

U.S. Customs and Border Protection



19 CFR PART 177

MODIFICATION OF ONE RULING LETTER AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF MEN'S CLOSED-TOE, CLOSED-HEEL, CASUAL SLIP-ON SHOE WITH A FOXING-LIKE BAND

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

ACTION: Notice of modification of one ruling letter and of revocation of treatment relating to the tariff classification of a men's closed-toe, closed-heel, casual slip-on shoe with a foxing-like band.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter concerning tariff classification of a men's closed-toe, closed-heel, casual slip-on shoe with a foxing-like band under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 16, on April 29, 2020. No comments were received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 29, 2020.

FOR FURTHER INFORMATION CONTACT: John Rhea, Food, Textiles & Marking Branch, Regulations and Rulings, Office of Trade, at (202) 325-0035.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an

obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. §1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 16, on April 29, 2020, proposing to modify one ruling letter pertaining to the tariff classification of a men's closed-toe, closed-heel, casual slip-on shoe with a foxing-like band. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter ("NY") N285624, dated May 24, 2017, CBP classified a men's closed-toe, closed-heel, casual slip-on shoe with a foxing-like band in heading 6404, HTSUS, specifically in subheading 6404.19.39, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except ...footwear having foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other: Other, For men." CBP has reviewed NY N285624 and has determined the ruling letter to be in error. It is now CBP's position that men's closed-toe, closed-heel, casual slip-on shoe with a foxing-like band is properly classified, in heading 6404, HTSUS, specifically in subheading 6404.19.90, HTSUS, which provides for "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of

rubber or plastics: Other: Footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fastners, the foregoing except...footwear having foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other: Valued over \$12/pair, For men.”

Pursuant to 19 U.S.C. §1625(c)(1), CBP is modifying NY N285624 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter (“HQ”) H299500, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. §1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

In accordance with 19 U.S.C. §1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

For

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

Attachment

HQ H299500

June 12, 2020

OT:RR:CTF:FTM H299500 JER

CATEGORY: Classification

TARIFF NO.: 6404.19.9030

Ms. KRISTI BROKAW

11980 SE KNEE COURT

HAPPY VALLEY, OR 97086

RE: Modification of NY N285624; tariff classification of a men's closed-toe, closed-heel, casual slip-on shoe with a foxing-like band.

DEAR Ms. BROKAW:

On May 24, 2017, U.S. Customs and Border Protection ("CBP") issued New York Ruling Letter ("NY") N285624 to Mr. Richard Writsman of the James J. Boyle Company with respect to a ruling request filed on behalf of their client and importer, Marolina Outdoor Inc. NY N285624 pertained to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA") of four styles of men's footwear identified by their Style Numbers and Model, which included: Style # H8332000 (Model Flipster), Style # H8012000 (Model Brewster 2317), Style # H8011000 (Model Attack) and Style # H8331000 (Model Caruso).¹

Subsequently to issuance of NY N285624, CBP has received additional information pertaining to the construction and make-up of Style # H8012000. The new information makes clear that the decision in NY N285624 was incorrect as it pertains to the classification of Style # H8012000 (Model Brewster 2317). Accordingly, NY N285624 is hereby modified to reflect the proper classification of Style # H8012000.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. § 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. No. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed action was published on April 29, 2020, in Volume 54, Number 16, of the *Customs Bulletin*. No comments were received in response to this notice.

FACTS:

In NY N285624, Style # H8012000 (Model Brewster 2317), the men's closed-toe, closed-heel, casual slip-on shoe was described as follows:

Style # H8012000 (Model Brewster 2317), is a men's closed-toe, closed-heel, below-the-ankle, casual slip-on shoe. The upper is made from 100 percent cotton textile material. Elastic gore is sewn on the lateral and medial sides of the vamp. The medial side of the shoe has two metal vent holes covered with a mesh. Embroidered onto the lateral side of the shoe is the word Huk and a textile material label with the word Huk and the phrase Performance Fishing is sewn onto the vamp. The outer sole is made from 100 percent rubber or plastics. The shoe is not protective nor does it have a foxing or foxing-like band. The shoe is valued over \$12/pair.

¹ In NY N285624, CBP stated that additional information was necessary in order to classify Style # H8331000 (Model Caruso). Accordingly, the decision in NY N285624 did not address the classification of Style # H8331000 (Model Caruso). No further information is available regarding Style # H8331000.

In NY N285624, CBP did not view the subject shoe to consist of any foxing or foxing-like band and thus classified Style # H8012000 (Model Brewster 2317), the men’s closed-toe, closed-heel, casual slip-on shoe in subheading 6404.19.3940, HTSUSA, which provides for “Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fastners, the foregoing except...footwear having foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other: Other, For men.”

On May 24, 2018, you filed a request for reconsideration of NY N285624, on behalf of Marolina Outdoor, with respect to Style # H8012000 (Model Brewster 2317). In your request, you opine that the subject shoe should be classified under subheading 6404.19.9030, HTSUSA, as other footwear having a foxing or foxing-like band. Together with your request for reconsideration, you provided a sample of Style # H8012000 (Model Brewster 2317) along with a sample of the outer sole (detached from the upper). We note that the complete slip-on shoe has been cross-sectioned to reveal the manner in which the upper is attached to the outer sole. The additional detached outer sole has been measured to determine the composition of the alleged foxing.

ISSUE:

Whether the subject men’s closed-toe, closed-heel, casual slip-on shoe is classified under subheading 6404.19.3940, HTSUSA, as other footwear not having a foxing or foxing-like band, or under subheading 6404.19.9030, HTSUSA, as other footwear having a foxing or foxing-like band.

LAW AND ANALYSIS:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (“GRI”). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The 2020 HTSUSA provisions under consideration are as follows:

6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:
6404.19	Footwear with outer soles of rubber or plastics: Other: Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fastners, the foregoing except ...footwear having foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper:
6404.19.39	Other:
6404.19.39.40	Other... Other... For men....

* * * * *

6404.19.90 Valued over \$12/pair...
 6404.19.90.30 For men....

Note 4 to Chapter 64, HTSUS, states as follows:

Subject to note 3 to this chapter:

- (a) The material of the upper shall be taken to be the constituent material having the greatest external surface area, no account being taken of accessories or reinforcements such as ankle patches, edging, ornamentation, buckles, tabs, eyelet stays or similar attachments;
- (b) The constituent material of the outer sole shall be taken to be the material having the greatest surface area in contact with the ground, no account being taken of accessories or reinforcements such as spikes, bars, nails, protectors or similar attachments.

You argue that Style # H8012000 (Model Brewster 2317) (*hereinafter*, “the Brewster”) should not have been classified under subheading 6404.19.3940, HTSUSA. Instead, you assert that the Brewster should be classified under subheading 6404.19.9030, HTSUSA. Specifically, you assert that the Brewster should be classified under subheading 6404.19.9030, HTSUSA, because it has a foxing-like band.

CBP has previously addressed the distinction between footwear featuring foxing or a foxing-like band as opposed to footwear without foxing. For example, in Headquarters Ruling Letter (“HQ”) 083120, dated February 6, 1990, CBP determined that a strip feature of an athletic shoes was a “bumper” rather than a foxing-like band. Moreover, in HQ 083120, we explained that CBP has set forth guidelines relating to characteristics of foxing and a foxing-like band in Treasury Decision (“T.D.”) 83–116, Cust. Bull. 229 (1983). In particular, the decision in HQ 083120 explained that the guidelines in T.D. 83–116 indicate that the following five (5) criteria are characteristics of foxing:

- 1). A foxing is a strip of material which is separate from the sole and upper;
- 2). A foxing secures the joint between the sole and upper;
- 3). A foxing must overlap the upper and the overlap must be readily discernible;
- 4). A foxing is a band, i.e. a strip serving to join, hold together or integrate two or more things. . . ;
- 5). A foxing must encircle or substantially encircle the entire shoe.

A more recent set of criteria was set forth by the Footwear Distributors and Retailers of America (“FDRA”). According to the FDRA a foxing-like band is defined as follows:

A foxing-like band—

1. has the same or nearly the same appearance, qualities or characteristics as a foxing²

² Foxing (as distinguished from foxing-like) is defined as being “a strip of material, separate from the sole and upper, that secures the joint where the upper and sole meet, usually attached by a vulcanization process; a foxing must be applied or molded at the sole and overlap the upper and substantially encircle the entire shoe.” Key Footwear Definitions, FDRA, at, <https://fdra.org/key-issues-and-advocacy/footwear-customs/key-footwear-definitions/>. (last visited, 11/21/2019).

2. does not have to be a separate component and is often part of the unit-molded sole
3. must be applied or molded at the sole, overlap the upper and substantially encircle the entire shoe
4. the overlap must be $\frac{1}{4}$ inch or more (measured vertically starting from where the upper material turns upward from the horizontal to the vertical plane) for footwear in American men's, youths and boys sizes 11.5 and larger and American women's and misses sizes 12.5 and larger, $\frac{3}{16}$ inch or more for American children's size 8.5 up to boys size 11 and girls size 12 and $\frac{1}{8}$ inch or more for infants sizes 0 through 8
5. an encirclement of 40% or less of the shoes perimeter is not "substantial" and does not constitute a foxing-like band. An encirclement of 60% or more is "substantial" and is a foxing-like band. An encirclement between 41% and 59% may be a foxing-like band depending upon the type of shoe and placement, function and appearance of the overlap.

Similarly, in HQ 952307, dated August 17, 1992, CBP discussed the "Characteristics of a Foxing-Like Band" explaining that a foxing-like band has the same appearance or characteristics as the foxing appearing of a traditional sneaker or tennis shoe.

Under the present facts, Marolina Outdoors submitted a sample of Style # H8012000 ("the Brewster") along with a separate (detached) sample of the outer sole component. Upon review of the new information provided along with an assessment of the two samples submitted, it is our view that NY N285624 incorrectly determined that the Brewster did not have a foxing-like band. In particular, the outer sole which covers and overlaps the upper textile material of the shoe, measures $\frac{1}{4}$ (one-fourth) of an inch vertically around the entire perimeter. Also, unlike the footwear in HQ 083120 and HQ 952307, the foxing-like band of the subject Brewster encircles the entire shoe, including the front toe area and the heel area. It has the appearance and characteristic of the foxing on traditional tennis shoes. Likewise, the foxing-like band of the Brewster does not stem from a separate component but instead is molded into and is part of the outer-sole component.

HOLDING:

By application of GRI 1, we find that Style # H8012000 (Model Brewster 2317) is provided for in heading 6404, HTSUS, and is specifically classified under subheading 6404.19.9030, HTSUSA, which provides for: "Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials: Footwear with outer soles of rubber or plastics: Other: Footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except...footwear having foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper: Other: Valued over \$12/pair, For men." The 2019 column one, general rate of duty is 9% *ad valorem*.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at www.usitc.gov/tata/hts/.

EFFECT ON OTHER RULINGS:

NY N285624, dated May 24, 2018, is MODIFIED.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after its publication in the *Customs Bulletin*.

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division


19 CFR PART 177**MODIFICATION OF ONE RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO THE
TARIFF CLASSIFICATION OF STEEL DOCTOR BLADES IN
COILS**

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

ACTION: Notice of modification of one ruling letter, and of revocation of treatment relating to the tariff classification of steel doctor blades in coils.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) is modifying one ruling letter concerning tariff classification of steel doctor blades in coils under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin*, Vol. 54, No. 12, on April 2, 2020. One comment was received in response to that notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after August 29, 2020.

FOR FURTHER INFORMATION CONTACT: Reema Bogin, Chemicals, Petroleum, Metals and Miscellaneous Articles Branch, Office of Trade, at reema.bogin@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:**BACKGROUND**

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Vol. 54, No. 12, on April 1, 2020, proposing to modify one ruling letter pertaining to the tariff classification of steel doctor blades in coils. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should have advised CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during the comment period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of this notice.

In New York Ruling Letter ("NY") N301037, dated November 7, 2018, CBP classified steel doctor blades in coils in various headings of chapter 72, HTSUS. Uncoated PS1 steel doctor blades in coils and in widths of less than 600 mm were classified in heading 7212, HTSUS, specifically in subheading 7212.50.0000, HTSUSA ("Annotated"), which provides for "Flat-rolled products or iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated: Otherwise plated or coated." Uncoated PS1 steel doctor blades in coils and in widths of 600 mm or more were classified in heading 7210, HTSUS, specifically in subheading 7210.90.9000, HTSUSA, which provides for "Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated: Other: Other: Other." PS INOX steel doctor blades in coils and in widths of less than 600 mm were classified in heading 7220, HTSUS, specifically in subheading 7220.90.00, HTSUS, which

provides for “Flat-rolled products of stainless steel, of a width of less than 600 mm: Other.” PS INOX steel doctor blades in coils and in widths of 600 mm or more were classified in heading 7219, HTSUS, specifically in subheading 7219.90.00, HTSUS, which provides for “Flat-rolled products of stainless steel, of a width of 600 mm or more: Other.” CBP has reviewed NY N301037 and has determined the ruling letter to be partially in error. It is now CBP’s position that the above merchandise are classified as follows: uncoated PS1 steel doctor blades in coils and in widths of less than 600 mm are properly classified in heading 7211, HTSUS, specifically in subheading 7211.90.0000, HTSUSA, which provides for “Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, not clad, plated or coated: Other”; uncoated PS1 steel doctor blades in coils and in widths of 600 mm or more are properly classified in heading 7209, HTSUS, specifically in subheading 7209.90.0000, HTSUSA, which provides for “Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated: Other”; PS INOX steel doctor blades in coils and in widths of less than 600 mm are properly classified in heading 7220, HTSUS, specifically in subheading 7220.90.0060, HTSUSA, which provides for “Flat-rolled products of stainless steel, of a width of less than 600 mm: Other: Other: Containing less than 15 percent by weight of chromium”; and PS INOX steel doctor blades in coils and in widths of 600 mm or more are properly classified in heading 7219, HTSUS, specifically in subheading 7219.90.0060, HTSUSA, which provides for “Flat-rolled products of stainless steel, of a width of 600 mm or more: Other: Other: Other: Containing less than 15 percent by weight of chromium.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is modifying NY N301037 and revoking or modifying any other ruling not specifically identified to reflect the analysis contained in Headquarters Ruling Letter (“HQ”) H303128, set forth as an attachment to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

In accordance with 19 U.S.C. § 1625(c), this ruling will become effective 60 days after publication in the *Customs Bulletin*.

Dated: June 12, 2020

For
CRAIG T. CLARK,
Director
Commercial and Trade Facilitation Division

Attachment

HQ H303128

June 12, 2020

OT:RR:CTF:CPMM: H303128 RRB

CATEGORY: Classification

TARIFF NO.: 7209.90.0000; 7211.90.0000;
7219.90.0060; 7220.90.0060

MR. JOSEPH W. ROHE
FOX ROTHSCHILD LLP
2 W. WASHINGTON STREET, SUITE 1100
GREENVILLE, SC 29601

Re: Modification of NY N301037; Classification of steel doctor blades in coils from Italy

DEAR MR. ROHE:

This is in response to your letter, dated February 21, 2019, in which you request reconsideration of New York Ruling Letter (“NY”) N301037 (“reconsideration request”), issued to you on November 7, 2018 by U.S. Customs and Border Protection (“CBP”), involving the classification of steel doctor blades in coils under the Harmonized Tariff Schedule of the United States (“HTSUS”). You submitted the reconsideration request on behalf of your client, Precision Flexo & Gravure, LLC (“Precision”). At issue in NY N301037 were six different types of steel doctor blades imported in coils: 1) PS1 coils in widths of 600 mm or more; 2) PS1 coils in widths of less than 600 mm; 3) PS2, PS3, and PS4 coils in widths of 600 mm or more; 4) PS2, PS3, and PS4 coils in widths of less than 600 mm; 5) PS INOX coils in widths of 600 mm or more; and 6) PS INOX coils in widths of less than 600 mm. In your reconsideration request, you submitted additional information about certain products described in NY N301037.¹

After reviewing the submitted information, we believe that NY N301037 is partially in error. For the reasons set forth below, we hereby modify NY N301037 with respect to the classification PS1 coils and PS INOX coils.

Pursuant to 19 U.S.C. § 1625(c)(1), a notice was published in the *Customs Bulletin*, Volume 54, No. 12 on April 1, 2020, proposing to modify NY N301037, and any treatment accorded to substantially similar transactions. One comment was received in response to this notice, which we will address below.

FACTS:

The steel doctor blades in coils at issue were described as follows in NY N301037:

The products under consideration are described as steel doctor blades intended to be used as parts for printing presses. The steel is imported in various chemistries and dimensions. It is stated to be cold-rolled in Sweden and shipped to Italy where the edges are ground. The final product

¹ You also state that “Precision’s doctor blades are imported in two forms: either pre-cut to standardized lengths typically ranging from ~700 mm to ~1770mm, or in coils ranging in length from ~70m to ~200 m. To the extent that Precision is asking for reconsideration of items not identified in the original ruling request, it should send a new binding ruling request to CBP’s National Commodity Specialist Division (“NCS”) at <https://erulings.cbp.gov>.

has a ceramic coating and is shipped from Italy to the U.S. In accordance with the definitions of steel in Section XV, Harmonized Tariff Schedule of the United States (HTSUS), the chemistries are described as PS1 which is a nonalloy steel, PS2 and PS4 which are tool steel, PS3 which is an other alloy steel and PS INOX grade which is a stainless steel. Although stated to be imported custom made, the blades are flat-rolled steel in 200 meter coils that are imported without markings indicating at what length the doctor blades need to be cut for printing press use.

In NY N301037, CBP classified the steel doctor blades in coils as follows:

- PS1 coils in widths of 600 mm or more in subheading 7210.90.9000, HTSUSA (Annotated), which provides for “Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated: Other: Other: Other.”
- PS1 coils in widths of less than 600 mm in subheading 7212.50.0000, HTSUSA, which provides for “Flat-rolled products or iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated: Otherwise plated or coated.”
- PS2, PS3, and PS4 coils in widths of 600 mm or more in subheading 7225.99.0090, HTSUSA, which provides for “Flat-rolled products of other alloy steel, of a width of 600 mm or more: Other: Other: Other.”
- PS2, PS3, and PS4 coils in widths of less than 600 mm in subheading 7226.99.0180, HTSUSA, which provides for “Flat-rolled products of other alloy steel, of a width of less than 600 mm: Other: Other: Other.”
- PS INOX coils in widths of 600 mm or more in subheading 7219.90.00, HTSUS, which provides for “Flat-rolled products of stainless steel, of a width of 600 mm or more: Other.”
- PS INOX coils in widths of less than 600 mm in subheading 7220.90.00, HTSUS, which provides for “Flat-rolled products of stainless steel, of a width of less than 600 mm: Other.”

However, commodity information sheets submitted with your reconsideration request show that only doctor blade material known as “Extra” and “Eco 1–6,” which is comprised of a PS4 base material, has a ceramic coating² and that the PS INOX blade material contains less than 15 percent by weight of chromium.

ISSUE:

Whether steel doctor blades imported in coils that are not pre-marked for cutting at the time of importation are classified in headings of chapter 72, HTSUS, as iron and steel, or in heading 8443, HTSUS, as “Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machine, whether or not combined; parts and accessories thereof.”

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States (“HTSUS”) is made in accordance with the General Rules of Interpretation (“GRI”). GRI 1 provides that the classification of goods shall be determined

² In its request for reconsideration, Precision states that only doctor blades designated as “EcoCer” are ceramic coated, with no mention of “Extra.”

according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The 2019 HTSUS provisions under consideration are as follows:

- 7209 Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated:
- 7210 Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, clad, plated or coated:
- 7211 Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, not clad, plated or coated:
- 7212 Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, clad, plated or coated:
- 7219 Flat-rolled products of stainless steel, of a width of 600 mm or more:
- 7220 Flat-rolled products of stainless steel, of a width of less than 600 mm:
- 7225 Flat-rolled products of other alloy steel, of a width of 600 mm or more:
- 7226 Flat-rolled products of other alloy steel, of a width of less than 600 mm:
- 8443 Printing machinery used for printing by means of plates, cylinders and other printing components of heading 8442; other printers, copying machines and facsimile machine, whether or not combined; parts and accessories thereof:

* * *

Section XV, note 1(f) states the following regarding base metals and articles of base metals:

- 1) This section does not cover:
* * *
- f) Articles of section XVI (machinery, mechanical appliances and electrical goods);

Note 1(k) to chapter 72 states the following:

- 1) In this chapter and, in the case of notes (d), (e), and (f) below throughout the tariff schedule, the following expressions have the meanings hereby assigned to them:

* * *

k) *Flat-rolled products*

Rolled products of solid, rectangular (other than square) cross section, which do not conform to the definition at (ij) above, in the form of:

- coils of successively superimposed layers, or
- straight lengths, which if of a thickness less than 4.75 mm are of a width measuring at least 10 times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness.

Flat-rolled products include those with patterns in relief derived directly from rolling (for example, grooves, ribs, checkers, tears, buttons, lozenges) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings.

Flat-rolled products of a shape other than rectangular or square, of any size, are to be classified as products of a width of 600 mm or more, provided that they do not assume the character of articles or products of other headings.

* * *

In understanding the language of the HTSUS, the Explanatory Notes (“ENs”) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, although not dispositive or legally binding, provide a commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. *See* T.D. 89–80, 54 Fed. Reg. 35127 (August 23, 1989).

The EN to 72.08 states the following, in relevant part:

Flat-rolled products of this heading may have patterns in relief derived directly from rolling, such as grooves, ribs, chequers, tears, buttons, lozenges, or they may have been worked after rolling (e.g., perforated, corrugated, bevelled or rounded at the edges), **provided** they do not thereby assume the character of articles or products of other headings.

* * *

It has been CBP’s longstanding position that parts of machinery, imported in unmarked material lengths, are classified according to their constituent material. *See, e.g.* Headquarters Ruling Letter (“HQ”) 965589, dated September 17, 2002 (classifying in heading 7211 and 7226, HTSUS, steel doctor blades with rounded edges and a polished surface that were used in printers and imported in coils) and HQ 963309, dated May 31, 2000 (classifying plastic doctor blades imported in coils and used in machinery for making paper pulp, paper or paperboard in chapter 39, HTSUS, based on its constituent material). Moreover, we have historically classified all steel doctor blades imported in coil form within chapter 72, HTSUS, regardless of the operations performed subsequent to the rolling process. *See, e.g.*, HQ 965589; NY D82766, dated October 9, 1998 (classifying steel doctor blades imported in coils, which were ceramic-coated and beveled along their length subsequent to the flat-rolling operation, in heading 7212, HTSUS); NY A88253, dated November 6, 1996 (classifying steel doctor blades that are zinc-coated and machine-beveled along their length, and imported in continuous coils that are cut to length after importation, in chapter 72, HTSUS). In each of these instances, the doctor blades were imported in coiled material lengths, and neither beveling, nor additional coating or polishing performed on the steel after flat-rolling precluded classification as a flat-rolled product of chapter 72, HTSUS. Both NY N301037 and HQ 965589 cite to *Heraeus-Amersil v. United States*, 640 F. Supp. 1331 (C.I.T. 1986) as further support of CBP’s longstanding position. The rule of decision in *Heraeus* is that “. . . where such articles are imported in the piece and nothing remains to be done except to cut them apart, they shall be treated for dutiable purposes as if already cut apart and assessed according to their individual character or identity. This follows,

however, only in case the character or identity of the individual articles is fixed with certainty and in case the . . . piece in its entirety is not commercially capable of any other use.” As we explained in NY N301037, the *Heraeus* rule is not satisfied here because the doctor blades are not identifiable in the coiled materials as there are no markings on the steel to indicate where individual blades are to be cut— i.e., the blades are not “fixed with certainty.”

While Precision downplays the *Heraeus* rule, relying on cases such as *U.S. v. Buss & Co.*, 5.C.C.A. 110 (1914), which is over one hundred years old, involving different merchandise, these arguments are without merit. For example, Precision cites to *Doherty-Barrow of Texas v. United States*, 3 C.I.T. 228 (1982), where the court stated that “[e]xcept for cutting to length, the subject merchandise requires no additional processing, manufacturing or finishing. . . the character or identity thereof, except for cutting to length, is fixed with certainty.” *Doherty-Barrow*, 3 C.I.T. at 232. However, Precision omits the court’s further exposition in regards to why the bale ties in *Doherty-Barrow* were deemed to be fixed with certainty; the court further explained that “[f]or a bale tie to be ‘made from’ strip under item 642.93, TSUS, some manufacturing process is implied which transforms strip steel into bale ties, whether finished or unfinished. Both finished and unfinished manufactured products must be sufficiently processed to a point where they possess characteristics distinguishing them from which they are made” (citing *American Import Co. v. United States*, 26 C.C.P.A. 72, 75–6 (1938)). The bale ties at issue in *Doherty-Barrow* were in conformance with rigid specifications for American standard cotton bale ties, including chemical composition and tensile strength. *Doherty-Barrow*, 3 C.I.T. at 232. Unlike the bale ties in *Doherty-Barrow*, such specifications are not required for the manufacture of doctor blades for use in printing machinery. Accordingly, *Doherty-Barrow* is irrelevant to the subject doctor blades.

In addition, Precision cites to *J.E. Bernard & Co., Inc. v. United States*, 50 Cust. Ct. 41 (1963), which involved the classification of steel bandsaw blades imported in coils. Precision argues that the imported steel doctor blades are similar to the merchandise in that case, which were classified as finished bandsaws rather than as its constituent material. However, Precision simplifies its characterization of the blades in *J.E. Bernard* as merely involving imported blades that were coiled into different lengths and cut to length after importation. In fact, prior to importation, the steel bandsaws in *J.E. Bernard* consisted of heavily manufactured steel strips that underwent a milling process in which teeth were cut into the strips, which were then electronically heat treated through a tempering process to harden the metal, after which the material was polished and the teeth were given a “waving set” to meet requirements for use, followed by oiling and coiling the strips into specific lengths, all of which happened prior to importation. *J.E. Bernard*, 50 Cust. Ct. at 43. Thus, the operations rendered on the steel bandsaws in *J.E. Bernard* go far beyond the comparatively simple workings applied to the subject steel doctor blade coils (e.g., skiving, beveling, etc.) such that the character of the steel bandsaws imported in coils were “fixed with certainty.” Accordingly, *J.E. Bernard* is not dispositive to the classification of the doctor blades at issue.

Precision cites to note 1(f) of section XV (base metal and articles of base metals), which excludes articles of section XVI (machinery, mechanical appliances and electrical goods) and includes articles of heading 8443. Precision also cites to note 1(k) of chapter 72, which defines flat-rolled products as

“rolled products of solid rectangular (other than square) cross section. . .” Precision argues that the doctor blades are not of rectangular cross section, but rather of customized rounded, beveled and lamella edges to effect their use as doctor blades. However, note 1(k) to chapter 72 also states that flat-rolled products of chapter 72 may be perforated, corrugated or polished, provided they do not assume the character of articles of other headings. This is expanded upon in the ENs to heading 72.08, which lists other examples of operations that may be performed on flat-rolled products subsequent to the rolling process: “Flat-rolled products of this heading may have patterns in relief derived directly from rolling, such as grooves, ribs, chequers, tears, button, lozenges, or they may have been worked after rolling (e.g., perforated, corrugated, beveled or rounded at the edges), provided they do not thereby assume the character of articles or products of other headings.” The lamella and wing lamella edges at issue here are achieved through skiving. Even though the ENs do not expressly mention this kind of operation, it does not mean that skiving should not be included as an example of operations performed on flat-rolled products of chapter 72. Accordingly, the doctor blade materials at issue meet the definition of a flat-rolled product for purposes of classification in chapter 72.

Precision also argues that GRI 2(a), which provides that “[a]ny reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article,” applies to its merchandise. However, Precision’s argument is without merit, as the doctor blades are specifically provided for in chapter 72 under the terms of the headings and chapter notes therein and as imported in coils, do not have the essential character of a doctor blade

While NY N301037 properly classified the doctor blades in headings of chapter 72, the ruling needs to be modified with respect to the classification of the PS1 uncoated coils. Because the submitted commodity information sheet clarifies that only Extra and Eco1–6 blade material comprised of a PS4 base material is ceramic-coated, the uncoated PS1 coils in widths of less than 600 mm are properly classified in subheading 7211.90.0000, HTSUSA (Annotated), which provides for “Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, not clad, plated or coated: Other.” Uncoated PS1 coils in widths of 600 mm or more are properly classified in subheading 7209.90.0000, HTSUSA, which provides for “Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated: Other.”

Lastly, after receiving the information in your request for reconsideration regarding the chemistry of the merchandise, we are modifying NY N301037 to now state the correct 10-digit classification of the PS INOX stainless steel grade blade material. Based on that information, the PS INOX coils, in widths of less than 600 mm, are properly classified at the 10-digit level in subheading 7220.90.0060, HTSUSA, which provides for “Flat-rolled products of stainless steel, of a width of less than 600 mm: Other: Other: Containing less than 15 percent by weight of chromium.” The PS INOX coils in widths of 600 mm or more are properly classified at the 10-digit level in subheading 7219.90.0060, HTSUSA, which provides for “Flat-rolled products of stainless steel, of a width of 600 mm or more: Other: Other: Other: Containing less than 15 percent by weight of chromium.” The remaining analysis of NY N301037 remains unchanged.

You submitted comments on behalf of your client in response to the notice of proposed revocation of NY N301037. In your comments, you first argue that CBP inaccurately concluded that the lamella and wing lamella edges are attained by skiving. You assert that the lamella and wing lamella edges are attained through precision grinding with a disk and conical honing wheels at precise angles and pursuant to a patented process. We have reviewed the patented precision grinding process that you have set forth as an exhibit to your comments. The patent explains that the lamella edges are “obtained by means of a grinding wheel having its axis of rotation not at right angles to the edge of the doctor blade.”³ The patent further states that “[a] method of producing the above-mentioned doctor blade—starting from a band—also forms the subject matter of the present invention and comprises at least the steps of: positioning above the band a grinding wheel with its axis of rotation not at right angles to the edge of the doctor blade; setting the grinding wheel in rotation; and causing the band to move beneath the grinding wheel parallel to its edge.”⁴ Essentially, the precision grinding described in the patent is akin to power skiving, a common operation performed on doctor blades after flat-rolling that does not change the character of the merchandise. Like the precision power grinding process described in your submission, power skiving also involves the use of a wheel to cut or grind down the steel.⁵ Whether through power skiving or precision power grinding, the basic operation for attaining the doctor blade edges involves a disk, grinding wheel, or other cutting tool to shape the blade—processing which is similar to those described in the EN to 72.08, interpreting note 1(k) to chapter 72, HTSUS. Therefore, your claims concerning the power precision grinding process does not alter our conclusions regarding the classification of the doctor blades.

Next, you argue that CBP ignored the limitations of note 1(k) and expanded the EN to 72.08. You further explain that note 1(k) specifically omits the examples of beveled or rounded edges found in the ENs and that such omission was intentional. However, we specifically noted that the ENs are not legally binding and can neither increase nor decrease the scope of the heading. Rather, they are intended to define and explain the scope of the heading. Allowing for beveling and rolling in the heading as an example of a permissible process in the EN in no way contradicts the examples given in the legal note. We, therefore, are not persuaded by your argument regarding the language of the note in relation to the EN.

Moreover, you explain in your comments that the doctor blades cannot be classified in chapter 72, HTSUS, because they “have assume[d] the character of articles or products of other headings” and therefore are excluded from chapter 72 pursuant to note 1(k) to chapter 72 and the ENs. You argue that they have assumed the character of doctor blades because of the exacting specifications and tolerances of the merchandise, as well as the precision methods used to impart certain specifically-designed edges. Your further claim, without any support, that the merchandise in unmarked coils would be

³ European Patent Application No. 06425818.9, (filed December 4, 2006), [026].

⁴ *Id.* at [027].

⁵ See, e.g., Power Skiving for the Highly Efficient Production of Gears, EMAG: MANUFACTURING SYSTEMS FOR PRECISION METAL COMPONENTS, <https://www.emag.com/technologies/power-skiving.html> (last visited May 19, 2020); Nicklas Bylund, Ph.D., *Understanding the Basic Principles of Power Skiving*, Gear Solutions, <https://gearsolutions.com/features/understanding-the-basic-principles-of-power-skiving/> (last visited May 19, 2020);

clearly identifiable as doctor blades to “anyone familiar with the industry.” However, the imported coiled materials at issue have no markings on the steel to indicate where individual doctor blades are to be cut, and none of the operations performed on the steel to produce certain defined edges go beyond the types of operations described in note 1(k) to chapter 72 and the ENs to 72.08. Therefore, this argument is unpersuasive.

Finally, you assert that CBP failed to appropriately analyze and apply legal precedent in relying on *Heraeus-Amersil v. U.S.*, while discounting the cases cited in your February 21, 2019 reconsideration request. This assertion, however, is incorrect as we explained in our proposed ruling why the cases you cited are not dispositive to the classification of the steel doctor blades in coils.

HOLDING:

By application of GRIs 1 and 6, the uncoated PS1 coils in widths of less than 600 mm are classified in heading 7211, HTSUS, and specifically in subheading 7211.90.0000, HTSUSA, which provides for “Flat-rolled products of iron or nonalloy steel, of a width of less than 600 mm, not clad, plated or coated: Other.” The 2019 column one, general rate of duty is Free.

By application of GRIs 1 and 6, the uncoated PS1 coils in widths of 600 mm or more are classified in heading 7209, HTSUS, and specifically in subheading 7209.90.0000, HTSUSA, which provides for “Flat-rolled products of iron or nonalloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated: Other.” The 2019 column one, general rate of duty is Free.

By application of GRIs 1 and 6, the PS INOX coils that are imported in widths of less than 600 mm are classified in heading 7220, HTSUS, and specifically in subheading 7220.90.0060, HTSUSA, which provides for “Flat-rolled products of stainless steel, of a width of less than 600 mm: Other: Other: Containing less than 15 percent by weight of chromium.” The 2019 column one, general rate of duty is FREE.

By application of GRIs 1 and 6, the PS INOX coils that are imported in widths of 600 mm or more are classified in heading 7219, HTSUS, and specifically in subheading 7219.90.0060, HTSUSA, which provides for “Flat-rolled products of stainless steel, of a width of 600 mm or more: Other: Other: Other: Containing less than 15 percent by weight of chromium.” The 2019 column one, general rate of duty is FREE.

On March 8, 2018, Presidential proclamations 9704 and 9705 imposed additional tariffs and quotas on a number of steel and aluminum mill products. Exemptions have been made on a temporary basis for some countries. Quantitative limitations or quotas may apply for certain exempted countries and can also be found in Chapter 99. Additional duties for steel of 25 percent and for aluminum of 10 percent are reflected in Chapter 99, subheading 9903.80.01 for steel and subheading 9903.85.01 for aluminum. Products classified under subheading 7209.90.00, 7211.90.00, 7219.90.00, and 7220.90.00, HTSUS, may be subject to additional duties or quota. At the time of importation, you must report the Chapter 99 subheading applicable to your product classification in addition to the Chapter 72, 73 or 76 subheading listed above. The Proclamations are subject to periodic amendment of the exclusions, so you should exercise reasonable care in monitoring the status of goods covered by the Proclamations and the applicable Chapter 99 subheadings.

Duty rates are provided for your convenience and subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at www.usitc.gov.

EFFECT ON OTHER RULINGS:

NY N301037, dated November 7, 2018, is hereby modified with respect to the classification of the uncoated PS1 doctor blade material in coils and to clarify the 10-digit classification of the PS INOX doctor blade material.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.


Sincerely,

for

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division



**PROPOSED REVOCATION OF FIVE RULING LETTERS
AND PROPOSED REVOCATION OF TREATMENT
RELATING TO THE TARIFF CLASSIFICATION OF RAIN
GAUGES**

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

ACTION: Notice of proposed revocation of five ruling letters, and proposed revocation of treatment relating to the tariff classification of rain gauges.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. § 1625(c)), as amended by section 623 of title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that U.S. Customs and Border Protection (CBP) intends to revoke five ruling letters concerning tariff classification of rain gauges under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments on the correctness of the proposed actions are invited.

DATE: Comments must be received on or before July 31, 2020.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Attention: Cammy Canedo, Regulations and Disclosure Law Division, 90 K St., NE, 10th Floor, Washington, DC 20229–1177. Submitted comments may be inspected at the address

stated above during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Ms. Cammy Canedo at (202) 325-0439.

FOR FURTHER INFORMATION CONTACT: Emily Rick, Electronics, Machinery, Automotive and International Nomenclature Branch, Regulations and Rulings, Office of Trade, at (202) 325-0369.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Current customs law includes two key concepts: informed compliance and shared responsibility. Accordingly, the law imposes an obligation on CBP to provide the public with information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the public and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether any other applicable legal requirement is met.

Pursuant to 19 U.S.C. § 1625(c)(1), this notice advises interested parties that CBP is proposing to revoke five ruling letters pertaining to the tariff classification of rain gauges. Although in this notice, CBP is specifically referring to New York Ruling Letters ("NY") N296613, dated May 30, 2018 (Attachment A), NY K81163, dated December 10, 2003 (Attachment B), NY K80012, dated November 7, 2003 (Attachment C), NY H88046, dated February 8, 2002 (Attachment D), and NY G81419, dated September 18, 2000 (Attachment E), this notice also covers any rulings on this merchandise which may exist, but have not been specifically identified. CBP has undertaken reasonable efforts to search existing databases for rulings in addition to the five identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., a ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice should advise CBP during the comment period.

Similarly, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this comment period. An importer's failure to advise CBP of substantially identical transac-

tions or of a specific ruling not identified in this notice may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY N296613, CBP classified a rain gauge in heading 3924, HTSUS, specifically in subheading 3924.90.56, HTSUS, which provides for “Other household articles...of plastics: other: other...other.” CBP has reviewed NY N296613 and has determined the ruling letter to be in error. It is now CBP’s position that rain gauges are properly classified in heading 9015, HTSUS, specifically in subheading 9015.80.80, HTSUS, which provides for “Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof: Other instruments and appliances: Other: Other.”

In NY K81163, NY K80012, NY H88046, and NY G81419, CBP classified rain gauges in heading 7020, HTSUS, specifically in subheading 7020.00.60, HTSUS, which provides for “Other articles of glass: Other.” CBP has reviewed NY K81163, NY K80012, NY H88046, and NY G81419 and has determined the ruling letters to be in error. It is now CBP’s position that rain gauges are properly classified, in heading 9015, HTSUS, specifically in subheading 9015.80.80, HTSUS, which provides for “Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof: Other instruments and appliances: Other: Other.”

Pursuant to 19 U.S.C. § 1625(c)(1), CBP is proposing to revoke N296613, NY K81163, NY K80012, NY H88046, and NY G81419 and to revoke or modify any other ruling not specifically identified to reflect the analysis contained in the proposed Headquarters Ruling Letter (“HQ”) H308673, set forth as Attachment F to this notice. Additionally, pursuant to 19 U.S.C. § 1625(c)(2), CBP is proposing to revoke any treatment previously accorded by CBP to substantially identical transactions.

Before taking this action, consideration will be given to any written comments timely received.

GREGORY CONNOR
for

CRAIG T. CLARK,
Director

Commercial and Trade Facilitation Division

Attachments

N296613

May 30, 2018

CLA-2-39:OT:RR:NC:N4:422

CATEGORY: Classification

TARIFF NO.: 3924.90.5650

MR.DAVID HOMAN
BEACON PROMOTIONS
2121 S. BRIDGE STREET
NEW ULM, MN 56073

RE: The tariff classification of a plastic rain gauge from China.

DEAR MR. HOMAN:

In your letter dated May 1, 2018, you requested a tariff classification ruling.

You submitted a photograph and detailed description of an item identified as the 4" Magnifying Rain Gauge, item # GP247RG. This item is an open topped vessel, which tapers to a point, composed of weather resistant polystyrene plastic and measures approximately 2-3/4" in width, 12-1/4" in length and 1-1/2" in depth. Rainfall can be measured in amounts up to 4" by reading the reverse imprint on the gauge and matching it with the level of the rainwater in the gauge. The tapered point can be inserted in the ground or the item may be attached to a post using the keyhole openings near the base of the gauge.

You have suggested that this item is correctly classified in subheading 3926.40.00, however we do not agree. This item is designed for the utilitarian purpose of measuring rainfall and any ornamental appeal it may provide is purely incidental.

The applicable subheading for item # GP247RG will be 3924.90.5650, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Other household articles...of plastics: other: other...other." The rate of duty will be 3.4 percent ad valorem.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at <https://hts.usitc.gov/current>.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Sandra Carlson at sandra.carlson@cbp.dhs.gov.

Sincerely,

STEVEN A. MACK

Director

National Commodity Specialist Division

NY K81163

December 10, 2003

CLA-2-70:RR:NC:1:126 K81163

CATEGORY: Classification

TARIFF NO.: 7020.00.6000

Ms. CHERYL SANTOS
CVS/PHARMACY
ONE CVS DRIVE
WOONSOCKET, RI 02895

RE: The tariff classification of a glass article from China

DEAR Ms. SANTOS:

In your letter dated November 13, 2003, you requested a tariff classification ruling. A representative sample was submitted and will be returned to you as requested.

The subject article, which you refer to as CVS item number 256840 - "Decorative Rain Gauge", consists of a 6-inch calibrated glass tube and a three-dimensional "polystone" frog figurine holder. The frog figurine is holding the glass tube in one hand, and a 5-inch metal umbrella in the other. The glass tube, which is glued to the base of the holder, is designed to be used as a measuring device to catch and monitor rain fall.

The applicable subheading for the glass rain gauge will be 7020.00.6000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of glass: other. The rate of duty will be 5 percent ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Jacob Bunin at 646-733-3027.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

NY K80012

November 7, 2003

CLA-2-70:RR:NC:1:126 K80012

CATEGORY: Classification

TARIFF NO.: 7020.00.6000

Ms. LORIANNE ALDINGER
RITE AID CORPORATION
P.O. Box 3165
HARRISBURG, PA 17105

RE: The tariff classification of a glass article from China

DEAR Ms. ALDINGER:

In your letter dated October 15, 2003, you requested a tariff classification ruling. Two representative samples were submitted and will be returned to you as requested.

The subject article, which you refer to as Item #934778 - "Rain Gauge - Frog & Tortoise", consists of a 6-inch calibrated glass tube and a three-dimensional agglomerated stone animal figurine holder. You indicated in your letter that the figurine holder would be imported in two styles - frog and tortoise. Both styles measure approximately 6.5 inches x 5 inches x 3.5 inches. The glass tube, which is placed into the figurine holder, is designed to be used as a measuring device to catch and monitor rain fall.

The applicable subheading for the glass rain gauge will be 7020.00.6000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of glass: other. The rate of duty will be 5 percent ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Jacob Bunin at 646-733-3027.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

NY H88046

February 8, 2002

CLA-2-70:RR:NC:2:226 H88046

CATEGORY: Classification

TARIFF NO.: 7020.00.6000

MR. RUSS HOLMGREN
CIRCLE INTERNATIONAL, INC.
255 CLEARVIEW AVENUE
EDISON, NJ 08837

RE: The tariff classification of a glass article from China

DEAR MR. HOLMGREN:

In your letter dated January 30, 2002, on behalf of your client, New Creative Enterprise, Inc., you requested a tariff classification ruling. A representative sample of the item was submitted and will be returned to you as requested.

The subject article, which is identified as "Garden Rain Gauge" – item #27429, consists of a five and one-half inch calibrated glass tube and a three-dimensional agglomerated stone holder with metal stake. The glass tube, which is placed into the agglomerated stone holder, is designed to be used as a measuring device to catch and monitor rain fall.

In your presentation, you indicated that the applicable subheading for the garden rain gauge should be 9015.80.8080, Harmonized Tariff Schedule of the United States (HTS), which provides for other meteorological or geophysical instruments and appliances, other. However, Chapter 90, note 1(l) excludes capacity measures, which are to be classified according to their constituent material. Based upon this chapter note, Customs is precluded from considering heading 9015 for classification of this article.

The applicable subheading for the glass rain gauge will be 7020.00.6000, HTS, which provides for other articles of glass: other. The rate of duty will be 5 percent ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Jacob Bunin at 646-733-3027.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

NY G81419

September 18, 2000

CLA-2-70:RR:NC:2:226 G81419

CATEGORY: Classification

TARIFF NO.: 7020.00.6000

MS. COLLEEN O'SHEA-MORAN
JO-ANN STORES INC.
5555 DARROW ROAD
HUDSON, OH 44236

RE: The tariff classification of a glass article from China

DEAR MS. O'SHEA-MORAN:

In your letter dated September 6, 2000, you requested a tariff classification ruling. A representative sample of the item was submitted and will be returned to you as requested.

The subject article, which is identified as "Garden Rain Gauge" – item number SGR2546C, is a five and one-half inch tube-shaped calibrated glass vessel that is placed in a "polyresin" frog-shaped base. You indicated in your letter that the glass vessel is designed to be used as a measuring device to catch and monitor rain fall.

The essential character of this item is represented by the glass vessel.

The applicable subheading for the "Garden Rain Gauge" will be 7020.00.6000, Harmonized Tariff Schedule of the United States (HTS), which provides for other articles of glass: other. The rate of duty will be 5 percent ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Jacob Bunin at 212-637-7074.

Sincerely,

ROBERT B. SWIERUPSKI
Director,
National Commodity
Specialist Division

HQ H308673
CLA-2 OT:RR:CTF:EMAIN H308673 EKR
CATEGORY: Classification
TARIFF NO.: 9015.80.80

MR. DAVID HOMAN
BEACON PROMOTIONS
2121 S. BRIDGE STREET
NEW ULM, MN 56073

RE: Revocation of NY N296613, NY K81163, NY K80012, NY H88046 and NY G81419; Tariff classification of rain gauges.

DEAR MR. HOMAN:

This ruling is in reference to New York Ruling Letter (NY) N296613, dated May 30, 2018, regarding the classification of a plastic rain gauge under the Harmonized Tariff Schedule of the United States (HTSUS). In NY N296613, U.S. Customs and Border Protection (CBP) classified the subject article in subheading 3924.90.56, HTSUS, which provides for “[o]ther household articles...of plastics: other: other...other.” Upon reconsideration, CBP has determined that NY N296613 is in error.

CBP has also reviewed NY K81163, dated December 10, 2003, NY K80012, dated November 7, 2003, NY H88046, dated February 8, 2002, and NY G81419, dated September 18, 2000, which involve the classification of substantially similar rain gauges of glass in subheading 7020.00.60, HTSUS, which provides for “[o]ther articles of glass: other.” As with NY N296613, we have determined that the tariff classification of the subject merchandise in these rulings is incorrect.

CBP is revoking NY N296613, NY K81163, NY K80012, NY H88046, and NY G81419 according to the analysis set forth below.

FACTS:

In NY N296613, the subject merchandise is described as an open topped vessel, which tapers to a point, composed of weather resistant polystyrene plastic and measuring approximately 2–3/4 inches in width, 12–1/4 inches in length and 1–1/2 inches in depth. Rainfall can be measured in amounts up to 4 inches by reading the reverse imprint on the gauge and matching it with the level of the rainwater in the gauge. The tapered point can be inserted in the ground or the item may be attached to a post using the keyhole openings near the base of the gauge.

In NY K81163, CBP classified a 6-inch calibrated glass tube and a three-dimensional “polystone” frog figurine holder. The frog figurine is holding the glass tube in one hand, and a 5-inch metal umbrella in the other. The glass tube, which is glued to the base of the holder, is designed to be used as a measuring device to catch and monitor rainfall.

In NY K80012, CBP classified a 6-inch calibrated glass tube and a three-dimensional agglomerated stone animal figurine holder measuring approximately 6.5 inches x 5 inches x 3.5 inches. The glass tube, which is placed into the figurine holder, is designed to be used as a measuring device to catch and monitor rainfall.

In NY H88046, the subject merchandise is described as a five and one-half inch calibrated glass tube and a three-dimensional agglomerated stone

holder with metal stake. The glass tube, which is placed into the agglomerated stone holder, is designed to be used as a measuring device to catch and monitor rainfall.

In, NY G81419, the subject merchandise is described as a five and one-half inch tube-shaped calibrated glass vessel that is placed in a “polyresin” frog-shaped base. The glass vessel is designed to be used as a measuring device to catch and monitor rainfall.

ISSUE:

Whether a simple rain gauge is properly classified in heading 9015, HTSUS, as a “meteorological” instrument, or in the heading appropriate to its constituent material (heading 3924, HTSUS for “household articles... of plastics” or heading 7020, HTSUS, for “[o]ther articles of glass”).

LAW AND ANALYSIS:

Classification under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods will be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 will then be applied in order.

The following provisions of the HTSUS are under consideration:

3924 Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics:

* * *

7020.00 Other articles of glass:

* * *

9015 Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof:

Chapter 39, Note 2(u) states that articles of Chapter 90 cannot be classified in Chapter 39. Chapter 70, Note 1(d) likewise states that articles of Chapter 90 cannot be classified in Chapter 70. Chapter 90, Note 1(m) excludes “capacity measures” from Chapter 90, HTSUS, stating that such goods are to be classified instead according to their constituent material.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the ENs provide commentary on the scope of each HTSUS heading and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

EN 90.15 provides, in relevant part:

(V) METEOROLOGICAL INSTRUMENTS

* * *

The group does, however, include the following:

* * *

- (8) **Rain gauges and indicators**, for measuring rainfall in a particular place. The simplest type consists of a funnel of known diameter fixed to a receptacle to collect the rain which is then measured in a calibrated tube.

* * *

If the rain gauges are properly classified in heading 9015, HTSUS, they are precluded from classification in Chapters 39 and 70 by operation of Note 2(u) to Chapter 39, and Note 1(d) to Chapter 70. Therefore, we first consider whether the instant rain gauges can be classified as meteorological instruments of heading 9015, HTSUS.

Each of the products under consideration consists of a graduated tube, made of either plastic or glass, and designed to be installed outdoors. The tubes are open at the top to allow rainwater to collect in the tube, and marked to allow the user to determine the total rainfall based on the amount of rain collected in the tube. The subject rain gauges are *prima facie* described by heading 9015, HTSUS, in that they are meteorological instruments designed to measure rainfall. This is supported by EN 90.15, *supra*, which explicitly states that such simple rain gauges are classified in heading 9015, HTSUS.

We note that, as mentioned in NY H88046, note 1(m)¹ to Chapter 90 excludes capacity measures from classification in Chapter 90. They are instead to be classified according to their constituent material. However, although the instant rain gauges use the volume of rain collected in the tube to extrapolate a rainfall measurement, they are not “capacity measures.” A “capacity measure,” such as a kitchen measuring spoon, is used to measure out a specific volume of a substance. *See, e.g.*, Headquarters Ruling Letter (“HQ”) 968080, dated May 19, 2006 (identifying a set of stainless steel measuring spoons as “capacity measures” and classifying them in heading 7323, HTSUS, as “[t]able, kitchen or other household articles... of steel.”); HQ 968081 (dated May 19, 2006; and N025387, dated April 21, 2008. The instant articles are not designed to measure out a desired volume of liquid. Therefore, they are not “capacity measures” excluded from Chapter 90 by Note 1(m) to Chapter 90. As a result, classification according to the constituent material of the article, in heading 3924, HTSUS as a household article of plastic, or in heading 7020, HTSUS as an article of glass, would be inappropriate.

HOLDING:

By application of GRIs 1 and 6, the rain gauges at issue in NY N296613, NY K81163, NY K80012, NY H88046, and NY G81419 are classified under heading 9015, HTSUS, and specifically provided for under subheading 9015.80.80, HTSUS, which provides for “Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof: Other instruments and appliances: Other: Other.” The general, column one rate of duty for merchandise of subheading 9015.80.80 is free.

¹ NY H88046 relied on the 2002 version of the HTSUS, and cited Note 1(l) to chapter 90; that provision is identical to Note 1(m) to Chapter 90 in the 2020 version of the HTSUS, as cited herein.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the internet at www.usitc.gov/tata/hts/.

Pursuant to U.S. Note 20 to Subchapter III, Chapter 99, HTSUS, products of China classified under subheading 9015.80.80, HTSUS, unless specifically excluded, are subject to an additional 25 percent *ad valorem* rate of duty. At the time of importation, you must report the Chapter 99 subheading, i.e., 9903.88.01, in addition to subheading 9015.80.80, HTSUS, listed above.

The HTSUS is subject to periodic amendment so you should exercise reasonable care in monitoring the status of goods covered by the Note cited above and the applicable Chapter 99 subheading. For background information regarding the trade remedy initiated pursuant to Section 301 of the Trade Act of 1974, you may refer to the relevant parts of the USTR and CBP websites, which are available at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions> and <https://www.cbp.gov/trade/remedies/301-certain-products-china> respectively.

EFFECT ON OTHER RULINGS:

NY N296613, dated May 30, 2018, NY K81163, dated December 10, 2003, NY K80012, dated November 7, 2003, NY H88046, dated February 8, 2002, and NY G81419, dated September 18, 2000, are hereby REVOKED in accordance with the above analysis.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

Sincerely,

CRAIG T. CLARK,

Director

Commercial and Trade Facilitation Division

6 CFR Part 27

8 CFR Parts 270, 274a, and 280

U.S. Customs and Border Protection

19 CFR Part 4

Coast Guard

33 CFR Part 27

Transportation Security Administration

49 CFR Part 1503

RIN 1601-AA95

**CIVIL MONETARY PENALTY ADJUSTMENTS FOR
INFLATION**

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: In this final rule, the Department of Homeland Security (DHS) is making the 2020 annual inflation adjustment to its civil monetary penalties. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) was signed into law on November 2, 2015. Pursuant to the 2015 Act, all agencies must adjust civil monetary penalties annually and publish the adjustment in the **Federal Register**. Accordingly, this final rule adjusts DHS's civil monetary penalties for 2020 pursuant to the 2015 Act and OMB guidance. The new penalties will be effective for penalties assessed after June 17, 2020 whose associated violations occurred after November 2, 2015.

DATES: This rule is effective on June 17, 2020.

FOR FURTHER INFORMATION CONTACT: Hillary Hunnings, 202-282-9043, hillary.hunnings@hq.dhs.gov.

SUPPLEMENTARY INFORMATION:

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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) 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.

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**.

Pursuant to the 2015 Act, DHS undertook a review of the civil penalties that DHS and its components administer.² On July 1, 2016,

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

² The 2015 Act applies to all agency civil penalties except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) and the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*). See sec. 4(a)(1) of the 2015 Act. In the case of DHS, several civil penalties that are assessed by U.S. Customs and Border Protection (CBP) and the U.S. Coast Guard fall under the Tariff Act of 1930, and thus DHS did not adjust those civil penalties in this rulemaking.

DHS published an IFR adjusting the maximum civil monetary penalties with an initial “catch-up” adjustment, as required by the 2015 Act.³ DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance that OMB issued to agencies on February 24, 2016.⁴ The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR), whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act). On January 27, 2017, DHS published a final rule making the annual adjustment for 2017.⁵ DHS made the 2018 annual inflation adjustment on April 2, 2018.⁶ DHS made the 2019 annual inflation adjustment on April 5, 2019.⁷

II. Overview of the Final Rule

This final rule makes the 2020 annual inflation adjustments to civil monetary penalties pursuant to the 2015 Act and pursuant to guidance OMB issued to agencies on December 16, 2019.⁸ The penalty amounts in this final rule will be effective for penalties assessed after June 17, 2020 where the associated violation occurred after November 2, 2015. Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

The adjusted penalty amounts will apply to penalties assessed after the effective date of this final rule. We discuss civil penalties by DHS component in Section III below. For each component identified in Section III, below, we briefly describe the relevant civil penalty (or penalties), and we provide a table showing the increase in the penalties for 2020. In the table for each component, we show (1) the penalty name, (2) the penalty statutory and/or regulatory citation, (3) the penalty amount as adjusted in the 2019 final rule, (4) the cost-of-living adjustment multiplier for 2020 that OMB provided in its December 16, 2019, guidance, and (5) the new 2020 adjusted penalty. The 2015 Act instructs agencies to round penalties to the nearest \$1.

³ See 81 FR 42987.

⁴ OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A, 24 February 2016. <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-06.pdf> (last accessed Dec. 5, 2017).

⁵ See 82 FR 8571.

⁶ See 83 FR 13826.

⁷ See 84 FR 13499.

⁸ OMB Memorandum M-20-05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 16, 2019. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

For a more complete discussion of the method used for calculating the initial “catch-up” inflation adjustments and a component-by-component breakdown to the nature of the civil penalties and relevant legal authorities, please see the IFR preamble at 81 FR 42987–43000.

III. Adjustments by Component

In the following sections, we briefly describe the civil penalties that DHS and its components, the Cybersecurity and Infrastructure Security Agency (CISA), U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), the U.S. Coast Guard (USCG), and the Transportation Security Administration (TSA), assess. Other components not mentioned do not impose any civil monetary penalties. We include tables at the end of each section, which list the individual adjustments for each penalty.

A. Cybersecurity and Infrastructure Security Agency

The Cybersecurity and Infrastructure Security Agency (CISA) administers only one civil penalty that the 2015 Act affects. That penalty assesses fines for violations of the Chemical Facility Anti-Terrorism Standards (CFATS). CFATS is a program that regulates the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. DHS established the CFATS program in 2007 pursuant to section 550 of the Department of Homeland Security Appropriations Act of 2007 (Pub. L. 109–295).⁹ The CFATS regulation is located in part 27 of title 6 of the Code of Federal Regulations (CFR). Below is a table showing the 2020 adjustment for the CFATS penalty that CISA administers.

TABLE 1—CFATS CIVIL PENALTY ADJUSTMENT

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Penalty for non-compliance with CFATS regulations	6 U.S.C. 624(b)(1); 6 CFR 27.300(b)(3).	\$34,871 per day ...	1.01764	\$35,486 per day.

⁹ Section 550 has since been superseded by the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Pub. L. 113–254). The new legislation codified the statutory authority for the CFATS program within Title XXI of the Homeland Security Act of 2002, as amended. See 6 U.S.C. 621 et seq. Public Law 113–254 authorized the CFATS program from January 18, 2015 to January 17, 2019. The Chemical Facility Anti-Terrorism Standards Program Extension Act (Pub. L. 116–2) extends the CFATS program authorization to April 17, 2020.

* OMB Memorandum M-20-05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 16, 2019. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

B. U.S. Customs and Border Protection

U.S. Customs and Border Protection (CBP) assesses civil monetary penalties under various titles of the United States Code and the CFR. These include penalties for certain violations of title 8 of the CFR regarding the Immigration and Nationality Act of 1952 (Pub. L. 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. The relevant penalty provisions are located in numerous sections of the INA, however CBP has enumerated these penalties in regulation in one location—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 2016 IFR preamble at 81 FR 42989-42990. For a complete list and brief description of the non-INA civil monetary penalties assessed by CBP subject to adjustment and a discussion of the history of DHS’s and CBP’s adjustments to the non-INA penalties, see the 2019 annual inflation adjustment final rule preamble at 84 FR 13500.

Below is a table showing the 2020 adjustment for the penalties that CBP administers.

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

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States.	8 U.S.C. 1221(g); 8 CFR 280.53(b)(1) (INA section 231(g)).	\$1,394	1.01764	\$1,419

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens.	8 U.S.C. 1224; 8 CFR 280.53(b)(2); (INA section 234).	\$3,788	1.01764	\$3,855
Penalties for failure to depart voluntarily	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3) (INA section 240B(d)).	\$1,597–\$7,987	1.01764	\$1,625–\$8,128.
Penalties for violations of removal orders relating to aliens transported on vessels or aircraft under section 241(d) of the INA, or for costs associated with removal under section 241(e) of the INA.	8 U.S.C. 1253(c)(1)(A); 8 CFR 280.53(b)(4); (INA section 243(c)(1)(A)).	\$3,195	1.01764	\$3,251
Penalties for failure to remove alien stowaways under section 241(d)(2) of the INA.	8 U.S.C. 1253(c)(1)(B); 8 CFR 280.53(b)(5) (INA section 243(c)(1)(B)).	\$7,987	1.01764	\$8,128
Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6); (INA section 251(d)).	\$378 for each alien	1.01764	\$385 for each alien.
Penalties for use of alien crewmen for longshore work in violation of section 251(d) of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6); (INA section 251(d)).	\$9,472	1.01764	\$9,639

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for failure to control, detain, or remove alien crewmen.	8 U.S.C. 1284(a); 8 CFR 280.53(b)(7) (INA section 254(a)).	\$947–\$5,683	1.01764	\$964–\$5,783.
Penalties for employment on passenger vessels of aliens afflicted with certain disabilities.	8 U.S.C. 1285; 8 CFR 280.53(b)(8) (INA section 255).	\$1,895	1.01764	\$1,928
Penalties for discharge of alien crewmen	8 U.S.C. 1286; 8 CFR 280.53(b)(9) (INA section 256).	\$2,841–\$5,683	1.01764	\$2,891–\$5,783.
Penalties for bringing into the United States alien crewmen with intent to evade immigration laws.	8 U.S.C. 1287; 8 CFR 280.53(b)(10); (INA section 257).	\$18,943 ...	1.01764	\$19,277
Penalties for failure to prevent the unauthorized landing of aliens.	8 U.S.C. 1321(a); 8 CFR 280.53(b)(11) (INA section 271(a)).	\$5,683	1.01764	\$5,783
Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground.	8 U.S.C. 1322(a); 8 CFR 280.53(b)(12) (INA section 272(a)).	\$5,683	1.01764	\$5,783
Penalties for bringing to the United States aliens without required documentation.	8 U.S.C. 1323(b); 8 CFR 280.53(b)(13) (INA section 273(b)).	\$5,683	1.01764	\$5,783
Penalties for failure to depart	8 U.S.C. 1324d; 8 CFR 280.53(b)(14) (INA section 274D).	\$799	1.01764	\$813
Penalties for improper entry	8 U.S.C. 1325(b); 8 CFR 280.53(b)(15) (INA section 275(b)).	\$80–\$400	1.01764	\$81–\$407.

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Penalty for dealing in or using empty stamped imported liquor containers.	19 U.S.C. 469	\$531	1.01764	** 540.
Penalty for employing a vessel in a trade without a required Certificate of Documentation **.	19 U.S.C. 1706a; 19 CFR 4.80(i).	\$1,329	1.01764	\$1,352
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)	\$531	1.01764	** 540.
Penalty for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55103(b); 19 CFR 4.80(b)(2).	\$798	1.01764	\$812
Penalty for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55111(c); 19 CFR 4.92.	\$930–\$2,924 plus \$159; per ton.	1.01764	\$946–\$2,976, plus \$162 per ton.

* OMB Memorandum M–20–05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 16, 2019. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

** No applicable conforming edit to regulatory text.

C. U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) assesses civil monetary penalties for certain employment-related violations arising from the INA. ICE’s civil penalties are located in title 8 of the CFR.

There are three different sections in the INA that impose civil monetary penalties for violations of the laws that relate to employment actions: Sections 274A, 274B, and 274C. ICE has primary enforcement responsibilities for two of these civil penalty provisions

(sections 274A and 274C), and the Department of Justice (DOJ) has enforcement responsibilities for one of these civil penalty provisions (section 274B). The INA, in sections 274A and 274C, provides for imposition of civil penalties for various specified unlawful acts pertaining to the employment eligibility verification process (Form I-9, Employment Eligibility Verification), the employment of unauthorized aliens, and document fraud.

Because both DHS and DOJ implement the three employment-related penalty sections in the INA, both Departments’ implementing regulations reflect the civil penalty amounts. For a complete description of the civil money penalties assessed and a discussion of DHS’s and DOJ’s efforts to update the penalties in years past, see the IFR preamble at 81 FR 42991. Below is a table showing the 2020 adjustment for the penalties that ICE administers.¹⁰

TABLE 3—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for failure to depart voluntarily, INA section 240B(d).	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3).	\$1,597–\$7,987	1.01764	\$1,625–\$8,128
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(A) ...	473–3,788	1.01764	481–3,855
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(B) ...	400–3,195	1.01764	407–3,251

¹⁰ Table 3 also includes two civil penalties that are also listed as penalties administered by CBP. These are penalties for failure to depart voluntarily, INA section 240B(d), and failure to depart after a final order of removal, INA section 274D. Both CBP and ICE may administer these penalties, but as ICE is the DHS component primarily responsible for assessing and collecting them, they are also listed among the penalties ICE administers.

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(C) ...	3,788–9,472	1.01764	3,855–9,639
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(D) ...	3,195–7,987	1.01764	3,251–8,128
Violation/prohibition of indemnity bonds	8 CFR 274a.8(b)	2,292	1.01764	2,332
Civil penalties for knowingly hiring, recruiting, referral, or retention of unauthorized aliens—Penalty for first offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(A)	573–4,586	1.01764	583–4,667
Penalty for second offense (per unauthorized alien).....	8 CFR 274a.10(b)(1)(ii)(B)	4,586–11,463	1.01764	4,667–11,665
Penalty for third or subsequent offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(C)	6,878–22,927	1.01764	6,999–23,331
Civil penalties for I–9 paperwork violations.....	8 CFR 274a.10(b)(2).	230–2,292	1.01764	234–2,332
Civil penalties for failure to depart, INA section 274D	8 U.S.C. 1324d; 8 CFR 280.53(b)(14).	799	1.01764	813

* OMB Memorandum M–20–05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 16, 2019. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

D. U.S. Coast Guard

The Coast Guard is authorized to assess close to 150 penalties involving maritime safety and security and environmental stewardship that are critical to the continued success of Coast Guard missions. Various statutes in titles 14, 16, 19, 33, 42, 46, and 49 of the United States Code authorize these penalties. Titles 33 and 46 authorize the vast majority of these penalties as these statutes deal with navigation, navigable waters, and shipping. Beyond titles 33 and 46, the Coast Guard is also authorized to collect civil monetary penalties related to the organization and management of the Coast Guard, obstruction of revenue, and hazardous substances and materials. For a complete discussion of the civil monetary penalties assessed by the Coast Guard, see the 2016 IFR preamble at 81 FR 42992.

The Coast Guard has identified the penalties it administers, adjusted those penalties for inflation, and is listing those new penalties in a table located in the CFR—specifically, Table 1 in 33 CFR 27.3. Table 1 in 33 CFR 27.3 identifies the statutes that provide the Coast Guard with civil monetary penalty authority and sets out the inflation-adjusted maximum penalty that the Coast Guard may impose pursuant to each statutory provision. Table 1 in 33 CFR 27.3 provides the current maximum penalty for violations that occurred after November 2, 2015.¹¹

The applicable civil penalty amounts for violations occurring on or before November 2, 2015, are set forth in previously published regulations amending 33 CFR part 27. To find the applicable penalty amount for a violation that occurred on or before November 2, 2015, look to the prior versions of the CFR that pertain to the date on which the violation occurred.

With this update, the Coast Guard is removing the penalty for “Aquatic Nuisance Species in the Waters of the United States,” 16 U.S.C. 4711(g)(1), because section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act (codified at 16 U.S.C. 4711) was repealed by section 903(a)(2)(A)(i) of Public Law 115–282, effective December 4, 2018. Table 4 below shows the 2020 adjustment for the penalties that the Coast Guard administers.

¹¹ The Frank LoBiondo Coast Guard Authorization Act of 2018 re-designated certain existing sections of the United States Code, including 14 U.S.C. 88 (now 14 U.S.C. 521) and 33 U.S.C. 1232 and 1236 (now 46 U.S.C. 70036 and 70041). The table reflects those changes to the statutory citations.

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Saving Life and Property	14 U.S.C. 521(c)..	\$10,651	1.01764	\$10,839
Saving Life and Property; Intentional Interference with Broadcast.	14 U.S.C. 521(e)..	1,093	1.01764	1,112
Confidentiality of Medical Quality Assurance Records (first offense).	14 U.S.C. 645(i); 33 CFR 27.3.	5,350	1.01764	5,444
Confidentiality of Medical Quality Assurance Records (subsequent offenses).	14 U.S.C. 645(i); 33 CFR 27.3.	35,668	1.01764	36,297
Obstruction of Revenue Officers by Masters of Vessels.	19 U.S.C. 70; 33 CFR 27.3.	7,975	1.01764	8,116
Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.	19 U.S.C. 70; 33 CFR 27.3.	1,861	1.01764	1,894
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	19 U.S.C. 1581(d).....	** 5,000	N/A	** 5,000
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty.	19 U.S.C. 1581(d).....	1,000**	N/A	1,000**
Anchorage Ground/Harbor Regulations General	33 U.S.C. 471; 33 CFR 27.3.	11,563	1.01764	11,767
Anchorage Ground/Harbor Regulations St. Mary's river.	33 U.S.C. 474; 33 CFR 27.3.	798	1.01764	812

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Bridges/Failure to Comply with Regulations.....	33 U.S.C. 495(b); 33 CFR 27.3.	29,192	1.01764	29,707
Bridges/ Drawbridges	33 U.S.C. 499(c); 33 CFR 27.3.	29,192	1.01764	29,707
Bridges/Failure to Alter Bridge Obstructing Navigation	33 U.S.C. 502(c); 33 CFR 27.3.	29,192	1.01764	29,707
Bridges/ Maintenance and Operation	33 U.S.C. 533(b); 33 CFR 27.3.	29,192	1.01764	29,707
Bridge to Bridge Communication; Master, Person in Charge or Pilot.	33 U.S.C. 1208(a); 33 CFR 27.3.	2,126	1.01764	2,164
Bridge to Bridge Communication; Vessel	33 U.S.C. 1208(b); 33 CFR 27.3.	2,126	1.01764	2,164
Oil/Hazardous Substances: Discharges (Class I per violation).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	18,943	1.01764	19,277
Oil/Hazardous Substances: Discharges (Class I total under paragraph).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	47,357	1.01764	48,192
Oil/Hazardous Substances: Discharges (Class II per day of violation).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	18,943	1.01764	19,277
Oil/Hazardous Substances: Discharges (Class II total under paragraph).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	236,783	1.01764	240,960
Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	47,357	1.01764	48,192
Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	1,895	1.01764	1,928

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	33 U.S.C. 1321(b)(7)(B); 33 CFR 27.3.	47,357	1.01764	48,192
Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	33 U.S.C. 1321(b)(7)(C); 33 CFR 27.3.	47,357	1.01764	48,192
Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	5,683	1.01764	5,783
Oil/Hazardous Substances: Discharges, Gross Negligence-Minimum Penalty (Judicial Assessment).	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	189,427	1.01764	192,768
Marine Sanitation Devices; Operating	33 U.S.C. 1322(j); 33 CFR 27.3.	7,975	1.01764	8,116
Marine Sanitation Devices; Sale or Manufacture	33 U.S.C. 1322(j); 33 CFR 27.3.	21,265	1.01764	21,640
International Navigation Rules; Operator ..	33 U.S.C. 1608(a); 33 CFR 27.3.	14,910	1.01764	15,173
International Navigation Rules; Vessel	33 U.S.C. 1608(b); 33 CFR 27.3.	14,910	1.01764	15,173
Pollution from Ships; General....	33 U.S.C. 1908(b)(1); 33 CFR 27.3.	74,552	1.01764	75,867
Pollution from Ships; False Statement	33 U.S.C. 1908(b)(2); 33 CFR 27.3.	14,910	1.01764	15,173
Inland Navigation Rules; Operator ..	33 U.S.C. 2072(a); 33 CFR 27.3.	14,910	1.01764	15,173

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Inland Navigation Rules; Vessel.....	33 U.S.C. 2072(b); 33 CFR 27.3.	14,910	1.01764	15,173
Shore Protection; General	33 U.S.C. 2609(a); 33 CFR 27.3.	52,596	1.01764	53,524
Shore Protection; Operating Without Permit	33 U.S.C. 2609(b); 33 CFR 27.3.	21,039	1.01764	21,410
Oil Pollution Liability and Compensation	33 U.S.C. 2716a(a); 33 CFR 27.3.	47,357	1.01764	48,192
Clean Hulls	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	43,359	1.01764	44,124
Clean Hulls—related to false statements	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	57,813	1.01764	58,833
Clean Hulls—Recreational Vessel	33 U.S.C. 3852(c); 33 CFR 27.3.	5,781	1.01764	5,883
Hazardous Substances, Releases, Liability, Compensation (Class I).	42 U.S.C. 9609(a); 33 CFR 27.3.	57,317	1.01764	58,328
Hazardous Substances, Releases, Liability, Compensation (Class II).	42 U.S.C. 9609(b); 33 CFR 27.3.	57,317	1.01764	58,328
Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	42 U.S.C. 9609(b); 33 CFR 27.3.	171,952	1.01764	174,985
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	42 U.S.C. 9609(c); 33 CFR 27.3.	57,317	1.01764	58,328
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	42 U.S.C. 9609(c); 33 CFR 27.3.	171,952	1.01764	174,985

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Safe Containers for International Cargo.....	46 USC 80509; 33 CFR 27.3.	6,265	1.01764	6,376
Suspension of Passenger Service	46 USC 70305; 33 CFR 27.3.	62,656	1.01764	63,761
Vessel Inspection or Examination Fees	46 U.S.C. 2110(e); 33 CFR 27.3.	9,472	1.01764	9,639
Alcohol and Dangerous Drug Testing	46 U.S.C. 2115; 33 CFR 27.3.	7,710	1.01764	7,846
Negligent Operations: Recreational Vessels....	46 U.S.C. 2302(a); 33 CFR 27.3.	6,974	1.01764	7,097
Negligent Operations: Other Vessels	46 U.S.C. 2302(a); 33 CFR 27.3.	34,871	1.01764	35,486
Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	46 U.S.C. 2302(c)(1); 33 CFR 27.3.	7,710	1.01764	7,846
Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	46 U.S.C. 2306(a)(4); 33 CFR 27.3.	12,007	1.01764	12,219
Vessel Reporting Requirements: Master	46 U.S.C. 2306(b)(2); 33 CFR 27.3.	2,402	1.01764	2,444
Immersion Suits ...	46 U.S.C. 3102(c)(1); 33 CFR 27.3.	12,007	1.01764	12,219
Inspection Permit .	46 U.S.C. 3302(i)(5); 33 CFR 27.3.	2,505	1.01764	2,549
Vessel Inspection; General	46 U.S.C. 3318(a); 33 CFR 27.3.	12,007	1.01764	12,219
Vessel Inspection; Nautical School Vessel	46 U.S.C. 3318(g); 33 CFR 27.3.	12,007	1.01764	12,219
Vessel Inspection; Failure to Give Notice IAW 3304(b)	46 U.S.C. 3318(h); 33 CFR 27.3.	2,402	1.01764	2,444

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Vessel Inspection; Failure to Give Notice IAW 3309(c)	46 U.S.C. 3318(i); 33 CFR 27.3.	2,402	1.01764	2,444
Vessel Inspection; Vessel ≥1600 Gross Tons	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	24,017	1.01764	24,441
Vessel Inspection; Vessel <1600 Gross Tons	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	4,803	1.01764	4,888
Vessel Inspection; Failure to Comply with 3311(b).	46 U.S.C. 3318(k); 33 CFR 27.3.	24,017	1.01764	24,441
Vessel Inspection; Violation of 3318(b)–3318(f)...	46 U.S.C. 3318(l); 33 CFR 27.3.	12,007	1.01764	12,219
List/count of Passengers	46 U.S.C. 3502(e); 33 CFR 27.3.	250	1.01764	254
Notification to Passengers	46 U.S.C. 3504(c); 33 CFR 27.3.	25,037	1.01764	25,479
Notification to Passengers; Sale of Tickets	46 U.S.C. 3504(c); 33 CFR 27.3.	1,251	1.01764	1,273
Copies of Laws on Passenger Vessels; Master	46 U.S.C. 3506; 33 CFR 27.3.	501	1.01764	510
Liquid Bulk/ Dangerous Cargo	46 U.S.C. 3718(a)(1); 33 CFR 27.3.	62,595	1.01764	63,699
Uninspected Vessels	46 U.S.C. 4106; 33 CFR 27.3.	10,519	1.01764	10,705
Recreational Vessels (maximum for related series of violations).	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	331,174	1.01764	337,016
Recreational Vessels; Violation of 4307(a)	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	6,623	1.01764	6,740
Recreational vessels	46 U.S.C. 4311(c); 33 CFR 27.3.	2,505	1.01764	2,549
Uninspected Commercial Fishing Industry Vessels.	46 U.S.C. 4507; 33 CFR 27.3.	10,519	1.01764	10,705
Abandonment of Barges	46 U.S.C. 4703; 33 CFR 27.3.	1,783	1.01764	1,814

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Load Lines.....	46 U.S.C. 5116(a); 33 CFR 27.3.	11,463	1.01764	11,665
Load Lines; Violation of 5112(a)	46 U.S.C. 5116(b); 33 CFR 27.3.	22,927	1.01764	23,331
Load Lines; Violation of 5112(b)	46 U.S.C. 5116(c); 33 CFR 27.3.	11,463	1.01764	11,665
Reporting Marine Casualties.....	46 U.S.C. 6103(a); 33 CFR 27.3.	39,936	1.01764	40,640
Reporting Marine Casualties; Violation of 6104.....	46 U.S.C. 6103(b); 33 CFR 27.3.	10,519	1.01764	10,705
Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	46 U.S.C. 8101(e); 33 CFR 27.3.	1,895	1.01764	1,928
Manning of Inspected Vessels...	46 U.S.C. 8101(f); 33 CFR 27.3.	18,943	1.01764	19,277
Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	46 U.S.C. 8101(g); 33 CFR 27.3.	18,943	1.01764	19,277
Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	46 U.S.C. 8101(h); 33 CFR 27.3.	2,505	1.01764	2,549
Watchmen on Passenger Vessels	46 U.S.C. 8102(a).....	2,505	1.01764	2,549
Citizenship Requirements.....	46 U.S.C. 8103(f).	1,251	1.01764	1,273
Watches on Vessels; Violation of 8104(a) or (b).....	46 U.S.C. 8104(i).	18,943	1.01764	19,277
Watches on Vessels; Violation of 8104(c), (d), (e), or (h).	46 U.S.C. 8104(j).	18,943	1.01764	19,277
Staff Department on Vessels	46 U.S.C. 8302(e).....	250	1.01764	254

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Officer's Competency Certificates	46 U.S.C. 8304(d).....	250	1.01764	254
Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 8502(e).....	18,943	1.01764	19,277
Coastwise Pilotage; Individual ...	46 U.S.C. 8502(f).	18,943	1.01764	19,277
Federal Pilots.....	46 U.S.C. 8503....	60,039	1.01764	61,098
Merchant Mariners Documents .	46 U.S.C. 8701(d).....	1,251	1.01764	1,273
Crew Requirements	46 U.S.C. 8702(e).....	18,943	1.01764	19,277
Small Vessel Manning	46 U.S.C. 8906....	39,936	1.01764	40,640
Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 9308(a).....	18,943	1.01764	19,277
Pilotage: Great Lakes; Individual	46 U.S.C. 9308(b).....	18,943	1.01764	19,277
Pilotage: Great Lakes; Violation of 9303	46 U.S.C. 9308(c).	18,943	1.01764	19,277
Failure to Report Sexual Offense....	46 U.S.C. 10104(b).....	10,067	1.01764	10,245
Pay Advances to Seamen	46 U.S.C. 10314(a)(2)	1,251	1.01764	1,273
Pay Advances to Seamen; Remuneration for Employment.	46 U.S.C. 10314(b).....	1,251	1.01764	1,273
Allotment to Seamen	46 U.S.C. 10315(c)	1,251	1.01764	1,273
Seamen Protection; General.....	46 U.S.C. 10321..	8,678	1.01764	8,831
Coastwise Voyages: Advances ...	46 U.S.C. 10505(a)(2)	8,678	1.01764	8,831

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Coastwise Voyages: Advances; Remuneration for Employment.	46 U.S.C. 10505(b).....	8,678	1.01764	8,831
Coastwise Voyages: Seamen Protection; General	46 U.S.C. 10508(b).....	8,678	1.01764	8,831
Effects of Deceased Seamen ...	46 U.S.C. 10711..	501	1.01764	510
Complaints of Unfitness.....	46 U.S.C. 10902(a)(2)	1,251	1.01764	1,273
Proceedings on Examination of Vessel	46 U.S.C. 10903(d).....	250	1.01764	254
Permission to Make Complaint.	46 U.S.C. 10907(b).....	1,251	1.01764	1,273
Accommodations for Seamen.....	46 U.S.C. 11101(f)	1,251	1.01764	1,273
Medicine Chests on Vessels	46 U.S.C. 11102(b)	1,251	1.01764	1,273
Destitute Seamen .	46 U.S.C. 11104(b)	250	1.01764	254
Wages on Discharge	46 U.S.C. 11105(c).....	1,251	1.01764	1,273
Log Books; Master Failing to Maintain	46 U.S.C. 11303(a)	501	1.01764	510
Log Books; Master Failing to Make Entry	46 U.S.C. 11303(b)	501	1.01764	510
Log Books; Late Entry	46 U.S.C. 11303(c)	375	1.01764	382
Carrying of Sheath Knives	46 U.S.C. 11506..	125	1.01764	127
Vessel Documentation	46 U.S.C. 12151(a)(1)	16,398	1.01764	16,687
Documentation of Vessels—Related to Activities involving mobile offshore drilling units.	46 U.S.C. 12151(a)(2)	27,331	1.01764	27,813
Vessel Documentation; Fishery Endorsement	46 U.S.C. 12151(c)	125,314	1.01764	127,525

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Numbering of Undocumented Vessels—Willful violation.	46 U.S.C. 12309(a).....	12,519	1.01764	12,740
Numbering of Undocumented Vessels	46 U.S.C. 12309(b).....	2,505	1.01764	2,549
Vessel Identification System.....	46 U.S.C. 12507(b).....	21,039	1.01764	21,410
Measurement of Vessels.....	46 U.S.C. 14701..	45,855	1.01764	46,664
Measurement; False Statements	46 U.S.C. 14702..	45,855	1.01764	46,664
Commercial Instruments and Maritime Liens..	46 U.S.C. 31309..	21,039	1.01764	21,410
Commercial Instruments and Maritime Liens; Mortgagor.	46 U.S.C. 31330(a)(2)	21,039	1.01764	21,410
Commercial Instruments and Maritime Liens; Violation of 31329.	46 U.S.C. 31330(b)(2)	52,596	1.01764	53,524
Ports and Waterway Safety Regulations	46 U.S.C. 70036(a); 33 CFR 27.3.	94,219	1.01764	95,881
Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	46 U.S.C. 70041(d)(1)(B); 33 CFR 27.3.	9,472	1.01764	9,639
Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel.	46 U.S.C. 70041(d)(1)(C); 33 CFR 27.3.	9,472	1.01764	9,639
Vessel Navigation: Regattas or Marine Parades; Other Persons.	46 U.S.C. 70041(d)(1)(D); 33 CFR 27.3.	4,735	1.01764	4,819
Port Security	46 U.S.C. 70119(a).....	34,871	1.01764	35,486
Port Security—Continuing Violations	46 U.S.C. 70119(b).....	62,656	1.01764	63,761

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Maritime Drug Law Enforcement.....	46 U.S.C. 70506(c)	5,781	1.01764	5,883
Hazardous Materials: Related to Vessels.....	49 U.S.C. 5123(a)(1)	81,993	1.01764	83,439
Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or substantial Damage to Property.	49 U.S.C. 5123(a)(2)	191,316	1.01764	194,691
Hazardous Materials: Related to Vessels; Training	49 U.S.C. 5123(a)(3)	493	1.01764	502

* OMB Memorandum M-20-05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 16, 2019. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

** Enacted under the Tariff Act; exempt from inflation adjustments.

E. Transportation Security Administration

The Transportation Security Administration (TSA) is updating its civil penalties regulation in accordance with the 2015 Act. Pursuant to its statutory authority in 49 U.S.C. 46301(a)(1), (4), (5), (6), 49 U.S.C. 46301(d)(2), (8), and 49 U.S.C. 114(u), TSA may impose penalties for violations of statutes that TSA administers, including penalties for violations of implementing regulations or orders. Note that pursuant to division K, title I, sec. 1904(b)(1)(I), of Public Law 115-254, 132 Stat. 3186, 3545 (Oct. 5, 2018), the TSA Modernization Act—part of the FAA Reauthorization Act of 2018—the former 49 U.S.C. 114(v), which relates to penalties, was re-designated as 49 U.S.C. 114(u).

TSA assesses these penalties for a wide variety of aviation and surface security requirements, including violations of TSA's requirements applicable to Transportation Worker Identification Credentials (TWIC),¹² as well as violations of requirements described in chapter 449 of title 49 of the United States Code. These penalties can apply to a wide variety of situations, as described in the statutory and regu-

¹² See, e.g., 46 U.S.C. 70105, 49 U.S.C. 46302 and 46303, and 49 U.S.C. chapter 449.

latory provisions, as well as in guidance that TSA publishes. Below is a table showing the 2020 adjustment for the penalties that TSA administers.

TABLE 5—TRANSPORTATION SECURITY ADMINISTRATION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by a person operating an aircraft for the transportation of passengers or property for compensation.	49 U.S.C. 46301(a)(1), (4), (5), (6); 49 U.S.C. 46301(d)(2), (8); 9 CFR 1503.401(c)(3).	\$34,174 (up to a total of \$546,774 per civil penalty action).	1.01764	\$34,777 (up to a total of \$556,419 per civil penalty action).
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by an individual (except an airman serving as an airman), any person not operating an aircraft for the transportation of passengers or property for compensation, or a small business concern.	49 U.S.C. 46301(a)(1), (4), (5); 49 U.S.C. 46301(d)(8); 49 CFR 1503.401(c)(1) and (2).	\$13,669 (up to a total of \$68,347 total for small business, \$546,774 for others).	1.01764	\$13,910 (up to a total of \$69,553 total for small business, \$556,419 for others).

Penalty name	Citation	Penalty amount as adjusted in the 2019 FR	Multiplier *	New penalty as adjusted by this final rule
Violation of any other provision of title 49 U.S.C. or of 46 U.S.C. ch. 701, a regulation prescribed, or order issued thereunder.	49 U.S.C. 114(u); 49 CFR 1503.401(b).	\$11,698 (up to a total of \$58,490 total for small businesses, \$467,920 for others).	1.01764	\$11,904 (up to a total of \$59,522 total for small businesses, \$76,174 for others).

* OMB Memorandum M-20-05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 16, 2019. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

IV. Administrative Procedure Act

DHS is promulgating this final rule to ensure that the amount of civil penalties that DHS assesses or enforces reflects the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear formula for adjustment of the civil penalties, leaving DHS and its components with little room for discretion. DHS and its components have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. In these annual adjustments DHS is merely updating the penalty amounts by applying the cost-of-living adjustment multiplier that OMB has provided to agencies. Furthermore, the 2015 Act specifically instructed that agencies make the required annual adjustments notwithstanding section 553 of title 5 of the United States Code. Thus, as specified in the 2015 Act, the prior public notice-and-comment procedures and delayed effective date requirements of the Administrative Procedure Act (APA) do not apply to this rule. Further, as described above, this rule makes minor amendments to the regulations to reflect changes required by clear statutory authority, and DHS finds that prior notice and comment procedures and a delayed effective date for these amendments are unnecessary.

V. Regulatory Analyses

A. Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 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. OMB has not designated this final rule a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this rule. As this rule is not a significant regulatory action, this rule is exempt from 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).

This final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.¹³ 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

¹³ OMB Memorandum M–20–05, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. Available at <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

VI. Signing Authorities

The amendments to 19 CFR part 4 in this document are issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to Section 403(l) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects

6 CFR Part 27

Reporting and recordkeeping requirements, Security measures.

8 CFR Part 270

Administrative practice and procedure, Aliens, Employment, Fraud, Penalties.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 280

Administrative practice and procedure, Immigration, Penalties.

19 CFR Part 4

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

33 CFR Part 27

Administrative practice and procedure, Penalties.

49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, DHS is amending 6 CFR part 27, 8 CFR parts 270, 274a, and 280, 19 CFR part 4, 33 CFR part 27, and 49 CFR part 1503 as follows:

Title 6—Domestic Security

PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

- 1. The authority citation for part 27 continues to read as follows:

Authority: 6 U.S.C. 624; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599; Pub. L. 113–254, 128 Stat. 2898, as amended by Pub. L. 116–2, 133 Stat. 5.

- 2. In § 27.300, revise paragraph (b)(3) to read as follows:

§ 27.300 Orders.

* * * * *

(b) * * *

(3) Where the Assistant Secretary determines that a facility is in violation of an Order issued pursuant to paragraph (a) of this section and issues an Order Assessing Civil Penalty pursuant to paragraph (b)(1) of this section, a chemical facility is liable to the United States for a civil penalty of not more than \$25,000 for each day during which the violation continues, if the violation of the Order occurred on or before November 2, 2015, or \$35,486 for each day during which the violation of the Order continues, if the violation occurred after November 2, 2015.

* * * * *

Title 8—Aliens and Nationality

PART 270—PENALTIES FOR DOCUMENT FRAUD

- 3. The authority citation for part 270 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321 and Pub. L. 114–74, 129 Stat. 599.

- 4. In § 270.3, revise paragraphs (b)(1)(ii)(A) through (D) to read as follows:

§ 270.3 Penalties.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) *First offense under section 274C(a)(1) through (a)(4)*. Not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$375 and not exceeding \$3,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$481 and not exceeding \$3,855 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(B) *First offense under section 274C(a)(5) or (a)(6)*. Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$407 and not exceeding \$3,251 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

(C) *Subsequent offenses under section 274C(a)(1) through (a)(4)*. Not less than \$2,200 and not more than \$5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$3,200 and not exceeding \$6,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,855 and not more than \$9,639 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(D) *Subsequent offenses under section 274C(a)(5) or (a)(6)*. Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$2,200 and not exceeding \$5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,351 and not more than \$8,128 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 5. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114– 74, 129 Stat. 599.

■ 6. In § 274a.8, revise paragraph (b) to read as follows:

§ 274a.8 Prohibition of indemnity bonds.

* * * * *

(b) *Penalty.* Any person or other entity who requires any individual to post a bond or security as stated in this section shall, after notice and opportunity for an administrative hearing in accordance with section 274A(e)(3)(B) of the Act, be subject to a civil monetary penalty of \$1,000 for each violation before September 29, 1999, of \$1,100 for each violation occurring on or after September 29, 1999 but on or before November 2, 2015, and of \$2,332 for each violation occurring after November 2, 2015, and to an administrative order requiring the return to the individual of any amounts received in violation of this section or, if the individual cannot be located, to the general fund of the Treasury.

■ 7. In § 274a.10, revise paragraphs (b)(1)(ii)(A) through (C) and the first sentence of paragraph (b)(2) to read as follows:

§ 274a.10 Penalties.

* * * * *

- (b) * * *
- (1) * * *
- (ii) * * *

(A) First offense—not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom the offense occurred before March 27, 2008; not less than \$375 and not exceeding \$3,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$583 and not more than \$4,667 for each unauthorized alien with respect to whom the offense occurred occurring after November 2, 2015;

(B) Second offense—not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom the second offense occurred before March 27, 2008; not less than \$3,200 and not more than \$6,500, for each unauthorized alien with respect to whom the

second offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$4,667 and not more than \$11,665 for each unauthorized alien with respect to whom the second offense occurred after November 2, 2015; or

(C) More than two offenses—not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before March 27, 2008; not less than \$4,300 and not exceeding \$16,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$6,999 and not more than \$23,331 for each unauthorized alien with respect to whom the third or subsequent offense occurred after November 2, 2015; and

* * * * *

(2) A respondent determined by the Service (if a respondent fails to request a hearing) or by an administrative law judge, to have failed to comply with the employment verification requirements as set forth in § 274a.2(b), shall be subject to a civil penalty in an amount of not less than \$100 and not more than \$1,000 for each individual with respect to whom such violation occurred before September 29, 1999; not less than \$110 and not more than \$1,100 for each individual with respect to whom such violation occurred on or after September 29, 1999 and on or before November 2, 2015; and not less than \$234 and not more than \$2,332 for each individual with respect to whom such violation occurred after November 2, 2015. * * *

* * * * *

PART 280—IMPOSITION AND COLLECTION OF FINES

■ 8. The authority citation for part 280 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 9. In § 280.53, revise paragraphs (b)(1) through (15) to read as follows:

§ 280.53 Civil monetary penalties inflation adjustment.

* * * * *

(b) * * *

(1) Section 231(g) of the Act, Penalties for non-compliance with arrival and departure manifest requirements for passengers, crew-

members, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States: From \$1,394 to \$1,419.

(2) Section 234 of the Act, Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens: From \$3,788 to \$3,855.

(3) Section 240B(d) of the Act, Penalties for failure to depart voluntarily: From \$1,597 minimum/\$7,987 maximum to \$1,625 minimum/\$8,128 maximum.

(4) Section 243(c)(1)(A) of the Act, Penalties for violations of removal orders relating to aliens transported on vessels or aircraft, under section 241(d) of the Act, or for costs associated with removal under section 241(e) of the Act: From \$3,195 to \$3,251.

(5) Penalties for failure to remove alien stowaways under section 241(d)(2): From \$7,987 to \$8,128.

(6) Section 251(d) of the Act, Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the Act: From \$378 to \$385; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From \$9,472 to \$9,639.

(7) Section 254(a) of the Act, Penalties for failure to control, detain, or remove alien crewmen: From \$947 minimum/ \$5,683 maximum to \$964 minimum/ \$5,783 maximum.

(8) Section 255 of the Act, Penalties for employment on passenger vessels of aliens afflicted with certain disabilities: From \$1,895 to \$1,928.

(9) Section 256 of the Act, Penalties for discharge of alien crewmen: From \$2,841 minimum/\$5,683 maximum to \$2,891 minimum/\$5,783 maximum.

(10) Section 257 of the Act, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From \$18,943 maximum to \$19,277 maximum.

(11) Section 271(a) of the Act, Penalties for failure to prevent the unauthorized landing of aliens: From \$5,683 to \$5,783.

(12) Section 272(a) of the Act, Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground: From \$5,683 to \$5,783.

(13) Section 273(b) of the Act, Penalties for bringing to the United States aliens without required documentation: From \$5,683 to \$5,783.

(14) Section 274D of the Act, Penalties for failure to depart: From \$799 maximum to \$813 maximum, for each day the alien is in violation.

(15) Section 275(b) of the Act, Penalties for improper entry: From \$80 minimum/\$400 maximum to \$81 minimum/\$407 maximum, for each entry or attempted entry.

Title 19—Customs Duties

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 10. 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; Public Law 108–7, Division B, Title II, § 211;

* * * * *

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 55111;

* * * * *

■ 11. In § 4.80, remove the heading from paragraph (b) and revise paragraphs (b)(2) and (i) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(b) * * *

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is \$300 for each passenger so transported and landed on or before November 2, 2015, and \$812 for each passenger so transported and landed after November 2, 2015 (46 U.S.C. 55103, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

* * * * *

(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 \$1352 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.

■ 12. In § 4.92, revise the third sentence to read as follows:

§ 4.92 Towing.

* * * The penalties for violation of this section occurring after November 2, 2015, are a fine of from \$946 to \$2,976 against the owner or master of the towing vessel and a further penalty against the towing vessel of \$162 per ton of the towed vessel (46 U.S.C. 55111, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

Title 33—Navigation and Navigable Waters

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 13. The authority citation for part 27 continues to read as follows:

Authority: Secs. 1–6, Pub. L. 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 14. In § 27.3, revise the third sentence of the introductory text and table 1 to read as follows:

§ 27.3 Penalty adjustment table.

* * * The adjusted civil penalty amounts listed in Table 1 to this section are applicable for penalty assessments issued after June 17, 2020, with respect to violations occurring after November 2, 2015. * * *

TABLE 1 TO § 27.3—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. code citation	Civil monetary penalty description	2020 Adjusted maximum penalty amount (\$)
14 U.S.C. 521(c).....	Saving Life and Property.....	\$10,839
14 U.S.C. 521(e).....	Saving Life and Property; Intentional Interference with Broadcast..	1,112
14 U.S.C. 645(i).....	Confidentiality of Medical Quality Assurance Records (first offense).....	5,444
14 U.S.C. 645(i).....	Confidentiality of Medical Quality Assurance Records (subsequent offenses).....	36,297
19 U.S.C. 70.....	Obstruction of Revenue Officers by Masters of Vessels.....	8,116
19 U.S.C. 70.....	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.....	1,894
19 U.S.C. 1581(d).....	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge ¹	5,000
19 U.S.C. 1581(d).....	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty ¹ .	1,000
33 U.S.C. 471.....	Anchorage Ground/Harbor Regulations General.....	11,767
33 U.S.C. 474.....	Anchorage Ground/Harbor Regulations St. Mary's River.....	812
33 U.S.C. 495(b).....	Bridges/Failure to Comply with Regulations.....	29,707
33 U.S.C. 499(c).....	Bridges/Drawbridges.....	29,707
33 U.S.C. 502(c).....	Bridges/Failure to Alter Bridge Obstructing Navigation.....	29,707
33 U.S.C. 533(b).....	Bridges/Maintenance and Operation.....	29,707
33 U.S.C. 1208(a).....	Bridge to Bridge Communication; Master, Person in Charge or Pilot...	2,164
33 U.S.C. 1208(b).....	Bridge to Bridge Communication; Vessel.....	2,164
33 U.S.C. 1321(b)(6)(B)(i).....	Oil/Hazardous Substances: Discharges (Class I per violation).....	19,277
33 U.S.C. 1321(b)(6)(B)(i).....	Oil/Hazardous Substances: Discharges (Class I total under paragraph).....	48,192
33 U.S.C. 1321(b)(6)(B)(ii).....	Oil/Hazardous Substances: Discharges (Class II per day of violation).....	19,277
33 U.S.C. 1321(b)(6)(B)(ii).....	Oil/Hazardous Substances: Discharges (Class II total under paragraph).....	240,960

U.S. code citation	Civil monetary penalty description	2020 Adjusted maximum penalty amount (\$)
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	48,192
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	1,928
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	48,192
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	48,192
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	5,783
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	192,768
33 U.S.C. 1322(j).....	Marine Sanitation Devices; Operating	8,116
33 U.S.C. 1322(j).....	Marine Sanitation Devices; Sale or Manufacture	21,640
33 U.S.C. 1608(a).....	International Navigation Rules; Operator	15,173
33 U.S.C. 1608(b).....	International Navigation Rules; Vessel	15,173
33 U.S.C. 1908(b)(1) ...	Pollution from Ships; General	75,867
33 U.S.C. 1908(b)(2) ...	Pollution from Ships; False Statement	15,173
33 U.S.C. 2072(a).....	Inland Navigation Rules; Operator	15,173
33 U.S.C. 2072(b).....	Inland Navigation Rules; Vessel.....	15,173
33 U.S.C. 2609(a).....	Shore Protection; General	53,524
33 U.S.C. 2609(b).....	Shore Protection; Operating Without Permit	21,410
33 U.S.C. 2716a(a).....	Oil Pollution Liability and Compensation	48,192
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; Civil Enforcement.....	44,124
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; related to false statements	58,833
33 U.S.C. 3852(c)	Clean Hulls; Recreational Vessels	5,883
42 U.S.C. 9609(a).....	Hazardous Substances, Releases, Liability, Compensation (Class I)	58,328

U.S. code citation	Civil monetary penalty description	2020 Adjusted maximum penalty amount (\$)
42 U.S.C. 9609(b).....	Hazardous Substances, Releases, Liability, Compensation (Class II).....	58,328
42 U.S.C. 9609(b).....	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	174,985
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment)	58,328
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	174,985
46 U.S.C. 80509(a).....	Safe Containers for International Cargo.....	6,376
46 U.S.C. 70305(c)	Suspension of Passenger Service.....	63,761
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	9,639
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing.	7,846
46 U.S.C. 2302(a).....	Negligent Operations: Recreational Vessels.....	7,097
46 U.S.C. 2302(a).....	Negligent Operations: Other Vessels .	35,486
46 U.S.C. 2302(c)(1)....	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug	7,846
46 U.S.C. 2306(a)(4) ...	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent	12,219
46 U.S.C. 2306(b)(2) ...	Vessel Reporting Requirements: Master.....	2,444
46 U.S.C. 3102(c)(1)....	Immersion Suits	12,219
46 U.S.C. 3302(i)(5) ...	Inspection Permit	2,549
46 U.S.C. 3318(a).....	Vessel Inspection; General	12,219
46 U.S.C. 3318(g).....	Vessel Inspection; Nautical School Vessel	12,219
46 U.S.C. 3318(h)	Vessel Inspection; Failure to Give Notice IAW 3304(b)	2,444
46 U.S.C. 3318(i).....	Vessel Inspection; Failure to Give Notice IAW 3309(c)	2,444
46 U.S.C. 3318(j)(1) ...	Vessel Inspection; Vessel ≥1600 Gross Tons	24,441
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel <1600 Gross Tons	4,888
46 U.S.C. 3318(k).....	Vessel Inspection; Failure to Comply with 3311(b).....	24,441
46 U.S.C. 3318(l).....	Vessel Inspection; Violation of 3318(b)–3318(f).....	12,219
46 U.S.C. 3502(e).....	List/count of Passengers	254

U.S. code citation	Civil monetary penalty description	2020 Adjusted maximum penalty amount (\$)
46 U.S.C. 3504(c)	Notification to Passengers	25,479
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets.....	1,273
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master	510
46 U.S.C. 3718(a)(1) ...	Liquid Bulk/Dangerous Cargo	63,699
46 U.S.C. 4106	Uninspected Vessels	10,705
46 U.S.C. 4311(b)(1) ...	Recreational Vessels (maximum for related series of violations)	337,016
46 U.S.C. 4311(b)(1) ...	Recreational Vessels; Violation of 4307(a)	6,740
46 U.S.C. 4311(c)	Recreational Vessels	2,549
46 U.S.C. 4507	Uninspected Commercial Fishing Industry Vessels	10,705
46 U.S.C. 4703	Abandonment of Barges	1,814
46 U.S.C. 5116(a)	Load Lines.....	11,665
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a).....	23,331
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b).....	11,665
46 U.S.C. 6103(a).....	Reporting Marine Casualties.....	40,640
46 U.S.C. 6103(b).....	Reporting Marine Casualties; Violation of 6104.....	10,705
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement	1,928
46 U.S.C. 8101(f)	Manning of Inspected Vessels.....	19,277
46 U.S.C. 8101(g).....	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	19,277
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	2,549
46 U.S.C. 8102(a).....	Watchmen on Passenger Vessels	2,549
46 U.S.C. 8103(f)	Citizenship Requirements.....	1,273
46 U.S.C. 8104(i).....	Watches on Vessels; Violation of 8104(a) or (b)	19,277
46 U.S.C. 8104(j).....	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	19,277
46 U.S.C. 8302(e).....	Staff Department on Vessels.....	254
46 U.S.C. 8304(d).....	Officer's Competency Certificates	254
46 U.S.C. 8502(e).....	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	19,277
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	19,277

U.S. code citation	Civil monetary penalty description	2020 Adjusted maximum penalty amount (\$)
46 U.S.C. 8503	Federal Pilots	61,098
46 U.S.C. 8701(d).....	Merchant Mariners Documents	1,273
46 U.S.C. 8702(e).....	Crew Requirements	19,277
46 U.S.C. 8906	Small Vessel Manning	40,640
46 U.S.C. 9308(a).....	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	19,277
46 U.S.C. 9308(b).....	Pilotage: Great Lakes; Individual	19,277
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	19,277
46 U.S.C. 10104(b).....	Failure to Report Sexual Offense	10,245
46 U.S.C. 10314(a)(2) .	Pay Advances to Seamen	1,273
46 U.S.C. 10314(b).....	Pay Advances to Seamen; Remuneration for Employment	1,273
46 U.S.C. 10315(c)	Allotment to Seamen	1,273
46 U.S.C. 10321	Seamen Protection; General	8,831
46 U.S.C. 10505(a)(2) .	Coastwise Voyages: Advances	8,831
46 U.S.C. 10505(b).....	Coastwise Voyages: Advances; Remuneration for Employment	8,831
46 U.S.C. 10508(b).....	Coastwise Voyages: Seamen Protection; General	8,831
46 U.S.C. 10711	Effects of Deceased Seamen	510
46 U.S.C. 10902(a)(2) .	Complaints of Unfitness	1,273
46 U.S.C. 10903(d).....	Proceedings on Examination of Vessel	254
46 U.S.C. 10907(b).....	Permission to Make Complaint	1,273
46 U.S.C. 11101(f).....	Accommodations for Seamen	1,273
46 U.S.C. 11102(b).....	Medicine Chests on Vessels	1,273
46 U.S.C. 11104(b).....	Destitute Seamen	254
46 U.S.C. 11105(c)	Wages on Discharge	1,273
46 U.S.C. 11303(a).....	Log Books; Master Failing to Maintain	510
46 U.S.C. 11303(b).....	Log Books; Master Failing to Make Entry	510
46 U.S.C. 11303(c)	Log Books; Late Entry	382
46 U.S.C. 11506	Carrying of Sheath Knives	127
46 U.S.C. 12151(a)(1) .	Vessel Documentation	16,687
46 U.S.C. 12151(a)(2) .	Documentation of Vessels—Related to activities involving mobile offshore drilling units	27,813
46 U.S.C. 12151(c)	Vessel Documentation; Fishery Endorsement	127,525

U.S. code citation	Civil monetary penalty description	2020 Adjusted maximum penalty amount (\$)
46 U.S.C. 12309(a).....	Numbering of Undocumented Vessels—Willful violation	12,740
46 U.S.C. 12309(b).....	Numbering of Undocumented Vessels.	2,549
46 U.S.C. 12507(b).....	Vessel Identification System	21,410
46 U.S.C. 14701	Measurement of Vessels	46,664
46 U.S.C. 14702	Measurement; False Statements	46,664
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	21,410
46 U.S.C. 31330(a)(2) .	Commercial Instruments and Maritime Liens; Mortgagor	21,410
46 U.S.C. 31330(b)(2) .	Commercial Instruments and Maritime Liens; Violation of 31329	53,524
46 U.S.C. 70036(a).....	Ports and Waterways Safety Regulations	95,881
46 U.S.C. 70041(d)(1)(B)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.....	9,639
46 U.S.C. 70041(d)(1)(C)	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel	9,639
46 U.S.C. 70041(d)(1)(D)	Vessel Navigation: Regattas or Marine Parades; Other Persons	4,819
46 U.S.C. 70119(a).....	Port Security	35,486
46 U.S.C. 70119(b).....	Port Security—Continuing Violations.	63,761
46 U.S.C. 70506	Maritime Drug Law Enforcement; Penalties	5,883
49 U.S.C. 5123(a)(1) ...	Hazardous Materials: Related to Vessels—Maximum Penalty	83,439
49 U.S.C. 5123(a)(2) ...	Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or Substantial Damage to Property.	194,691
49 U.S.C. 5123(a)(3) ...	Hazardous Materials: Related to Vessels—Training.....	502

¹ Enacted under the Tariff Act of 1930, exempt from inflation adjustments.

Title 49—Transportation

PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 15. The authority citation for part 1503 continues to read as follows:

Authority: 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907,

46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314; Pub. L. 104–134, as amended by Pub. L. 114–74.

■ 16. In § 1503.401, revise paragraphs (b)(1) and (2) and (c)(1), (2), and (3) to read as follows:

§ 1503.401 Maximum penalty amounts.

* * * * *

(b) * * *

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations that occurred after November 2, 2015 \$11,904 per violation, up to a total of \$59,522 per civil penalty action, in the case of an individual or small business concern; and

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person. For violations that occurred after November 2, 2015, \$11,904 per violation, up to a total of \$476,174 per civil penalty action, in the case of any other person.

(c) * * *

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations that occurred after November 2, 2015, \$13,910 per violation, up to a total of \$69,553 per civil penalty action, in the case of an individual (except an airman serving as an airman), or a small business concern.

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation. For violations that occurred after November 2, 2015, \$13,910 per violation, up to a total of \$556,419 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation.

(3) For violations that occurred on or before November 2, 2015, \$25,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman). For violations that occurred after November 2, 2015, \$34,777 per violation, up to a total of \$556,419 per

civil penalty action, in the case of a person (except an individual serving as an airman) operating an aircraft for the transportation of passengers or property for compensation.

CHAD R. MIZELLE,
Senior Official
Performing the Duties of the General Counsel.

[Published in the Federal Register, June 17, 2020 (85 FR 36469)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
United States-Caribbean Basin Trade Partnership Act
(CBTPA)**

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. Comments are encouraged and must be submitted (no later than July 16, 2020) to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

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** (85 FR 12000) on February 28, 2020, 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: United States-Caribbean Basin Trade Partnership Act.

OMB Number: 1651-0083.

Form Number: CBP Form 450.

Abstract: The provisions of the United States-Caribbean Basin Trade Partnership Act (CBTPA) were adopted by the U.S. with the enactment of the Trade and Development Act of 2000 (Pub. L. 106-200). The objective of the CBTPA is to expand trade benefits to countries in the Caribbean Basin. For preferential duty treatment under CBTPA, CBP requires under 19 CFR 10.234 and 10.236 that importers have a CBTPA Certification of Origin (CBP Form 450) in their possession at the time of the claim, and that importers provide it to CBP upon request. CBP Form 450 collects data such as contact information for the exporter, importer and producer, and information about the goods being claimed.

This collection of information is provided for by 19 CFR 10.224. CBP Form 450 is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=450&=Apply>.

Current Actions: This submission is being made to extend the expiration date with no change to the estimated burden hours. There are no changes to CBP Form 450 or to the data collected on this form.

Type of Review: Extension without change.

Affected Public: Businesses.

Estimated Number of Respondents: 15.

Estimated Number of Responses per Respondent: 286.13.

Estimated Total Annual Responses: 4,292.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 8,584.

Dated: June 11, 2020.

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

[Published in the Federal Register, June 16, 2020 (85 FR 36411)]