

**PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

\* \* \* \* \*

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**AGL WI E5 Minocqua-Woodruff, WI [Amended]**

Minocqua-Woodruff, Lakeland/Nobel F. Lee Memorial Field Airport, WI  
(Lat. 45°55'41" N, long. 89°43'51" W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Lakeland/Noble F. Lee Memorial Field Airport.

Issued in Fort Worth, Texas, on August 8, 2019.

**John Witucki,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2019–17596 Filed 8–15–19; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF HOMELAND SECURITY**

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

**DEPARTMENT OF THE TREASURY**

**19 CFR Part 12**

[CBP Dec. 19–09]

**RIN 1515–AE48**

**Import Restrictions Imposed on Archaeological Material From Algeria**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain archaeological material from the People’s Democratic Republic of Algeria (Algeria). These restrictions are being

imposed pursuant to an agreement between the United States and Algeria that has been entered into under the authority of the Convention on Cultural Property Implementation Act. The final rule amends CBP regulations by adding Algeria to the list of countries which have a bilateral agreement with the United States to impose cultural property import restrictions. The final rule also contains the Designated List that describes the types of archaeological material to which the restrictions apply.

**DATES:** *Effective Date:* August 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0300, [otrculturalproperty@cbp.dhs.gov](mailto:otrculturalproperty@cbp.dhs.gov). For operational aspects, Christopher N. Robertson, Branch Chief, Commercial Targeting and Analysis Center, Trade Policy and Programs, Office of Trade, (202) 325–6586, [CTAC@cbp.dhs.gov](mailto:CTAC@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et seq.* (“the Cultural Property Implementation Act”), 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 (823 U.N.T.S. 231 (1972)) (“the Convention”). Pursuant to the Cultural Property Implementation Act, the United States entered into a bilateral agreement with Algeria to impose import restrictions on certain Algerian archaeological material. This rule announces that the United States is now imposing import restrictions on certain archaeological material from Algeria.

**Determinations**

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On January 10, 2019, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendation by the Cultural Property Advisory Committee, made the determinations required under the statute with respect to certain archaeological material originating in Algeria that are described in the Designated List set forth below in this document. These determinations include the following: (1) That the

cultural patrimony of Algeria is in jeopardy from the pillage of archaeological material representing Algeria’s cultural heritage dating from approximately 2.4 million years up to 250 years ago, including material starting in the Paleolithic period and going into the Ottoman period (19 U.S.C. 2602(a)(1)(A)); (2) that the Algerian government has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the material described in the determinations meets the statutory definition of “archaeological or ethnological material of the State Party” (19 U.S.C. 2601(2)).

**The Agreement**

On August 15, 2019, the United States and Algeria entered into a bilateral agreement, “Memorandum of Understanding between the Government of the United States of America and the Government of the People’s Democratic Republic of Algeria Concerning the Imposition of Import Restrictions on Categories of Cultural Property of Algeria” (“the Agreement”), pursuant to the provisions of 19 U.S.C. 2602(a)(2). The Agreement enables the promulgation of import restrictions on categories of archaeological material representing Algeria’s cultural heritage that is at least 250 years old, dating from the Paleolithic (approximately 2.4 million years ago), Neolithic, Classical, Byzantine, and Islamic periods and into the Ottoman period to A.D. 1750. A list of the categories of archaeological material subject to the import restrictions is set forth later in this document.

**Restrictions and Amendment to the Regulations**

In accordance with the Agreement, importation of material designated below is subject to the restrictions of 19 U.S.C. 2606 and § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the CBP

regulations (19 CFR 12.104c) are met. CBP is amending § 12.104g(a) of the CBP Regulations (19 CFR 12.104g(a)) to indicate that these import restrictions have been imposed.

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 Agreement still pertain and no cause for suspension of the Agreement exists. The import restrictions will expire five years from August 15, 2019, unless extended.

### Designated List of Archaeological Material of Algeria

The Agreement between the United States and Algeria includes, but is not limited to, the categories of objects described in the Designated List set forth below. Importation of material on this list is restricted unless the material is accompanied by documentation certifying that the material left Algeria legally and not in violation of the export laws of Algeria.

The Designated List includes archaeological material in stone, ceramic, metal, bone, glass, and other categories ranging in date from the Paleolithic period (beginning around 2.4 million years ago) to the middle of the Ottoman period in Algeria (A.D. 1750).

#### Archaeological Material

##### Approximate Chronology of Well-Known Archaeological Periods and Sites

(a) *Paleolithic period* (Oldowan, Aterian, Oranian, Capsian; c. 2.4 million years ago–6000 B.C.): Afalou bou Rummel, Ain Hanech, Bir el Ater, Columnata, Taforalt, Tamar Hat, Tighenif.

(b) *Neolithic period* (c. 6000–2000 B.C.): Amekni, Capeletti Cave, Oued Guettara, Tassili n'Ajjer.

(c) *Classical period* (Phoenician, Roman, Punic; c. 1100 B.C.–A.D. 533): Ain Fakroun, Beni Ghename, Cherchell (Caesarea), Cirta, Cuicul, Djémila, Gouraya, Les Andalouses, Mersa Medakh, Siga, Rachgoun, Tébessa, Timgad, Tipasa.

(d) *Byzantine period* (c. A.D. 533–644): Al-Asnam, Guelma, Merouana, Timgad.

(e) *Islamic period* (Umayyad, Abbasid, Fatimid, Hammadid, Almoravid, Almohad, Zayyanid, Marinid; c. A.D. 698–1465): Al Qal'a of Beni Hammad, Algiers, El Kantara, M'Zab Valley, Nedroma, Rhoufi, Tlemcen.

(f) *Ottoman period* (c. A.D. 1555–1830<sup>1</sup>): Algiers, Oran.

#### Categories of Material

##### A. Stone

1. Architectural elements—Doors, door frames, window fittings, columns, capitals, bases, lintels, jambs, friezes, pilasters, engaged columns, altars, *mihrabs* (prayer niches), screens, fountains, inlays, and blocks from walls, floors, and ceilings of buildings. May be plain, molded, or carved. Often decorated with motifs and inscriptions. Marble, limestone, sandstone, and gypsum are most commonly used, in addition to porphyry and granite.

2. Mosaics—Floor mosaics made from stone cut into small bits (tesserae) and laid into a plaster matrix. Wall and ceiling mosaics are made with a similar technique but may include tesserae of both stone and glass. Subjects can include landscapes, scenes of deities, humans, or animals, and activities such as hunting and fishing or religious imagery. There may also be vegetative, floral, or geometric motifs and imitations of stone. Most date approximately from the 5th century B.C. to 4th century A.D.

3. Architectural and non-architectural relief sculptures—Types include carved slabs with figural, vegetative, floral, geometric, or other decorative motifs, carved relief vases, steles, and plaques, sometimes inscribed in Greek, Punic, Latin, or Arabic. Sculptures are also used also for architectural decoration of funerary, votive, or commemorative monuments. Marble, limestone, and sandstone are most commonly used.

4. Monuments—Types include votive statues, funerary and votive stelae, and bases and base revetments in marble, limestone, and other kinds of stone. These may be painted, carved with relief sculpture, decorated with moldings, and/or carry dedicatory or funerary inscriptions in Greek, Punic, Latin, or Arabic.

5. Statuary—Large- and small-scale, including deities, human, animal, and hybrid figures, as well as groups of figures in the round, primarily in marble, but also in limestone and sandstone. Common types are large-scale and free-standing statuary from approximately 1 m to 2.5 m (approximately 3 ft to 8 ft) in height, life-sized portrait or funerary busts (head and shoulders of an individual), and waist-length female busts that are either faceless (aniconic) and/or veiled (head or face). Prehistoric examples are

<sup>1</sup> Note: Import restrictions concerning Ottoman period archaeological material apply only to those objects dating to 1750 A.D. and earlier.

small, 5 cm to 10 cm (approximately 2 in to 4 in), ornaments with carved designs.

6. Sepulchers—Types of burial containers include sarcophagi, caskets, and chest urns in marble, limestone, and other kinds of stone. May be plain or have figural, geometric, or floral motifs painted on them, be carved in relief, and/or have decorative moldings.

7. Vessels and containers—Bowls, cups, jars, jugs, lamps, and flasks, and also include smaller funerary urns, in marble and other stone. Funerary urns can be egg-shaped vases with button-topped covers and may have sculpted portraits, painted geometric motifs, inscriptions, scroll-like handles, and/or be ribbed.

8. Furniture—Types include thrones, tables, and beds, from funerary or domestic contexts.

9. Inscriptions—In Greek, Punic, Latin, or Arabic. Includes funerary stelae, votive plaques, tombstones, mosaic floors, and building plaques made of marble or limestone.

10. Tools and weapons—In flint, chert, obsidian, and other hard stones. Prehistoric and Protohistoric microliths (small stone tools). Chipped stone types include blades, borers, scrapers, sickles, cores, and arrow heads. Ground stone types include grinders (e.g., mortars, pestles, millstones, whetstones), choppers, spherical-shaped hand axes, hammers, mace heads, and weights.

11. Jewelry—Includes seals, beads, finger rings, and other personal adornment in marble, limestone, and various semi-precious stones, including rock crystal, amethyst, jasper, agate, steatite, and carnelian.

12. 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 and animals or fantastic creatures (e.g., a scarab).

##### B. Ceramic

1. Architectural elements—Baked clay (terracotta) elements used to decorate buildings. Examples include acroteria, antefixes, painted and relief plaques, revetments, carved and molded brick, and tile wall ornaments and panels.

2. Statuary—Includes deities, human and animal figures, human body parts, and groups of figures in the round. May be brightly colored. Small- and large-scale, ranging from approximately 10 cm to 1 m (4 in to 3 ft) in height.

3. Figurines—Terracotta statues and statuettes, including deities, human, and animal figures, as well as groups of figures in the round.

4. Vessels—Types, forms, and decoration vary among archaeological

styles and over time. Includes painted and unpainted forms, which can be either handmade or wheel-made, and decorated with burnish, glazes, or carvings; imagery of humans, deities, animals, floral decorations, or inscriptions. Some of the most well-known types are highlighted below:

a. Neolithic—In a variety of shapes from simple bowls and vases to large storage jars. Handmade, often decorated with a lustrous burnish, decorated with applique and/or incision, sometimes with added paint. So-called “wavy line pottery” from the Saharan region is characteristic of the period.

b. Greek—Includes both local and imported fine and coarse wares and amphorae. Also imported Attic Black Figure, Red Figure, and White Ground 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). Includes imported painted pottery made in Corinth in a specific range of shapes for perfume and unguents and for drinking or pouring liquids. The very characteristic painted and incised designs depict human and animal figural scenes, rows of animals, and floral decoration. Approximate date: 8th century B.C. to 6th century B.C.

c. Punic and Roman—Includes fine and coarse wares, including terra sigillata and other red gloss wares, cooking wares and mortaria, and storage and shipping amphorae.

d. Byzantine—Includes undecorated plain wares, lamps, utilitarian tableware, serving and storage jars, amphorae, and special shapes such as pilgrim flasks. Can be matte painted or glazed, including incised “sgraffito” and stamped with elaborate polychrome decorations using floral, geometric, human, and animal motifs.

e. Islamic and Ottoman—Includes plain or utilitarian wares as well as painted wares in a variety of types.

5. Lamps—Rounded bodies with a hole on the top and in the nozzle, handles or lugs, and figural motifs such as beading, rosettes, or silphium plant. Inscriptions may also be found on the body. Later periods include glazed ceramic lamps, which may have a straight or round bulbous body with flared top, and several branches.

6. Objects of daily use—Includes game pieces, loom weights, and toys.

### C. Metal

1. Statuary—Large- and small-scale, including deities, human, and animal figures, as well as groups of figures in the round in bronze, iron, silver, or gold. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m (approximately 3 ft to 8 ft) in height and life-size busts (head and shoulders of an individual).

2. Reliefs—Including plaques, appliques, steles, and masks, often in bronze. May include Greek, Punic, Latin, and Arabic inscriptions.

3. Inscribed or decorated sheet—Engraved inscriptions, “curse tablets,” and thin metal sheets with engraved or impressed designs often used as attachments to furniture. Primarily in bronze or lead.

4. Vessels and containers—Forms include bowls, cups, jars, jugs, strainers, cauldrons, and oil lamps, as well as vessels in the shape of an animal or part of an animal. Also includes scroll and manuscript containers, as well as reliquaries. In bronze, silver, and gold. May portray deities, humans, or animals, as well as floral motifs in relief. Objects from the Islamic period may be inscribed in Arabic.

5. Jewelry—Necklaces, chokers, pectorals, rings, beads, pendants, belts, belt buckles, earrings, diadems, straight pins and fibulae, bracelets, anklets, girdles, belts, mirrors, wreaths and crowns, make-up accessories and tools, metal strigils (scrapers), crosses, and lamp-holders. In iron, bronze, silver, and gold. Metal can be inlaid (with items such as red coral, colored stones, and glass).

6. Seals—Types include finger rings, amulets, and seals with shank in lead, tin, copper, bronze, silver, and gold.

7. Tools—Types include hooks, weights, axes, scrapers, trowels, keys and the tools of crafts persons such as carpenters, masons and metal smiths, in copper, bronze, and iron.

8. Weapons and armor—Body armor, including helmets, cuirasses, shin guards, and shields, and horse armor often decorated with elaborate engraved, embossed, or perforated designs. Both launching weapons (spears and javelins) and weapons for hand-to-hand combat (swords, daggers, *etc.*).

9. Coins—Pre-Roman mints in Algeria include Cirta, Hippo Regius, Caesarea (Iol), Lix, Siga, and Timici. Roman provincial mints in Algeria include Caesarea, Cartenna, and Hippo Regius. Helpful reference books include: *Corpus nummorum Numidiae Mauretaniaeque*, 1955, J. Mazard, et al., Arts et metiers graphiques, Paris; *Le Trésor de Guelma*,

1963, R. Turcan, Arts et Métiers Graphiques, Paris; *Etude sur la numismatique et l'histoire monétaire du Maroc: Corpus des dirhams idrissites et contemporains*, 1971, D. Eustache, Banque du Maroc, Rabat; *Corpus des Monnaies Alaouites*, 1984, D. Eustache, Banque du Maroc, Rabat; *The Roman Provincial Coinage*, multiple volumes, 1992-, A. Burnett, et al., The British Museum Press, London. Some of the best-known types are described below:

a. Greek—In silver, bronze, and gold, struck in Algeria and in nearby mints (Cyrene, Carthage).

b. Roman Provincial—In bronze, struck at Roman and Roman provincial mints and found throughout Algeria.

c. Numidian and Mauretanian—Associated with Numidian kings such as Micipsa, Jugurtha, Hiempsal II, and Juba I, and Mauretanian kings such as Syphax, Juba II, Ptolemy II of Mauretania, Bocchus I, and Bocchus II.

d. Byzantine—In bronze, silver, and gold, struck in nearby mints like Carthage or mobile mints in Arab-Byzantine period Ifriqiya.

e. Islamic—In silver and gold struck at various mints including Algiers, Bijaya, Biskra, Qusantina, and Tlemcen. Examples include any coins of the following dynasties: Almohad, Hafsid, Marinid, and Ziyamid.

f. Ottoman—Ottoman coins of Algeria in silver, gold, billon, and copper, struck at various mints including Algiers, Qusantina, Tagdemt, and Tlemcen. Also Spanish coins of Oran in billon or copper, produced in Toledo or Madrid for use in Spanish Oran between 1618 and 1691.

### D. Bone, Ivory, Shell, and Other Organic Materials

1. Small statuary and figurines—Includes human, animal, and hybrid figures, and parts thereof as well as groups of figures in the round. These range from approximately 10 cm to 1 m (4 in to 40 in) in height.

2. Reliefs, plaques, steles, and inlays—Carved and sculpted. May have figurative, floral, and/or geometric motifs.

3. Jewelry—Types include amulets, combs, pins, spoons, bracelets, buckles, and beads (for example, prehistoric perforated shells) in bone, ivory, and spondylus shell.

4. 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 and animals or fantastic creatures (*e.g.*, a scarab).

5. Vessels and luxury objects—Include small containers and decorated vessels made of ostrich eggshell. Ivory,

bone, and shell were used either alone or as inlays in luxury objects, including furniture, chests and boxes, writing and painting equipment, musical instruments, games, cosmetic containers, combs, jewelry, amulets, and seals.

6. Tools—Including bone points and awls, mounted fish jaws for arrow points, and fish hooks.

7. Manuscripts—Written or painted on specially prepared animal skins (cattle, sheep/goat, camel) known as parchment. They occur in single leaves or bound as a book or codex. They date primarily from the late Classical or Byzantine periods and later.

8. Human remains—Skeletal remains from the human body, preserved in burials or other contexts.

E. Glass, Faience, and Semi-Precious Stone

1. Architectural elements—Includes glass tesserae pieces from floor and wall mosaics and glass windows.

2. Vessels and containers—Shapes include small jars, bowls, animal shaped, goblet, spherical, candle holders, perfume jars (*unguentaria*), and lamps. Ancient examples may be engraved and/or colorless or blue, green, or orange, while those from the Islamic period may include animal, floral, and/or geometric motifs.

3. Jewelry—Colored beads, including multi-colored eye beads. Glass bracelets, usually in very dark glass, sometimes twisted.

4. Lamps—Primarily from the Islamic period. May have a straight or round bulbous body with flared top, and several branches.

F. Painting and Plaster

1. Rock art—Painted and/or incised drawings on natural rock surfaces. Common motifs include humans, animals, geometric, and/or floral elements.

2. Wall painting—With figurative (deities, humans, animals), floral, and/or geometric motifs, as well as funerary scenes. These are painted on stone, mud plaster, lime plaster (wet—*buon fresco*—and dry—*secco fresco*), sometimes to imitate marble.

3. Stucco—A fine plaster used for coating wall surfaces or molding into architectural decorations such as reliefs, plaques, steles, and inlays.

G. Textiles, Basketry, and Rope

1. Textiles—Linen cloth was used in Greco-Roman times for mummy wrapping, shrouds, garments, and sails. Islamic period textiles in linen and wool, including garments and hangings.

2. Basketry—Plant fibers were used to make baskets and containers in a variety of shapes and sizes, as well as sandals and mats.

3. Rope—Rope and string were used for a great variety of purposes, including binding, lifting water for irrigation, fishing nets, measuring, and stringing beads for jewelry and garments.

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 (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, Reporting and recordkeeping requirements.

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 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, paragraph (a), the table is amended by adding Algeria to the list in alphabetical order to read as follows:

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

(a) \* \* \*

State party	Cultural property	Decision No.
Algeria .....	Archaeological material representing Algeria's cultural heritage that is at least 250 years old, dating from the Paleolithic (approximately 2.4 million years ago), Neolithic, Classical, Byzantine, and Islamic periods and into the Ottoman period to A.D. 1750.	CBP Dec. 19–09.
* * * * *	* * * * *	* * * * *

\* \* \* \* \*

Dated: August 13, 2019.

**Robert E. Perez,**

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

Approved:

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 2019-17743 Filed 8-14-19; 4:15 pm]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-332]

#### **Listing of Noroxymorphone in the Code of Federal Regulations and Assignment of a Controlled Substances Code Number**

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** Noroxymorphone is a derivative of opium and opiates and, as such, is a schedule II controlled substance. The Drug Enforcement Administration (DEA) has established the use of the Drug Enforcement Administration Code Number 9668 for tracking noroxymorphone and for establishing aggregate production quotas. This rule amends the Code of Federal Regulations (CFR) to reflect the current practice of using the Code Number 9668 for noroxymorphone. This rulemaking will list the schedule II controlled substance noroxymorphone as a basic class with the Code Number 9668. This rule does not affect the control of noroxymorphone as a schedule II controlled substance.

**DATES:** Effective: August 16, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Lynnette Wingert, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone (202) 598-8837.

**SUPPLEMENTARY INFORMATION:**

Noroxymorphone is a schedule II controlled substance defined in the Controlled Substances Act (CSA) by 21 U.S.C. 812(c), Schedule II (a)(1) and 21 CFR 1308.12(b)(1), which control “opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.” It meets the statutory definition of a “narcotic drug” as stated in 21 U.S.C. 802(17) as it can be obtained from the chemical modification of substances extracted from vegetable origin, specifically from

the plant species *Papaver somniferum* L. that is lawfully defined as “opium poppy” by 21 U.S.C. 802(19). It is not an isoquinoline alkaloid, which is categorically excluded from the statutory definition of a “narcotic drug.” 21 U.S.C. 802(17)(A). Rather, noroxymorphone is a phenanthrene alkaloid with a similar chemical structure to other opium and opiate phenanthrene alkaloids listed in 21 CFR 1308.12(b)(1), such as hydrocodone, hydromorphone, dihydroetorphine, ethylmorphine, etorphine hydrochloride, metopon, thebaine, morphine, codeine, oxycodone, and oxymorphone. Noroxymorphone meets the statutory definition of “opiate” as it can be readily converted to other morphine-like substances including oxymorphone, which has an addiction-forming or addiction-sustaining abuse liability similar to morphine. Based on the similarity of the chemical structure of noroxymorphone to opium alkaloids listed in 21 CFR 1308.12(b)(1), and the fact that it is obtained by the chemical modification of these listed opium alkaloids, noroxymorphone is a derivative of opium and opiates and a schedule II controlled substance as defined by 21 U.S.C. 812(a)(1) Schedule II and 21 CFR 1308.12(b)(1).

As provided in 21 CFR 1308.03, each controlled substance or basic class thereof is assigned a four digit Drug Enforcement Administration Controlled Substances Code Number that is used to track quantities of the controlled substance imported and exported to and from the United States. Additionally, DEA uses these Code Numbers in establishing aggregate production quotas for basic classes of controlled substances listed in schedules I and II as required by 21 U.S.C. 826.

Since 1996, DEA has established an aggregate production quota for noroxymorphone using the DEA Controlled Substances Code Number 9668. In this final rule, DEA is amending the CFR to reflect the current practice of using the DEA Controlled Substances Code Number 9668 for noroxymorphone. Listing noroxymorphone and its DEA Controlled Substances Code Number in 21 CFR 1308.12(b)(1) does not alter the status of noroxymorphone as a Schedule II controlled substance. Noroxymorphone already is included as a Schedule II controlled substance because 21 CFR 1308.12(b)(1) controls any salt, compound, derivative, or preparation of the listed substances. Accordingly, noroxymorphone has been controlled as a derivative of the listed substances and this rule will not result in adding any new substances into the

schedules. Listing noroxymorphone also will not affect the aggregate production quota currently established. DEA-registered manufacturers of noroxymorphone previously granted individual quotas for such purposes may continue to apply for quota after this rule is finalized.

#### **Regulatory Analyses**

##### *Administrative Procedure Act (APA)*

Under 5 U.S.C. 553(b)(3)(B), an agency may dispense with notice and comment rulemaking when, for good cause, it “finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” DEA finds that notice and comment rulemaking is unnecessary and that good cause exists to dispense with these procedures because the inclusion of noroxymorphone and its DEA Controlled Substances Code Number in the list of schedule II substances in 21 CFR 1308.12(b)(1) is “‘a minor or merely technical amendment in which the public is not particularly interested.’” *National Nutritional Foods Ass’n v. Kennedy*, 572 F.2d 377, 385 (2d Cir. 1978) (quoting S. Rep. No. 79-752, at 200 (1945)). See also *Utility Solid Waste Activities Group v. E.P.A.*, 236 F.3d 749, 755 (D.C. Cir. 2001) (the “unnecessary” prong “is confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and public”) (int. quotations and citation omitted). This rule is a “technical amendment” to 21 CFR 1308.12(b)(1) as it is “insignificant in nature and impact, and inconsequential to the industry and public.”

Similarly, the APA states that a rule cannot be made effective less than 30 days after publication, unless the rule falls under one of three enumerated exceptions. One of these exceptions is when an agency provides good cause that compliance would be impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(d)(3). A delayed effective date for this rule is unnecessary because this rule simply lists the schedule II controlled substance noroxymorphone in 21 CFR 1308.12(b)(1) as a basic class and assigns to it the DEA Controlled Substances Code Number 9668. This rule merely amends the CFR to reflect the current DEA business practice and better assist companies in complying with registration and quota requirements. In addition, this rule does not require those firms that handle