

DEPARTMENT OF HOMELAND SECURITY**Bureau of Customs and Border Protection****DEPARTMENT OF THE TREASURY****19 CFR PART 12**

[CBP Dec. 06–26]

RIN 1505–AB74

Extension of Import Restrictions Imposed on Archaeological and Ethnological Material From Bolivia

AGENCIES: Customs and Border Protection; Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends Title 19 of the Code of Federal Regulations (19 CFR) to reflect the extension of the import restrictions on certain archaeological and ethnological material from Bolivia that were imposed by Treasury Decision (T.D.) 01–86. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional 5 years, and Title 19 of the CFR is being amended to reflect this extension until December 4, 2011. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the 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. T.D. 01–86 contains the Designated List of archaeological and ethnological material from Bolivia.

DATES: *Effective Date:* December 4, 2006.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Intellectual Property Rights and Restricted Merchandise Branch, (202) 572–8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 344–1684.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property

Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with Bolivia on December 4, 2001, concerning the imposition of import restrictions on certain archaeological and ethnological material from Bolivia. The archaeological material subject to the bilateral agreement represent the pre-Columbian cultures of Bolivia and range in date from approximately 10,000 B.C. to A.D. 1532. The ethnological materials subject to the bilateral agreement are from the Colonial and Republican periods and range in date from A.D. 1533 to 1900. On December 7, 2001, the United States Customs Service published T.D. 01–86 in the **Federal Register** (66 FR 63490), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 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 can be extended for additional periods not to exceed 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” (19 CFR 12.104g(a)).

After reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Bolivia continues to be in jeopardy from pillage of certain archaeological and ethnological materials, made the necessary determination to extend the import restrictions for an additional five years on October 17, 2006. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The Designated List of Archaeological and Ethnological Material from Bolivia covered by these import restrictions is set forth in T.D. 01–86. The Designated List and accompanying image database may also be found at the following Internet Web site address: <http://exchanges.state.gov/culprop/blfact.html>. The restrictions on the importation of these archaeological and ethnological materials from Bolivia are to continue in effect for an additional 5 years. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

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)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

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 Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

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;

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

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■ 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Bolivia by removing the reference to “T.D. 01–86” in the column headed “Decision No.” and adding in its place the language

"T.D. 01-86 extended by CBP Dec. 06-26".

Deborah J. Spero,

Acting Commissioner, Bureau of Customs and Border Protection.

Approved: November 27, 2006.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA-244F]

RIN 1117-AA89

Clarification of Registration Requirements for Individual Practitioners

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is amending its registration regulations to make it clear that when an individual practitioner practices in more than one State, he or she must obtain a separate DEA registration for each State. This amendment will make it easier for practitioners to understand the requirements of the Controlled Substances Act and its implementing regulations.

DATES: The rule is effective January 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307-7297.

SUPPLEMENTARY INFORMATION:

DEA's Legal Authority

DEA enforces the Controlled Substances Act (21 U.S.C. 801-971) (CSA), as amended. DEA publishes the implementing regulations for this statute in Title 21 of the Code of Federal Regulations (CFR), Parts 1300 to end. These regulations are designed to ensure that there is a sufficient supply of controlled substances for legitimate medical and scientific purposes and deter the diversion of controlled substances to illegal purposes. Controlled substances are drugs that have a potential for abuse and

psychological and physical dependence; these include substances classified as opiates, stimulants, depressants, hallucinogens, anabolic steroids, and drugs that are immediate precursors of these classes of substances. DEA lists controlled substances in 21 CFR Part 1308. The substances are divided into five schedules: Schedule I substances have a high potential for abuse and have no accepted medical use in treatment in the United States. These substances may only be used for research, chemical analysis, or manufacture of other drugs. Schedule II-V substances have an accepted medical use and also have a potential for abuse and psychological and physical dependence.

The CSA mandates that DEA establish a closed system of control for manufacturing, distribution, and dispensing of controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt), keep track of all stocks of controlled substances, and maintain records to account for all controlled substances received, distributed, or otherwise disposed of.

Background

The CSA requires that a separate registration be obtained for each principal place of business or professional practice where controlled substances are manufactured, distributed, or dispensed (21 U.S.C. 822(e)). DEA has provided a limited exception to this requirement (21 CFR 1301.12(b)(3)): practitioners who register at one location, but practice at others within the same State, are not required to register for any other location in that State at which they only prescribe controlled substances. If they maintain supplies of controlled substances, administer, or directly dispense controlled substances at a location, they must register for that location (21 U.S.C. 823(f)).

The exception applies only to secondary locations within the same State in which the practitioner maintains his/her DEA registration. However, because the language in § 1301.12(b)(3) does not specify that it pertains to *intrastate* locations *only*, individual practitioners have been applying the regulation to *interstate* situations, which is contrary to the intent of the regulation, the CSA, and the underlying principles that apply to individual practitioner registration. DEA individual practitioner registrations are based on a State license to practice medicine and prescribe controlled

substances. DEA relies on State licensing boards to determine that practitioners are qualified to dispense, prescribe or administer controlled substances and to determine what level of authority practitioners have, that is, what schedules they may dispense, prescribe, or administer. State authority to conduct the above-referenced activities only confers rights and privileges within the issuing State; consequently, the DEA registration based on a State license cannot authorize controlled substance dispensing outside the State.

To clarify the regulation, DEA issued a Notice of Proposed Rulemaking (NPRM) on December 7, 2004 (69 FR 70576), proposing to revise § 1301.12(b)(3) to make explicit that the exception from registration requirements is limited to other locations in the same State or jurisdiction of the United States, and seeking comments on the proposed revision.

Discussion of Comments

Nine commenters submitted comments on the proposed rule; all of the commenters were practitioners or represented practitioners.

General Objections. One physician stated that he had licenses in three States and asserted that because the licensed entity was the physician, it was contradictory to impose different Federal licenses on the same individual. Another commenter noted that practitioners are required to comply with State laws whether DEA issues a State-specific or a national registration.

Other commenters stated that requiring multiple registrations would result in physicians writing the wrong DEA number on prescriptions and in patients receiving unwarranted law enforcement scrutiny because they receive a prescription in one State and fill it in another. One pharmacist stated that multiple DEA registration numbers for practitioners would increase the burden on pharmacies. Two commenters stated that separate DEA registrations would make it difficult to mine data on pharmacy claims for Medicare, whose regions include more than one State; there would be no way to determine whether practitioners with the same name prescribing in multiple States are the same person. The commenters stated that holding multiple DEA registrations would hinder attempts to identify excessive prescribing of controlled substances. One commenter suggested registering each practice site, collecting fees for each State, but using a single DEA number. Another commenter stated the