

Disgorgement Plans requires that third-party administrators obtain a bond to protect against risk of loss of fair and disgorgement funds.<sup>2</sup> Obtaining a bond for funds which will be administered by a third party, but held at Treasury and disbursed by Treasury, is neither necessary nor cost efficient because these funds will not be subject to the risks of loss or other dissipation that could occur were the funds held by a private entity. Because of this, the Commission is adopting amended Rule 30-7(a)(11) to permit the Secretary to waive the bond requirement if the funds are held at Treasury, and Treasury is distributing the funds. Nevertheless, the staff may submit plans to the Commission for consideration, as it deems appropriate.

## II. Administrative Procedure Act, Regulatory Flexibility Act and Paperwork Reduction Act

The Commission finds, in accordance with Section 533(b)(3)(A) of the Administrative Procedure Act,<sup>3</sup> that this revision relates solely to agency organization, procedure, or practice. It is therefore not subject to the provisions of the Administrative Procedure Act requiring notice and opportunity for public comment. The Regulatory Flexibility Act<sup>4</sup> therefore does not apply. Because the rule relates to "agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties," it is not subject to the Small Business Regulatory Enforcement Fairness Act.<sup>5</sup>

These rules do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.<sup>6</sup>

## III. Costs and Benefits of the Amendment

The amendment is procedural and administrative in nature. The benefits to the parties are efficiency and fairness. The cost of the amendment, if any, falls on the Commission, not the parties.

## IV. Effect on Efficiency, Competition, and Capital Formation

The amendment is procedural and administrative in nature and will enhance the efficiency of the approval process for disgorgement/fair fund

plans. It will have no effect on competition or capital formation.

## V. Statutory Basis and Text of Proposed Amendment

This amendment to Rule 30a-7 is being adopted pursuant to statutory authority granted to the Commission in Section 4A of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78d-1.

### List of Subjects in 17 CFR Part 200

Authority delegation (Government agencies).

### Text of the Adopted Rule

■ For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

### PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

■ 1. The authority citation for part 200, subpart A continues to read in part as follows:

**Authority:** 15 U.S.C. 77s, 77o, 77sss, 78d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 79t, 80a-37, 80b-11, and 7202, unless otherwise noted.

\* \* \* \* \*

■ 2. Section 200.30-7 is amended by adding a sentence after the first sentence in paragraph (a)(11) to read as follows:

#### § 200.30-7 Delegation of authority to Secretary of the Commission.

\* \* \* \* \*

(a) \* \* \*

(11) \* \* \* As part of this plan approval, the requirement set forth in Rule 1105(c) (§ 201.1105(c) of this chapter) may be waived if the fair or disgorgement funds are held at the U.S. Department of the Treasury and will be disbursed by Treasury. \* \* \*

\* \* \* \* \*

Dated: October 13, 2005.

By the Commission.

**Jonathan G. Katz,**  
*Secretary.*

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Part 12

[CBP Dec. 05-33]

RIN 1505-AB61

### Extension of Import Restrictions Imposed on Certain Categories of Archaeological Material From the Pre-Hispanic Cultures of the Republic of Nicaragua

**AGENCY:** Customs and Border Protection, Homeland Security; Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends Title 19 of the Code of Federal Regulations (19 CFR) to reflect the extension of the import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of Nicaragua that were imposed by T.D. 00-75. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional 5 years, and Title 19 of the CFR is being amended to reflect this extension. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 00-75 contains the Designated List of archaeological material representing Pre-Hispanic cultures of Nicaragua.

**DATES:** *Effective Date:* October 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, George McCray, (202) 572-8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 344-1684.

### SUPPLEMENTARY INFORMATION:

#### Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19

<sup>2</sup> 17 CFR 201.1105(c). The cost of the bond may be paid as a cost of administration. The rule permits the Commission to waive the bond for good cause shown.

<sup>3</sup> 5 U.S.C. 553(b)(3)(A).

<sup>4</sup> 5 U.S.C. 601 *et seq.*

<sup>5</sup> 5 U.S.C. 804(3)(C).

<sup>6</sup> 44 U.S.C. 3501 *et seq.*

U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with the Republic of Nicaragua on October 20, 2000, concerning the imposition of import restrictions on certain categories of archeological material from the Pre-Hispanic cultures of the Republic of Nicaragua. On October 26, 2000, Customs and Border Protection (CBP) published T.D. 00-75 in the **Federal Register** (65 FR 64140), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are “effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists” (19 CFR 12.104g(a)).

After reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Nicaragua continues to be in jeopardy from pillage of Pre-Hispanic archaeological resources, made the necessary determination to extend the import restrictions for an additional five years on September 1, 2005. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The Designated List of Pre-Columbian (Pre-Hispanic) Archaeological Materials from Nicaragua covered by these import restrictions is set forth in T.D. 00-75. The Designated List and accompanying image database may also be found at the following Internet Web site address: <http://exchanges.state.gov/culprop>. The restrictions on the importation of these archaeological materials from the Republic of Nicaragua are to continue in effect for an additional 5 years. Importation of such material continues to be restricted unless:

- (1) Accompanied by appropriate export certification issued by the Government of Nicaragua; or
- (2) With respect to Pre-Columbian material from archaeological sites throughout Nicaragua, documentation exists that exportation from Nicaragua occurred prior to October 26, 2000.

**Inapplicability of Notice and Delayed Effective Date**

This amendment involves a foreign affairs function of the United States and

is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

**Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

**Executive Order 12866**

This amendment does not meet the criteria of a “significant regulatory action” as described in Executive Order 12866.

**Signing Authority**

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

**List of Subjects in 19 CFR Part 12**

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

**Amendment to CBP Regulations**

- For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

**PART 12—SPECIAL CLASSES OF MERCHANDISE**

- 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

\* \* \* \* \*

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

\* \* \* \* \*

**§ 12.104 [Amended]**

- 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Nicaragua by removing the reference to “T.D. 00-75” in the column headed “Decision No.” and adding in its place the language

“T.D. 00-75 extended by CBP Dec. 05-33”.

**Robert C. Bonner,**  
*Commissioner, Bureau of Customs and Border Protection.*

Approved: October 17, 2005.

**Timothy E. Skud,**  
*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 05-21049 Filed 10-19-05; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD05-05-098]

RIN 1625-AA08

**Special Local Regulations for Marine Events; Willoughby Bay, Norfolk, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations for “Hampton Roads Sailboard Classic”, a marine event to be held on the waters of Willoughby Bay, Norfolk, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Willoughby Bay during the event.

**DATES:** This rule is effective from 9 a.m. on October 29, 2005 to 5 p.m. on October 30, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-05-098 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dennis M. Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398-6204.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On September 2, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Special Local Regulations for Marine Events; Willoughby Bay, Norfolk, VA” in the **Federal Register** (70 FR 52338). We