

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, 31 CFR part 592 (the "Regulations"), to add two requirements designed to enhance the collection of statistics related to importations and exportations of rough diamonds.

DATES: Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

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. Revise § 592.301 to read as follows:

§ 592.301 Controlled through the Kimberley Process Certification Scheme.

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Note 4 to § 592.301: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 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 section 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 email at 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: _____, 2008

Adam J. Szubin
Director, Office of Foreign Assets Control.

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