanum, basin, and wellhead. *Approximate date*: First millennium B.C. to 1750 A.D.

b. *Monuments*—In marble, limestone, granite, sandstone, and other kinds of stone. Types include, but are not limited to, votive statues, funerary, documentary, votive stelae, military columns, herms, stone blocks, bases, and base revetments. These may be painted, carved with borders, carry relief sculpture, and/or carry dedicatory, documentary, official, or funerary inscriptions, written in various languages including Thracian, Proto-Bulgarian, Greek, Latin, Hebrew, Turkish, and Bulgarian. *Approximate date*: First millennium B.C. through 1750 A.D.

c. *Sarcophagi and ossuaries*—In marble, limestone, and other kinds of stone. Some have figural scenes painted on them, others have figural scenes carved in relief, and some are plain or just have decorative moldings. *Approximate date*: Third millennium through 1750 A.D.

d. *Large Statuary*—Primarily in marble, also in limestone and sandstone. Subject matter includes human and animal figures and groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). *Approximate date*: Third millennium B.C. through 1750 A.D.

e. *Small Statuary and Figurines*—In marble and other stone. Subject matter includes human and animal figures and groups of figures in the round. These range from approximately 10 cm to 1 m in height. *Approximate date*: Neolithic through 1750 A.D.

f. *Reliefs*—In marble and other stone. Types include carved relief vases and slabs carved with subject matter such as a horseman, vegetative, floral, or decorative motifs, sometimes inscribed. Used for architectural decoration, funerary, votive, or commemorative monuments. *Approximate date*: Third millennium B.C. through 1750 A.D.

g. *Furniture*—In marble and other stone. Types include tables, thrones, and beds. *Approximate date*: Third millennium B.C. through 1750 A.D.

2. *Vessels*—In marble, steatite, rock crystal, and other stone. These may belong to conventional shapes such as bowls, cups, jars, jugs, and lamps, or may occur in the shape of a human or animal, or part of human or animal. *Approximate date*: Neolithic through 1750 A.D.

3. *Tools, Instruments, and Weapons*—In flint, quartz, obsidian, and other hard stones. Types of stone tools include large and small blades, borers, scrapers, sickles, awls, harpoons, cores, loom weights, and arrow heads. Ground stone types include grinders (*e.g.*, mortars, pestles, millstones, whetstones), choppers, axes, hammers, moulds, and mace heads. *Approximate date*: Neolithic through 1750 A.D.

4. *Seals and beads*—In marble, limestone, and various semiprecious stones including rock crystal, amethyst, jasper, agate, steatite, and carnelian. May be incised or cut as gems or cameos. *Approximate date*: Neolithic through 1750 A.D.

B. Metal

1. Sculpture

a. *Large Statuary*—Primarily in bronze, including fragments of statues. Subject matter includes human and animal figures, and groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). *Approximate date*: Fifth millennium B.C. through 1750 A.D.

b. *Small Statuary and Figurines*—Subject matter includes human and animal figures, groups of figures in the round, masks, plaques, and bronze hands of Sabazio. These range from approximately 10 cm to 1 m in height. *Approximate date*: First millennium B.C. through Roman.

c. *Reliefs*—In gold, bronze, or lead. Types include burial masks, leaves, and appliqué with images of gods, mythical creatures, etc. First millennium B.C. through Roman.

d. *Inscribed or Decorated Sheet Metal*—In bronze or lead. Engraved inscriptions, “military diplomas,” and thin metal sheets with engraved or impressed designs often used as attachments to furniture. *Approximate date*: First millennium B.C. through 1750 A.D.

2. *Vessels*—In bronze, gold, and silver. Bronze may be gilded or silver-plated. These may belong to conventional shapes such as bowls, cups, jars, jugs, strainers, cauldrons, candelabras, and lamps, or may occur in the shape of a human or animal or part of a human or animal. *Approximate date*: Fifth millennium B.C. through 1750 A.D.

3. *Personal Ornaments*—In copper, bronze, gold, and silver. Bronze may be gilded or silver-plated. Types include torques, rings, beads,

pendants, belts, belt buckles, belt ends/appliqués, earrings, ear caps, diadems, spangles, straight and safety pins, necklaces, mirrors, wreaths, cuffs, pectoral crosses, and beads. *Approximate date*: Fifth millennium B.C. through 1750 A.D.

4. *Tools*—In copper, bronze and iron. Types include knives, hooks, weights, axes, scrapers (strigils), trowels, keys, dies for making coins, and the tools of physicians and artisans such as carpenters, masons and metal smiths. *Approximate date*: Fifth millennium B.C. through 1750 A.D.

5. *Weapons and Armor*—In copper, bronze and iron. Types include both launching weapons (harpoons, spears and javelins) and weapons for hand-to-hand combat (swords, daggers, battle axes, rapiers, maces etc.). Armor includes body armor, such as helmets, cuirasses, shin guards, and shields, and horse armor/chariot decorations often decorated with elaborate engraved, embossed, or perforated designs. *Approximate date*: Fifth millennium B.C. through 1750 A.D.

6. *Seals*—In lead, tin, copper, bronze, silver, and gold. Types include rings, amulets, stamps, and seals with shank. They pertain to individuals, kings, emperors, patriarchs, and other spiritual leaders. *Approximate date*: Bronze Age through 1750 A.D.

7. *Coins*—In copper, bronze, silver and gold. Many of the listed coins with inscriptions in Greek can be found in B. Head, *Historia Numorum: A Manual of Greek Numismatics* (London, 1911) and C.M. Kraay, *Archaic and Classical Greek Coins* (London, 1976). Many of the Roman provincial mints in modern Bulgaria are covered in I. Varbanov, *Greek Imperial Coins I: Dacia, Moesia Superior, Moesia Inferior* (Bourgas, 2005), id., *Greek Imperial Coins II: Thrace (from Abdera to Pautalia)* (Bourgas, 2005), id., *Greek Imperial Coins III: Thrace (from Perinthus to Trajanopolis), Chersonesos Thraciae, Insula Thraciae, Macedonia* (Bourgas 2007). A non-exclusive list of pre-Roman and Roman mints include Mesembria (modern Nesembar), Dionysopolis (Balchik), Marcianopolis (Devnya), Nicopolis ad Istrum (near Veliko Tarnovo), Odessus (Varna), Anchialus (Pomorie), Apollonia Pontica (Sozopol), Cabyle (Kabile), Deultum (Debelt), Nicopolis ad Nestum (Garmen), Pautalia (Kyustendil), Philippopolis (Plovdiv), Serdica (Sofia), and Augusta Traiana (Stara Zagora). Later coins may be found in A. Radushev and G. Zhekov, *Catalogue of Bulgarian Medieval Coins IX–XV c.* (Sofia 1999) and J. Youroukova and V. Penchev, *Bulgarian Medieval Coins and Seals* (Sofia 1990).

a. Pre-monetary media of exchange including “arrow money,” bells, and bracelets. *Approximate date*: 13th century B.C. through 6th century B.C.

b. Thracian and Hellenistic coins struck in gold, silver, and bronze by city-states and kingdoms that operated in the territory of the modern Bulgarian state. This designation includes official coinages of Greek-using city-states and kingdoms, Sycthian and Celtic coinage, and local imitations of official issues. Also included are Greek coins from nearby regions that are found in Bulgaria. *Approximate date:* 6th century B.C. through the 1st century B.C.

c. *Roman provincial coins*—Locally produced coins usually struck in bronze or copper at mints in the territory of the modern state of Bulgaria. May also be silver, silver plate, or gold. *Approximate date:* 1st century B.C. through the 4th century A.D.

d. *Coinage of the First and Second Bulgarian Empires and Byzantine Empire*—Struck in gold, silver, and bronze by Bulgarian and Byzantine emperors at mints within the modern state of Bulgaria. *Approximate date:* 4th century A.D. through A.D. 1396.

e. *Ottoman coins*—Struck at mints within the modern state of Bulgaria. *Approximate date:* A.D. 1396 through A.D. 1750.

C. Ceramic

1. Sculpture

a. *Architectural Elements*—Baked clay (terracotta) elements used to decorate buildings. Elements include tiles, acroteria, antefixes, painted and relief plaques, metopes, cornices, roof tiles, pipes, and revetments. May be painted as icons. Also included are wall and floor plaster decorations. *Approximate date:* First millennium B.C. through 1750 A.D.

b. *Large Statuary*—Subject matter includes human and animal figures and groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). *Approximate date:* Neolithic through 6th century A.D.

c. *Small Statuary*—Subject matter is varied and includes human and animal figures, human body parts, groups of figures in the round, shrines, houses, and chariots. These range from approximately 10 cm to 1 m in height. *Approximate date:* Neolithic through 6th century A.D.

2. Vessels

a. *Neolithic and Chalcolithic Pottery*—Handmade, decorated with appliqué and/or incision, sometimes decorated with a lustrous burish or added paint. These come in a variety of shapes from simple

bowls and vases with three or four legs, anthropomorphic and zoomorphic vessels, to handled scoops and large storage jars.

b. *Bronze Age through Thracian Pottery*—Handmade and wheel-made pottery in shapes for tableware, serving, storing, and processing, with lustrous burnished, matte, appliqué, incised, and painted decoration.

c. *Black Figure and Red Figure Pottery*—These are made in a specific set of shapes (e.g., amphorae, kraters, hydriae, oinochoi, kylikes) decorated with black painted figures on a clear clay ground (Black Figure), decorative elements in reserve with background fired black (Red Figure), and multi-colored figures painted on a white ground (White Ground). *Approximate date*: First millennium B.C.

d. *Terra sigillata*—Is a high quality table ware made of red to reddish brown clay, and covered with a glossy slip. *Approximate date*: Roman.

e. *Seals*—On the handles and necks of bottles (amphorae). First millennium B.C. through Middle Ages.

f. *Middle Ages*—Includes undecorated plain wares, utilitarian wares, tableware, serving and storage jars, and special containers such as pilgrim flasks. These can be matte painted or glazed, including incised as “sgraffitto,” stamped, and with elaborate polychrome decorations using floral, geometric, human, and animal motifs.

D. Bone, Ivory, Horn, and other Organics

1. *Small Statuary and figurines*—Subject matter includes human and animal figures and groups of figures in the round. These range from approximately 10 cm to 1 m in height. *Approximate date*: Neolithic through Middle Ages.

2. *Personal Ornaments*—In bone, ivory, and spondylus shell. Types include amulets, combs, pins, spoons, small containers, bracelets, buckles, and beads. *Approximate date*: Neolithic through Middle Ages.

3. *Seals and Stamps*—Small devices with at least one side engraved with a design for stamping or sealing; they can be discoid, cuboid, conoid, or in the shape of animals or fantastic creatures (e.g., a scarab). *Approximate date*: Neolithic through Middle Ages.

4. *Tools and Weapons*—In bone and horn. Needles, awls, chisels, axes, hoes, picks, and harpoons. *Approximate date*: Neolithic through Middle Ages.

E. Glass and Faience

1. *Vessels*—Shapes include small jars, bowls, animal shaped, goblet, spherical, candle holders, and perfume jars (unguentaria). *Approximate date*: First millennium B.C. through 1750 A.D.

2. *Beads*—Globular and relief beads. *Approximate date*: Bronze Age through Middle Ages.

F. *Paintings*

1. *Domestic and Public Wall Painting*—These are painted on mud-plaster, lime plaster (wet—*buon fresco*—and dry—*secco fresco*); types include simple applied color, bands and borders, landscapes, scenes of people and/or animals in natural or built settings. *Approximate date*: First millennium B.C. through 1750 A.D.

2. *Tomb Paintings*—Paintings on plaster or stone, sometimes geometric or floral but usually depicting gods, goddesses, or funerary scenes. *Approximate date*: First millennium B.C. through 6th century A.D.

G. *Mosaics*—Floor mosaics including landscapes, scenes of humans or gods, and activities such as hunting and fishing. There may also be vegetative, floral, or decorative motifs. *Approximate date*: First millennium B.C. through 1750 A.D.

II. Ecclesiastical Ethnological Material

The categories of Bulgarian ecclesiastical ethnological objects on which import restrictions are imposed were made from the beginning of the 4th century A.D. through approximately 1750 A.D.

A. *Stone*

1. *Architectural elements*—In marble and other stone, including thrones, upright “closure” slabs, circular marking slabs omphalion, altar partitions, and altar tables which may be decorated with crosses, human, or animal figures.

2. *Monuments*—In marble and other stone; types such as ritual crosses, funerary inscriptions.

3. *Vessels*—Containers for holy water.

4. *Reliefs*—In steatite or other stones, carved as icons in which religious figures predominate in the figural decoration.

B. *Metal*

1. *Reliefs*—Cast as icons in which religious figures predominate in the figural decoration.

2. *Boxes*—Containers of gold and silver, used as reliquaries for sacred human remains.

3. *Vessels*—Containers of lead, which carried aromatic oils and are called “pilgrim flasks.”

4. *Ceremonial paraphernalia*—In bronze, silver, and gold including censers (incense burners), book covers, processional crosses, liturgical

crosses, archbishop's crowns, buckles, and chests. These are often decorated with molded or incised geometric motifs or scenes from the Bible, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Ecclesiastical treasure may include all of the above, as well as rings, earrings, and necklaces (some decorated with ecclesiastical themes) and other implements (*e.g.*, spoons, baptism vessels, chalices).

C. *Ceramic*—Vessels which carried aromatic oils and are called “pilgrim flasks.”

D. *Bone And Ivory Objects*—Ceremonial paraphernalia including boxes, reliquaries (and their contents) plaques, pendants, candelabra, stamp rings, crosses. Carved and engraved decoration includes religious figures, scenes from the Bible, and floral and geometric designs.

E. *Wood*—Wooden objects include architectural elements such as painted wood screens (iconostases), carved doors, crosses, painted wooden beams from churches or monasteries, furniture such as thrones, chests and other objects, including musical instruments. Religious figures predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs.

F. *Glass*—Vessels of glass include lamps and candle sticks.

G. *Textile*—Robes, vestments and altar clothes are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and floral and geometric designs.

H. *Parchment*—Documents such as illuminated ritual manuscripts occur in single leaves or bound as a book or “codex” and are written or painted on animal skins (cattle, sheep/goat, camel) known as parchment.

I. Painting

1. *Wall paintings*—On various kinds of plaster and which generally portray religious images and scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs, including borders and bands.

2. *Panel Paintings (Icons)*—Smaller versions of the scenes on wall paintings, and may be partially covered with gold or silver, sometimes encrusted with semi-precious or precious stones and are usually painted on a wooden panel, often for inclusion in a wooden screen (iconostasis). May also be painted on ceramic.

J. *Mosaics*—Wall mosaics generally portray religious images and scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs. They are made from stone and glass cut into small bits (tesserae) and laid into a plaster matrix.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Orders 12866 and 13771

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 or Executive Order 13771 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866 and section 4(a) of Executive Order 13771.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury's authority (or that of his or her delegate) to approve regulations related to customs revenue functions.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth in the preamble, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as follows:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, in the table in paragraph (a), the entry for Bulgaria is revised to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) * * *

State party	Cultural property	Decision No.
*	*	*
Bulgaria	Archaeological material from Bulgaria ranging in date from 7500 B.C. through approximately CBP Dec. 19–01. 1750 A.D. and ecclesiastical ethnological material from Bulgaria ranging in date from the beginning of the 4th century A.D. through approximately 1750 A.D.	
*	*	*
*	*	*

Dated: January 8, 2019.

KEVIN K. McALEENAN,
Commissioner,
U.S. Customs and Border Protection.

DAVID J. KAUTTER,
Assistant Secretary of the Treasury.

[Published in the Federal Register, January 14, 2019 (84 FR 112)]



**PUBLIC MEETING: 21ST CENTURY CUSTOMS
FRAMEWORK**

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Notice of public meeting and request for public comments.

SUMMARY: U.S. Customs and Border Protection (CBP) is cognizant of the need to stay modern in order to meet the challenges of an evolving trade landscape. New actors, industries, and modes of conducting business have emerged, disrupting the traditional global supply chain. To continue to effectively fulfill CBP’s mission, CBP is pursuing an initiative titled “The 21st Century Customs Framework.” “The 21st Century Customs Framework” will seek to address and enhance numerous aspects of CBP’s trade mission to better position CBP to operate in the 21st century trade environment. Through preliminary efforts, CBP has identified key themes for which CBP seeks public input: Emerging Roles in the Global Supply Chain,

Intelligent Enforcement, Cutting-Edge Technology, Data Access and Sharing, 21st Century Processes, and Self-Funded Customs Infrastructure. To that end, CBP is announcing a public meeting to discuss these themes. CBP will use the public comments received in response to this notice to initiate discussion at the public meeting for CBP to consider possible policy, regulatory, and statutory improvements to further the trade mission. CBP is already pursuing related efforts through the Border Interagency Executive Council and the Commercial Customs Operations Advisory Committee and is ensuring coordination among these initiatives.

DATES: *Meeting:* The meeting to discuss “The 21st Century Customs Framework” will be held on Friday, March 1, 2019, from 9:00 a.m. to 5:00 p.m. EST.

Pre-registration: Members of the public wishing to attend the meeting whether in-person or via teleconference must register as indicated in the **ADDRESSES** section by 5:00 p.m. EST, February 4, 2019.

Cancellation of pre-registration: Members of the public who are pre-registered to attend in-person or via teleconference and later need to cancel, please do so by 5:00 p.m. EST, February 22, 2019.

Submission of comments: Members of the public wishing to submit comments must do so by 5:00 p.m. EST, February 4, 2019 by the methods described in the **ADDRESSES** section.

ADDRESSES: *Meeting:* The meeting will be conducted in-person and via teleconference. The in-person meeting will be held at the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The teleconference number will be provided to all registrants by 5:00 p.m. EST on February 28, 2019. For information on services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Brandon Lord, Office of Trade, U.S. Customs & Border Protection, at (202) 325-6432 or email, 21CCF@cbp.dhs.gov as soon as possible.

Pre-registration: Meeting participants may attend either in-person or via teleconference after pre-registering using one of the methods indicated below. All in-person attendees must pre-register by 5:00 p.m. EST, February 4, 2019; on-site registration is not permitted.

For members of the public who plan to attend the meeting in-person, please register online at <https://teregistration.cbp.gov/index.asp?w=145>.

For members of the public who plan to participate via teleconference, please register online at <https://teregistration.cbp.gov/index.asp?w=146> by 5:00 p.m. EST, February 4, 2019.

Please feel free to share this information with other interested members of your organization or association.

Members of the public who are pre-registered to attend and later need to cancel, please do so by 5:00 p.m. EST, February 22, 2019, utilizing the following links: <https://teregistration.cbp.gov/cancel.asp?w=145> to cancel an in-person registration or <https://teregistration.cbp.gov/cancel.asp?w=146> to cancel a teleconference registration.

Submission of comments: To facilitate public participation, we are inviting public comment on the six themes described below. Comments must be submitted in writing no later than February 4, 2019, must be identified by Docket No. USCBP–2018–0045, and may be submitted by *one* (1) of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* 21CCF@cbp.dhs.gov. Include the docket number (USCBP–2018–0045) in the subject line of the message.
- *Mail:* Mr. Brandon Lord, Office of Trade, U.S. Customs and Border Protection, 1331 Pennsylvania Avenue NW, Suite 950N, Washington, DC 20229.

Instructions: All submissions received must include the words “Department of Homeland Security” and the docket number (USCBP–2018–0045) for this action. If you wish to give a public statement in-person during the meeting, please do not send your comments through the Federal eRulemaking portal as certain identification information is required for CBP to contact you, and all comments sent to the portal will be posted without change. Please do not submit personal information to the Federal eRulemaking portal. For those who wish to give a public statement in-person during the meeting, please send your comments to the email or mail address above, indicate your interest in speaking and include the following information: First and last name; title/ position; phone number; email address; name and type of organization; and identify the theme you will speak to (each individual will be limited to one public statement on one theme). CBP will then post your comment on the docket without the personal information.

Docket: For access to the docket or to read background documents or comments, go to <http://www.regulations.gov> and search for Docket Number USCBP–2018–0045. To submit a comment, click the “Comment Now!” button located on the top-right hand side of the docket page.

FOR FURTHER INFORMATION CONTACT: Mr. Brandon Lord, Office of Trade, U.S. Customs and Border Protection, 1331

Pennsylvania Avenue NW, Suite 950N, Washington, DC 20229; telephone (202) 325-6432 or email 21CCF@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

21st Century Customs Framework Initiative Overview

CBP is cognizant of the need to stay modern in order to meet the challenges of an evolving trade landscape. New actors, industries, and modes of conducting business have emerged, disrupting the traditional global supply chain. To continue to effectively fulfill CBP's mission, CBP is pursuing an initiative titled "The 21st Century Customs Framework." "The 21st Century Customs Framework" will seek to address and enhance numerous aspects of CBP's trade mission to better position the agency to operate in the 21st century trade environment. Through preliminary efforts, CBP has identified key themes for which CBP seeks public input: (1) Emerging Roles in the Global Supply Chain; (2) Intelligent Enforcement; (3) Cutting-Edge Technology; (4) Data Access and Sharing; (5) 21st Century Processes; and (6) Self-Funded Customs Infrastructure. Brief descriptions of each theme are provided in this document along with the request for public comments on questions posed by CBP related to each theme.

Members of the public who wish to provide a public statement should follow the instructions under the Addresses section. Due to time and content considerations, it is possible that not all persons who express an interest in making a public statement will be able to do so. Speakers will be selected based on time considerations and to ensure the panel receives diverse, individual perspectives. CBP will begin selecting and contacting individuals to deliver public statements starting no earlier than February 11, 2019. Members of the public may submit as many written comments as they wish; however, any commenter who is selected to provide a public statement will be limited to one timeslot addressing one theme.

Agenda

21st Century Customs Framework Public Meeting

9:00 a.m.–5:00 p.m.—Public Statements and Open Public Comment on Themes

As described above, members of the public may submit as many written comments as they wish; however, any one individual will be selected for only one public statement theme and timeslot.

(1) Emerging Roles in the Global Supply Chain

Due to technological advances and new modes of conducting business, the modern international trade environment is marked by

emerging actors and dynamic supply chains. CBP's traditional legal frameworks were developed to primarily reflect containerized shipments and the supply chain to support such shipments, as opposed to small packages and business models built around e-commerce. CBP is seeking to ensure that all parties in the modern supply chain are aware of their responsibilities to promote safety and compliance, while still enabling legitimate trade and economic prosperity.

Public Comment Questions

- What new roles in the global supply chain are unaccounted for in CBP's current legal framework? How should the agency account for these roles?
- How can CBP work with e-commerce platforms and carriers to identify and deter illicit shipments?
- How can new actors in the global supply chain work with CBP to improve trade security?

(2) Intelligent Enforcement

CBP's efforts on intelligent enforcement are anchored on further improving risk management and the impact of efforts to detect high-risk activity, deter non-compliance and disrupt fraudulent behavior—all in the interest of enforcing U.S. trade laws to protect America's economic security. CBP's intelligent enforcement efforts include exploring how to better utilize technology, big data, and predictive analytics to drive decision-making.

Public Comment Questions

- What technologies are useful in predicting violative activities and an entity's potential for violations?
- What tools or sources of information regarding CBP's compliance requirements have you found the most useful? What other resources can CBP provide to ensure that trade stakeholders understand CBP requirements?
- How can CBP improve violation referral systems and allegation processing?

(3) Cutting-Edge Technology

One of the defining features of the modern trade environment is the rapid emergence of new technology. CBP is exploring the use of new technologies to improve trade facilitation and trade enforcement activities.

Public Comment Questions

- What emerging technologies are most important for CBP to monitor or adopt?
- What technologies are being adopted by the private sector that are incompatible with CBP's current legal or policy frameworks?
- What technologies on the horizon have the potential to be a disruptive force (enabling or challenging) within the trade ecosystem?

(4) Data Access and Sharing

The volume and types of data and the speed at which the data can be transmitted create a valuable opportunity for CBP and trade stakeholders. CBP is examining how more efficient data sharing can improve trade facilitation and trade enforcement. At the same time, CBP is looking at ways to reduce the duplication or unnecessary capture of data.

Public Comment Questions

- What data would you like CBP to share with importers, and vice versa, to improve trade facilitation and enforcement?
- How can CBP's overall data sharing with trade stakeholders be improved?

(5) 21st Century Trade Processes

CBP will be refining certain import processes to reflect the modern trade environment, improve the experience of importers, brokers, and other important actors in the supply chain, and increase overall efficiency. CBP is placing a focus on processes that may be overly burdensome or outdated.

Public Comment Questions

- What specific import procedures or requirements can be improved or refined, and how?
- What are some international best practices (*i.e.*, processes used by other customs agencies) that CBP should examine?

*(6) Self-Funded Customs Infrastructure **

* There will be no in-person statements related to this theme.

New requirements affecting CBP, Partner Government Agencies (PGA), and trade industry will necessitate updates to the Automated

Commercial Environment (ACE) outside of reoccurring maintenance. CBP is examining avenues to ensure that the ACE has a consistent stream of funding for enhancements and new functionalities.

Public Comment Questions

- Outside of the annual Congressional appropriations cycle, what mechanisms should CBP explore for consistent and timely funding for ACE enhancements?
- How could the fee collection process be streamlined, improved, or redesigned to more directly fund ACE enhancements?

Dated: December 18, 2018.

BRENDA B. SMITH,
*Executive Assistant Commissioner,
Office of Trade.*

[Published in the Federal Register, December 21, 2018 (83 FR 65703)]



AGENCY INFORMATION COLLECTION ACTIVITIES:

Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted (no later than January 25, 2019) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to dhsdeskofficer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (Volume 83 FR Page 48321) on September 24, 2018, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release.

OMB Number: 1651–0013.

Form Number: CBP Form 7523.

Current Actions: CBP proposes to extend the expiration date of this information collection. There is no change to the burden hours or the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 7523, *Entry and Manifest of Merchandise Free of Duty, Carrier's Certificate and Release*, is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain conditions. CBP Form 7523 is also used by carriers to show that articles being imported are to be released to the importer or consignee, and as an inward foreign manifest for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico with merchandise conditionally free of duty. CBP uses this form to authorize the entry of such merchandise. CBP Form 7523 is authorized by 19 U.S.C. 1433, 1484 and 1498. It is provided for by 19 CFR 123.4 and 19 CFR 143.23. This form is accessible at <https://www.cbp.gov/newsroom/publications/forms?title=7523&=Apply>.

Estimated Number of Respondents: 4,950.

Estimated Number of Responses per Respondent: 20.

Estimated Total Annual Responses: 99,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,247.

Dated: December 19, 2018.

SETH D. RENKEMA,
Branch Chief,
Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

[Published in the Federal Register, December 26, 2018 (83 FR 66292)]