

manner as for output contracts taken into account under the private business tests, including the principles of § 1.141–7(d), treating nonqualified sales of gas or electricity under this paragraph (e)(2)(iii) as satisfying the benefits and burdens test under § 1.141–7(c)(1).

(iv) *Additional prepayments as permitted by the Commissioner.* The Commissioner may, by published guidance, set forth additional circumstances in which a prepayment does not give rise to investment-type property.

\* \* \* \* \*

**Par. 7.** Section 1.148–11 is amended by adding paragraph (j) to read as follows:

**§ 1.148–11 Effective dates.**

\* \* \* \* \*

(j) *Certain prepayments.* Section 1.148–1(e)(1) and (2) apply to bonds sold on or after October 3, 2003. Issuers may apply § 1.148–1(e)(1) and (2), in whole but not in part, to bonds sold before October 3, 2003 that are subject to § 1.148–1.

**Dale F. Hart,**

*Acting Deputy Commissioner for Services and Enforcement.*

Approved: July 25, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Parts 591 and 592

#### Rough Diamonds (Sierra Leone & Liberia) Sanctions Regulations; Rough Diamonds Control Regulations

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

**ACTION:** Interim final rule.

**SUMMARY:** The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending and issuing regulations to carry out the purposes of Executive Order 13312 of July 29, 2003, which implemented the Clean Diamond Trade Act and the Kimberley Process Certification Scheme for rough diamonds and amended prior Executive orders that served as the bases for restricting or prohibiting the importation into the United States of rough diamonds from Sierra Leone or Liberia.

**DATES:** *Effective Date:* July 30, 2003.

*Comments:* Written comments must be received no later than October 3, 2003.

**ADDRESSES:** Comments may be submitted to the Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Alternatively, comments may be submitted via facsimile to the Chief of Records at 202/622–1657 or via OFAC's Web site (<http://www.treas.gov/offices/enforcement/ofac/comment.html>).

**FOR FURTHER INFORMATION CONTACT:** OFAC's Chief of Policy Planning and Program Management, tel.: 202/622–2500, or Chief Counsel, tel.: 202/622–2410.

#### SUPPLEMENTARY INFORMATION:

##### Electronic and Facsimile Availability

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##### Background

On July 29, 2003, the President issued Executive Order 13312, taking into account enactment of the Clean Diamond Trade Act (Pub. L. 108–19), which implements the multilateral Kimberley Process Certification Scheme for rough diamonds (KPCS), and recent developments in Sierra Leone and Liberia. The Clean Diamond Trade Act requires the President, subject to certain waiver authorities, to prohibit the importation into, and exportation from, the United States of any rough diamond not controlled through the KPCS. This means shipments of rough diamonds between the United States and non-Participants in the KPCS generally are prohibited, and shipments between the United States and Participants are permitted only if they are handled in accordance with the standards, practices, and procedures of the KPCS

set out in these regulations. Executive Order 13312 implemented the Clean Diamond Trade Act and the KPCS and amended Executive Orders 13194 and 13213, which are described below.

On January 18, 2001, the President issued Executive Order 13194 (66 FR 7389, Jan. 23, 2001), taking into account United Nations Security Council Resolution (UNSCR) 1306 of July 5, 2000. This order declared a national emergency in response to the role played by the illicit trade in diamonds in fueling conflict and human rights violations in Sierra Leone (RUF) and prohibited the importation into the United States of rough diamonds from Sierra Leone that were not controlled by the Government of Sierra Leone through its Certificate of Origin regime.

On May 22, 2001, the President issued Executive Order 13213 (66 FR 28829, May 24, 2001), taking into account UNSCR 1343 of March 7, 2001. This order expanded the scope of the national emergency declared in Executive Order 13194 to respond to, among other things, the Government of Liberia's complicity in the illicit trade in rough diamonds through Liberia. Executive Order 13213 prohibited the direct or indirect importation into the United States of all rough diamonds from Liberia, whether or not such diamonds originated in Liberia.

The United Nations Security Council decided to allow the ban against the importation of rough diamonds from Sierra Leone without a certificate of origin to expire on June 4, 2003, taking into account the Government of Sierra Leone's increased efforts to control and manage its diamond industry and ensure proper control over diamond mining areas, as well as the Government's full participation in the KPCS. In addition, however, on May 6, 2003, the Security Council renewed for one year the absolute import ban on rough diamonds from Liberia based on evidence that the Government of Liberia continues to breach the measures imposed by UNSCR 1343 (2001).

Executive Order 13312 authorized the Secretary of the Treasury to promulgate rules and regulations as may be necessary to carry out the purposes of the order. To implement the order, the Office of Foreign Assets Control, acting pursuant to delegated authority, is issuing the Rough Diamonds Control Regulations and revising the Rough Diamonds (Sierra Leone & Liberia) Sanctions Regulations.