

participant, the security-based swap dealer or major security-based swap participant shall report the transaction;

(2) Where one counterparty to a pre-enactment security-based swap transaction is a security-based swap dealer and the other counterparty is a major security-based swap participant, the security-based swap dealer shall report the transaction; and

(3) Where neither counterparty to a pre-enactment security-based swap transaction is security-based swap dealer or a major security-based swap participant, the counterparties to the transaction shall select the counterparty who will report the transaction.

(d) *Effective Date.* This section shall be effective beginning October 20, 2010 until January 12, 2012. If the Commission publishes permanent recordkeeping and reporting rules for security-based transactions before January 12, 2012, that rule will terminate the effectiveness of this section.

Dated: October 13, 2010.

By the Commission.

**Elizabeth M. Murphy,**  
*Secretary.*

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Part 12

[CBP Dec. 10-32]

RIN 1515-AD70

### 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, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of Nicaragua. The restrictions, which were originally imposed by Treasury Decision (T.D.) 00-75 and extended by CBP Decision (Dec.) 05-33, are due to expire on October 20, 2010. The Assistant

Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors continue to warrant the imposition of import restrictions. Accordingly, these import restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to reflect this extension until October 20, 2015. 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 that implemented 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 to which the restrictions apply.

**DATES:** *Effective Date:* October 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, Charles Steuart, Chief, Intellectual Property Rights and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0020. For operational aspects, Michael Craig, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6558.

#### SUPPLEMENTARY INFORMATION:

##### Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, implemented by the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with the Republic of Nicaragua concerning the imposition of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of Nicaragua on June 16, 1999, and following completion by the Government of Nicaragua of all internal legal requirements, the agreement entered into force on October 20, 2000. On October 26, 2000, the former U.S. Customs Service (now U.S. 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)). On October 20, 2005, CBP published CBP Dec. 05-33 in the **Federal Register** (70 FR 61031) which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of 5 years.

On February 23, 2010, the Department of State received a request by the Government of the Republic of Nicaragua to extend the Agreement, and after the Department of State proposed to extend the Agreement and reviewed the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Nicaragua continues to be in jeopardy from pillage of Pre-Hispanic archaeological resources and made the necessary determinations to extend the import restrictions for an additional five years. Diplomatic notes have been exchanged on October 15, 2010, reflecting the extension of those restrictions for an additional five year period. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect this extension of the import restrictions.

The Designated List of Pre-Hispanic Archaeological Material 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/heritage/culprop/nifact.html>.

The restrictions on the importation of these archaeological materials from the Republic of Nicaragua are to continue in effect until October 20, 2015. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

#### 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, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

### 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

Because this rule involves a foreign affairs function of the United States, it is not subject to 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;

\* \* \* \* \*

#### § 12.104g [Amended]

■ 2. In § 12.104g, paragraph (a), the table is amended in the entry for Nicaragua by removing the reference to “CBP Dec. 05—33” and adding in its place “CBP Dec. 10—32”.

**Alan Bersin,**

*Commissioner, U.S. Customs and Border Protection.*

Approved: October 15, 2010.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### 30 CFR Chapter III and 43 CFR Parts 4 and 10

**RIN 1094-AA53**

### Interior Board of Land Appeals and Other Appeals Procedures

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary is amending several existing procedural regulations governing appeals to the Interior Board of Land Appeals (IBLA); adopting new regulations governing consolidation, extensions of time, intervention, and motions in IBLA appeals; removing regulations relating to the former Interior Board of Surface Mining and Reclamation Appeals and Interior Board of Contract Appeals, which no longer exist; and correcting the address of the Office of Hearings and Appeals.

**DATES:** This rule is effective November 19, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Robert S. More, Director, Office of Hearings and Appeals, U.S. Department of the Interior, Phone 703-235-3810. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The Office of the Secretary published a proposed rule on March 8, 2007, to update regulations of the Office of Hearings and Appeals (OHA) governing appeals to IBLA under 43 CFR part 4, subparts E and L. 72 FR 10454-10466. Subpart E contains regulations governing public land hearings and appeals, while subpart L contains regulations governing surface coal mining hearings and appeals. We proposed to amend the existing regulations governing service of documents, reconsideration, statements of reasons for appeal, answers, and requests for hearings; and we proposed to add regulations governing motions for consolidation, extensions of time, and intervention, and for serving and responding to other motions.

We received comments on the proposed rule from the State of Alaska Department of Law; Carl J.D. Bauman, Esq.; Biodiversity Conservation Alliance; Chevron North America Exploration and Production Company; Earthjustice; Kentucky Resources

Council; Mary A. Nordale, Esq.; Oil & Gas Accountability Project; J. P. Tangen, Esq.; Western Resource Advocates; and Wyoming Outdoor Council. We are grateful for the suggestions from these commenters and have made a number of changes in the proposed rule in response to the comments, as explained in the section-by-section analysis below.

This final rule makes changes to a number of other provisions that were not included in the proposed rule. These changes, also explained in the section-by-section analysis, are minor technical and conforming amendments that do not require notice and comment under the Administrative Procedure Act.

#### II. Section-by-Section Analysis

##### A. 30 CFR Chapter III—Board of Surface Mining and Reclamation Appeals

This chapter in Title 30 consists of a single part, 301, entitled “Procedures under the Surface Mining Control and Reclamation Act of 1977.” Part 301, in turn, consists of a single section, 301.1, entitled “Cross reference,” which refers readers to 43 CFR part 4, subpart L, for procedures relating to appeals to the Interior Board of Surface Mining and Reclamation Appeals (IBSMA). IBSMA was abolished by Secretarial Order dated April 26, 1983, and its functions were transferred to IBLA. 48 FR 22370 (May 18, 1983). However, 30 CFR Chapter III was never updated to reflect this change.

The fact that the outdated provisions of 30 CFR Chapter III have been overlooked for the last 27 years suggests that few if any readers were even aware of the cross-reference in § 301.1. During the same period, parties have had no apparent difficulty filing surface mining appeals with IBLA under 43 CFR part 4, subpart L. Since 30 CFR Chapter III appears unnecessary as well as outdated, this rule removes it from the CFR.

##### B. 43 CFR Part 4, Subpart A—General; Office of Hearings and Appeals

This rule revises 43 CFR 4.1, entitled “Scope of authority; applicable regulations,” to reflect changes to OHA’s organization and delegations since the last revision in 1996. In March 2005, the Hearings Division referred to in § 4.1(a) was divided into three separate components: The Departmental Cases Hearings Division, the Probate Hearings Division, and the White Earth Reservation Land Settlements Act (WELSA) Hearings Division. This change was effected by a revision to OHA’s organization chapter in the Departmental Manual, 112 DM 13