

■ 2. Section 1b.19 is revised to read as follows:

#### § 1b.19 Submissions.

In the event the Investigating Officer determines to recommend to the Commission that an entity be made the subject of a proceeding governed by part 385 of this chapter, or that an entity be made a defendant in a civil action to be brought by the Commission, the Investigating Officer shall, unless extraordinary circumstances make prompt Commission review necessary in order to prevent detriment to the public interest or irreparable harm, notify the entity that the Investigating Officer intends to make such a recommendation. Such notice shall provide sufficient information and facts to enable the entity to provide a response. Within 30 days of such notice, the entity may submit to the Investigating Officer a non-public response, which may consist of a statement of fact, argument, and/or memorandum of law, with such supporting documentation as the entity chooses, showing why a proceeding governed by part 385 of this chapter should not be instituted against said entity, or why said entity should not be made a defendant in a civil action brought by the Commission. If the response is submitted by the due date, the Investigating Officer shall present it to the Commission together with the Investigating Officer's recommendation. The Commission will consider both the Investigating Officer's recommendation and the entity's timely response in deciding whether to take further action.

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Part 592

#### Rough Diamonds Control Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") is amending the Rough Diamonds Control Regulations (the "Regulations") to add two requirements designed to enhance the collection of statistics related to importations and exportations of rough diamonds.

**DATES:** *Effective Date:* May 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director for Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Electronic and Facsimile Availability

This document and additional information concerning the Office of Foreign Assets Control are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on demand service, tel.: 202/622-0077.

##### Background

On August 4, 2003, the Office of Foreign Assets Control ("OFAC") promulgated the Rough Diamonds Control Regulations, 31 CFR part 592 (the "Regulations"), to implement Executive Order 13312 ("E.O. 13312") of July 29, 2003. E.O. 13312 was issued to implement the Clean Diamond Trade Act (Pub. L. 108-19) and the multilateral Kimberley Process Certification Scheme for rough diamonds (KPCS). The Regulations were amended on September 23, 2004, to revise certain reporting requirements (69 FR 56936). Today, OFAC is further amending the Regulations to enhance the compilation of statistical data relating to the importation and exportation of rough diamonds.

Specifically, OFAC is amending the Regulations by adding an additional note to the definition of the term *Controlled through the Kimberley Process Certification Scheme*, contained in section 592.301. Section 592.301 sets forth requirements that apply, as appropriate, to the importation into, or exportation from, the United States of any shipment of rough diamonds. The new note to this section explains that the U.S. Customs and Border Protection (CBP) will not release custody of an importation of rough diamonds, unless the import conforms with the CBP's formal entry for consumption requirements, as defined in the CBP regulations (*see* 19 CFR 141.0a(f)). In addition, OFAC is amending the Regulations to add a new section 592.502, which requires all importers and exporters of rough diamonds to file an annual report with the Department of State detailing their import, export and stockpile information.

##### Public Participation

Because the amendments to the Regulations involve a foreign affairs

function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

##### Paperwork Reduction Act

The collections of information related to 31 CFR Part 592 are contained in 31 CFR Part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0198. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

##### List of Subjects in 31 CFR Part 592

Administrative practice and procedure, Foreign trade, Exports, Imports, Kimberly Process, Penalties, Reporting and recordkeeping requirements, Rough diamond.

■ For the reasons set forth in the preamble, the Office of Foreign Assets Control amends 31 CFR part 592 as follows:

#### PART 592—ROUGH DIAMONDS CONTROL REGULATIONS

■ 1. The authority citation for part 592 continues to read as follows:

**Authority:** 3 U.S.C. 301; 31 U.S.C. 321(b); Pub. L. 108-19, 117 Stat. 631 (19 U.S.C. 3901-3913); E.O. 13312, 68 FR 45151, 3 CFR, 2003 Comp., p. 246.

##### Subpart C—General Definitions

■ 2. Amend § 592.301(b) by adding a new Note 4 to read as follows:

##### § 592.301 Controlled through the Kimberley Process Certification Scheme.

\* \* \* \* \*

(b) \* \* \*

**Note 4 to § 592.301:** As of May 21, 2008, any diamond, regardless of value, that is described in subheadings 7102.10, 7102.21 or 7102.31, Harmonized Tariff Schedule of the United States and is imported into the United States shall not be released from the custody of U.S. Customs and Border Protection (CBP) except by a formal entry for consumption, as defined in § 141.0a(f) of the CBP regulations. *See* 19 CFR 141.0a(f).

**Subpart E—Records and Reports**

■ 3. Add a new § 592.502 to read as follows:

**§ 592.502 Annual Reports by Rough Diamond Importers and Exporters.**

(a) *Requirement for reports.* Reports shall be filed annually, by April 1 of each year, covering the preceding calendar year (January 1–December 31), except the first annual report, covering the period January 1–December 31, 2007, shall be filed by September 1, 2008.

(b) *Who must report; reporting period.* All persons who import rough diamonds into the United States or export rough diamonds from the United States during the reporting period (January 1–December 31).

(c) *What must be reported.* The report need not be in any specified format but must include the following information:

(1) The contact information of the U.S. importer or exporter, including name, address, telephone number, fax number, and e-mail address;

(2) Identification of total import and/or export activity for each of the three Harmonized Tariff Schedule classifications of rough diamonds during the reporting year, including:

(A) Total amount of carats of each classification of rough diamonds imported and/or exported; and

(B) Total of all shipments of each classification of rough diamonds imported and/or exported.

(3) Information on stockpiles of rough diamonds, if any, for each of the three Harmonized Tariff Schedule classifications, as of the end of the reporting year, reported in both total carats and approximate total value. For the purposes of this section, stockpiles are defined as the amount of rough diamonds held unsold at the end of the reporting period.

(d) *Where to send report.* Reports must be filed with the Office of the Special Advisor for Conflict Diamonds, U.S. Department of State via e-mail at [USKimberleyProcess@state.gov](mailto:USKimberleyProcess@state.gov). For further information, please call that office at 202/647–1713.

(e) *Failure to file report.* Any importer or exporter who fails to file a required report shall be subject to the penalties set forth in Subpart F of this part.

Dated: May 14, 2008.

**Adam J. Szubin,**

*Director, Office of Foreign Assets Control.*

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**DEPARTMENT OF DEFENSE****Department of the Navy****32 CFR Part 706****Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS DECATUR (DDG 73) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** This rule is effective May 21, 2008 and is applicable beginning April 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS DECATUR (DDG 73) is a vessel of the Navy which, due to its special construction and purpose, cannot fully

comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii) pertaining to the vertical placement of task lights; Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, paragraph 3(c) pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

**PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972**

■ 1. The authority citation for part 706 continues to read:

**Authority:** 33 U.S.C. 1605.

■ 2. Table Four, Paragraph 16 of § 706.2 is amended by removing the entry for USS DECATUR (DDG 73).

■ 3. Table Five, of § 706.2 is amended by revising the following entry for USS DECATUR (DDG 73), to read as follows: