

section 5(a) of the Clean Diamond Trade Act and the Rough Diamonds Control Regulations (31 CFR part 592).

### Program Requirements

To comply with the requirements of the Act and Executive Order 13312, which implements the Clean Diamond Trade Act, the Census Bureau is amending the appropriate sections of the FTSR to specify the requirements for the mandatory electronic filing via the AES for exports of rough diamonds.

The Census Bureau is revising the following sections of the FTSR:

- Section 30.1 is amended to require mandatory filing via AES for exports of rough diamonds;
- Section 30.2 is amended to stipulate that electronic SED filing through the AES is subject to export control regulations;
- Section 30.55 is amended to require filing through AES for all exports of rough diamonds regardless of value;
- Section 30.58 is amended to require filing through AES for exports of rough diamonds destined for Canada;
- Section 30.60 is amended to require mandatory participation in the AES for filers of information on exports of rough diamonds;
- Section 30.61 is amended to require full reporting, that is, reporting of all required information under the AES filing Option 2, prior to exportation for shipments of rough diamonds;
- Section 30.63 is amended to specify the Harmonized System subheadings for rough diamond exports subject to the Clean Diamond Trade Act and the Rough Diamonds Control Regulations (31 CFR part 592) and required to be reported through the AES;
- Section 30.65 is amended to specify the requirements for annotating commercial documents with the proper proof of filing citation when exports of rough diamonds are filed through the AES, and to require the reporting of an AES confirmation number on the Kimberley Process Certificate; and
- Section 30.95 is amended to specify penalty provisions mandated by the Clean Diamond Trade Act.

The Departments of State and Homeland Security concur with the provisions contained in this notice of final rulemaking.

### Rulemaking Requirements

#### *Administrative Procedure Act*

Executive Order 13312 addresses further threats to international peace and security by the trade in conflict diamonds and implements Public Law 108–19, the Clean Diamond Trade Act. This final rule is issued in response to

Public Law 108–19 and is exempt from requirements of section 553 of the Administrative Procedures Act because it deals with a foreign affairs function of the United States (5 U.S.C. 553 (a)(1)). Therefore, the Census Bureau is not required to solicit public comment on this rule or provide a delay in the rule's effective date. No other law requires a notice of proposed rulemaking and an opportunity for public comment on this rule.

#### *Regulatory Flexibility Act*

Because a notice and opportunity for public comment are not required by 5 U.S.C. 553, or any other law for a rule regarding a foreign affairs function, a Regulatory Flexibility Analysis is not required and has not been prepared (5 U.S.C. 603 (a)).

#### *Paperwork Reduction Act*

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., chapter 35, OMB has approved on July 22, 2003, with control number 0607–0152, the collection of all information associated with the AES and the SED under this rule. We estimate that each electronic SED will take approximately 3 minutes to complete; we estimate that each paper SED will take approximately 11 minutes to complete. A decrease of 31 burden hours accounts for the difference in time it takes to complete an AES transaction versus filling out a paper SED.

#### *Executive Order 12866*

This rule has been determined to be significant for purposes of Executive Order 12866.

#### **List of Subjects in 15 CFR Part 30**

Economic statistics, foreign trade, exports, reporting and recordkeeping requirements.

- For the reasons set out in the preamble, title 15 CFR part 30, is amended as follows:

#### **PART 30—FOREIGN TRADE STATISTICS**

- 1. Revise the authority citation for part 30 to read as follows:

**Authority:** 5 U.S.C. 301; 13 U.S.C. 301–307; 19 U.S.C. 3901–3913; Reorganization Plan 5 of 1950 (3 CFR 1949–1953 Comp.,

1004); E.O. 13312; and Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended, and No. 35–2B, December 20, 1996, as amended.

#### **Subpart A—General Requirements—U.S. Principal Party in Interest (USPPI)**

- 2. In § 30.1, revise paragraph (c) to read as follows:

##### **§ 30.1 General statement of requirement for Shipper's Export Declarations.**

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(c) In lieu of filing paper SEDs as provided elsewhere in this section, when an SED would be required, the USPPI or the authorized agent is required to file shipper's export information electronically through the AES for the export of items identified on the CCL of the EAR (15 CFR Supp. No. 1 to part 774) or the USML of the ITAR (22 CFR part 121) as provided for in subpart E of this part, Electronic Filing Requirements—Shipper's Export Information. Information for items identified on the USML, including those exported under an export license exemption, must be filed electronically prior to export, unless exempted from the AES filing requirement by the State Department. For USML shipments, refer to the ITAR (22 CFR parts 120–130) for requirements concerning the AES proof of filing citation and filing time requirements. USPPIs or their authorized agents are required to file export information through the AES for shipments of rough diamonds classified under Harmonized System subheadings 7102.10, 7102.21, and 7102.31 and exported (reexported) in accordance with the Clean Diamond Trade Act and the Rough Diamonds Control Regulations (31 CFR part 592) as provided for in subpart E of this part. Use of the SED form is not permitted for reporting exports of rough diamonds. Entities serving as data entry and other forms of processing centers are not authorized to either collect or file export information on shipments of rough diamonds using any export reporting option. The USPPI or the authorized agent filing SEDs for the export of items not on the CCL, the USML, or exported (reexported) under the provisions of the Clean Diamond Trade Act and the Rough Diamonds Control Regulations (31 CFR part 592) has the option of filing this information electronically as provided for in subpart E of this part.

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- 3. In § 30.2, add paragraph (c) to read as follows:

##### **§ 30.2 Related export control requirements.**

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