

5 of that Act. The Secretary of State may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 12. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 13. This order is effective at 12:01 a.m. eastern daylight time on March 9, 2015.

Barack Obama
THE WHITE HOUSE,
March 8, 2015

ANNEX

1. Antonio José Benavides Torres [Commander of the Central Integral Strategic Defense Region of the National Armed Forces, former Director of Operations for the National Guard; born June 13, 1961]
2. Gustavo Enrique González López [Director General of the National Intelligence Service and President of the Strategic Center of Security and Protection of the Homeland; born November 2, 1960]
3. Justo José Noguera Pietri [President of the Venezuelan Corporation of Guayana, former General Commander of the National Guard; born March 15, 1961]
4. Katherine Nayarith Haringhton Padron [National Level Prosecutor of the 20th District Office of the Public Ministry; born December 5, 1971]
5. Manuel Eduardo Pérez Urdaneta [Director of the National Police; born May 26, 1962]
6. Manuel Gregorio Bernal Martínez [Chief of the 31st Armored Brigade of Caracas, former Director General of the National Intelligence Service; born July 12, 1965]
7. Miguel Alcides Vivas Landino [Inspector General of the National Armed Forces, former Commander of the Andes Integral Strategic Defense Region of the National Armed Forces; born July 8, 1961]

PART 592—ROUGH DIAMONDS CONTROL REGULATIONS

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Sec.

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- 592.603 Penalty imposition.
- 592.604 Administrative collection; referral to United States Department of Justice.
- 592.605 Finding of violation.

Subpart G—Procedures

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- 592.702 Delegation by the Secretary of the Treasury.

Subpart H—Paperwork Reduction Act

- 592.801 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 19 U.S.C. 3901–3913; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 13312, 68 FR 45151, 3 CFR, 2003 Comp., p. 246.

SOURCE: 69 FR 56938, Sept. 23, 2004, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 592.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

Subpart B—Prohibitions

§ 592.201 Prohibited importation and exportation of any rough diamond; permitted importation or exportation of any rough diamond.

(a) Except to the extent provided in paragraph (b) of this section, and notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to the effective date, the importation into, or exportation from, the United States on or after July 30, 2003, of any rough diamond, from whatever source, is prohibited, unless the rough diamond has been controlled through the Kimberley Process Certification Scheme.

(b) The prohibitions in paragraph (a) of this section regarding the importation into, or exportation from, the United States of any rough diamond not controlled through the Kimberley

Process Certification Scheme do not apply to an importation from, or exportation to, any country with respect to which the Secretary of State has granted a waiver pursuant to section 4(b) of the Clean Diamond Trade Act (Pub. L. 108–19) and section 2(a)(i) of Executive Order 13312.

NOTE TO § 592.201. An importation of any rough diamond from, or an exportation of any rough diamond to, a non-Participant is not controlled through the Kimberley Process Certification Scheme and thus is not permitted, except in the following circumstance. The Secretary of State may, pursuant to section 4(b) of the Clean Diamond Trade Act, waive the prohibitions contained in section 4(a) of that Act with respect to a particular country for periods of not more than one year each. The Secretary of State will publish a notice in the FEDERAL REGISTER identifying any country with respect to which a waiver applies and specifying the relevant time period during which the waiver will apply.

§ 592.202 Evasions; attempts; conspiracies.

(a) Notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to July 30, 2003, any transaction by a United States person anywhere, or any transaction that occurs in whole or in part within the United States, on or after the effective date that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited.

(b) Notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to July 30, 2003, any conspiracy formed to violate any of the prohibitions of this part is prohibited.

Subpart C—General Definitions

§ 592.301 Controlled through the Kimberley Process Certification Scheme.

(a) Except as otherwise provided in paragraph (b) of this section, the term *controlled through the Kimberley Process Certification Scheme* refers to the following requirements that apply, as appropriate, to the importation into the

United States from a Participant, or to the exportation from the United States to a Participant, of any shipment including any rough diamond:

(1) *Kimberley Process Certificate.* A shipment of rough diamonds imported into, or exported from, the United States must be accompanied by an original Kimberley Process Certificate. The certificate must be provided as follows:

(i) The original certificate must be presented immediately upon demand to U.S. Customs and Border Protection in connection with an importation or exportation of rough diamonds;

(ii) The person identified as the ultimate consignee (*see* Customs Directive 3550-079A) on the Customs Form 7501 Entry Summary or its electronic equivalent filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds must retain the original Kimberley Process Certificate for a period of at least five years from the date of importation (*see also* 19 CFR 12.152);

(iii) The person identified as the ultimate consignee (*see* Customs Directive 3550-079A) on the Customs Form 7501 Entry Summary or its electronic equivalent filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds must provide the certificate to the U.S. Bureau of the Census immediately after entry of the shipment in the United States. The certificate must be provided by faxing it to (800) 457-7328 or by other methods as permitted by the U.S. Bureau of the Census;

(iv) The U.S. Principal Party in Interest or U.S. authorized agent (*see* 15 CFR 30.1) must also provide the certificate to the U.S. Bureau of the Census immediately after export of the shipment of rough diamonds from the United States by faxing it to (800) 457-7328 or by other methods as permitted by the U.S. Bureau of the Census; and

(v) Any voided certificate(s) must be provided to the U.S. Bureau of the Census immediately upon voiding by faxing it to (800) 457-7328 or by other methods as permitted by the U.S. Bureau of the Census (*see* § 592.313);

(2) *Tamper-resistance requirement.* A shipment of rough diamonds imported into, or exported from, the United

States must be sealed in a tamper-resistant container;

(3) *Notification requirements for importations into the United States.* The person identified as the ultimate consignee (*see* Customs Directive 3550-079A) on the Customs Form 7501 Entry Summary or its electronic equivalent filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds must report that person's receipt of a shipment of rough diamonds to the relevant foreign exporting authority within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. The report must refer to the relevant Kimberley Process Certificate by its unique identifying number; specify the number of parcels in the shipment; specify the total carat weight of the shipment; and identify the importer and exporter of the shipment. The report need not be in any particular form and may be submitted electronically or by mail or courier; and

(4) *Issuance of Kimberley Process Certificate for exportations from the United States.* Consistent with section 5(c) of the Clean Diamond Trade Act (CDTA), the Kimberley Process Certificate accompanying a shipment of rough diamonds exported from the United States must be issued by, or on behalf of, an entity whose standards, practices, and procedures are annually reviewed by the appropriate U.S. Government agency, and that has reached an arrangement with such agency concerning the issuance of Kimberley Process Certificates consistent with the Kimberley Process Certification Scheme and the CDTA.

NOTE TO PARAGRAPH (a)(4): As reflected in a Memorandum of Understanding (MOU) among the U.S. Department of State, the U.S. Bureau of the Census, and the U.S. Kimberley Process Authority (USKPA), a non-profit association, Kimberley Process Certificates for the exportation of rough diamonds from the United States may only be issued at this time by the USKPA or by entities licensed to do so by the USKPA. Pursuant to this MOU, the U.S. Department of State annually reviews the USKPA's standards, practices, and procedures. The Secretary of State may reassign this review function to any other officers, officials, departments, and agencies within the executive branch, consistent with applicable law.

(5) *Validation of Kimberley Process Certificate for exportations from the United States.* With respect to the validation of a Kimberley Process Certificate for the exportation of rough diamonds from the United States, exporters must:

(i) Report shipments to the U.S. Bureau of the Census through the Automated Export System (AES) or a successor system and obtain an Internal Transaction Number (ITN) prior to exportation. The ITN is the number generated by the AES and assigned to a shipment confirming that an Electronic Export Information (EEI) was accepted and is on file in the AES.

(ii) Report the ITN on the Kimberley Process Certificate accompanying any exportation from the United States, which completes the validation process for the exportation of rough diamonds from the United States to a Participant.

(b) The Secretary of State, consistent with section 3(2)(B) of the Clean Diamond Trade Act (Pub. L. 108–19), may modify the requirements set forth in paragraph (a) of this section upon making a determination that a Participant has established an alternative system of control for rough diamonds that meets substantially the standards, practices, and procedures of the Kimberley Process Certification Scheme.

NOTE 1 TO § 592.301. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of all Participants and their importing and exporting authorities. Where appropriate, such listing also will describe any modification of the requirements set forth in paragraph (a) of this section.

NOTE 2 TO § 592.301. Pursuant to 31 CFR §§ 501.601 and 501.602, the recordkeeping and reporting requirements imposed by § 592.501 apply to all U.S. persons engaged in the importation into, or exportation from, the United States of any shipment of rough diamonds.

NOTE 3 TO § 592.301. Effective November 1, 2004, customs brokers, importers, and filers making entry of a shipment of rough diamonds must either submit through U.S. Customs' Automated Broker Interface (ABI) system the unique identifying number of the Kimberley Process Certificate accompanying the shipment or, for non-ABI entries, indicate the certificate number on the Customs Form 7501 Entry Summary at each entry line.

NOTE 4 TO § 592.301. As of May 21, 2008, any diamond, regardless of value, that is de-

scribed 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 § 141.0a(f) of the CBP regulations. See 19 CFR 141.0a(f).

[69 FR 56938, Sept. 23, 2004, as amended at 73 FR 29433, May 21, 2008; 83 FR 28372, June 19, 2018]

§ 592.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to all provisions of this part except for § 592.301(a)(3), 12:01 a.m., eastern daylight time, July 30, 2003; and

(b) With respect to § 592.301(a)(3), September 23, 2004.

§ 592.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 592.304 Exporting authority.

(a) The term *exporting authority* means one or more entities designated by a Participant from whose territory a shipment of rough diamonds is being exported as having the authority to validate the Kimberley Process Certificate.

(b) The exporting authority for the United States is the U.S. Bureau of the Census.

NOTE TO § 592.304. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of the exporting authorities of all Participants.

§ 592.305 Importation into the United States.

The term *importation into the United States* means the bringing of goods into the United States.

§ 592.306 Importing authority.

(a) The term *importing authority* means one or more entities designated by a Participant into whose territory a shipment of rough diamonds is being imported as having the authority to enforce the laws and regulations of the

§ 592.307

Participant regulating imports, including the verification of the Kimberley Process Certificate accompanying the shipment.

(b) The importing authorities for the United States are the U.S. Bureau of Customs and Border Protection or, in the case of a territory or possession of the United States with its own customs administration, analogous officials.

NOTE TO § 592.306. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of the importing authorities of all Participants.

§ 592.307 Kimberley Process Certificate.

The term *Kimberley Process Certificate* means a tamper- and forgery-resistant document that bears the following information in any language, provided that an English translation is incorporated:

(a) The title “Kimberley Process Certificate” and the statement: “The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds”;

(b) Country of origin for shipment of parcels of unmixed (*i.e.*, from the same) origin;

NOTE TO PARAGRAPH (b): A shipment including a parcel of mixed-origin rough diamonds is to be entered into the United States with the Kimberley Process Certificate accompanying the shipment, and the certificate need not indicate the countries of origin of the diamonds. With respect to such a shipment, the country-of-origin field on the certificate must be filled in with asterisks. The shipment must, however, still comply with all other country-of-origin reporting requirements imposed by statute or regulation.

(c) Unique numbering with the Alpha 2 country code, according to ISO 3166-1;

(d) Date of issuance;

(e) Date of expiry;

(f) Name of issuing authority;

(g) Identification of exporter and importer;

(h) Carat weight/mass;

(i) Value in U.S. dollars;

(j) Number of parcels in the shipment;

(k) Relevant Harmonized Commodity Description and Coding System; and

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(l) Validation by the exporting authority.

NOTE TO PARAGRAPH (l): See § 592.301(a)(4) for procedures governing the validation of the Kimberley Process Certificate when exporting from the United States.

§ 592.308 Participant.

The term *Participant* means a state, customs territory, or regional economic integration organization identified by the Secretary of State as one for which rough diamonds are controlled through the Kimberley Process Certification Scheme.

NOTE TO § 592.308. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of all Participants.

§ 592.309 Person.

The term *person* means an individual or entity.

§ 592.310 Rough diamond.

The term *rough diamond* means any diamond that is unworked or simply sawn, cleaved, or bruted and classifiable under subheading 7102.10, 7102.21, or 7102.31 of the Harmonized Tariff Schedule of the United States.

§ 592.311 United States.

The term *United States*, when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

§ 592.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen; any alien admitted for permanent residence into the United States; any entity organized under the laws of the United States or any jurisdiction within the United States (including its foreign branches); or any person in the United States.

§ 592.313 Voided certificate.

The term *voided certificate* means a Kimberley Process Certificate intended to be used for the exportation of rough diamonds from the United States that

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has been cancelled for reasons such as loss or error.

[83 FR 28373, June 19, 2018]

§ 592.314 Tamper-resistant container.

The term *tamper-resistant container* means packaging having an indicator or barrier to entry that could reasonably be expected to provide visible evidence that tampering had occurred. Standard mailing and express consignment packaging, or such packaging that simply contains a resealable plastic bag, is not considered to be a *tamper-resistant container*.

[83 FR 28373, June 19, 2018]

Subpart D—Interpretations

§ 592.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in this part or chapter or to any other regulation refers to the same as currently amended.

§ 592.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, or instruction issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, or instruction continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 592.403 Transshipment or transit through the United States.

The prohibitions in § 592.201 apply to the importation into, or exportation from, the United States, for transshipment or transit, of any rough diamond intended or destined for any country other than the United States, unless the shipment is sealed in a tamper-resistant container, accompanied by a Kimberley Process Certificate, and leaves the United States in the identical state in which it entered. The

validation, recordkeeping, and reporting procedures applicable to importations and exportations do not apply in this case.

§ 592.404 Importation into or release from a bonded warehouse or foreign trade zone.

The requirements of the Kimberley Process Certification Scheme apply to all imported shipments of a rough diamond, regardless of whether they are destined for entry into, or withdrawal from, a bonded warehouse or a foreign trade zone of the United States.

Subpart E—Records and Reports

§ 592.501 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart F—Penalties

§ 592.601 Penalties.

(a) Section 8 of the Clean Diamond Trade Act (the Act) (Pub. L. 108–19, 117 Stat. 631, 19 U.S.C. 3901–3913) provides that:

(1) A civil penalty not to exceed the amount set forth in section 8 of the Act may be imposed on any person who violates, or attempts to violate, any order or regulation issued under the Act;

(2) The applicable maximum civil penalty per violation of the Act is \$16,108.

(3) Whoever willfully violates, or willfully attempts to violate, any order or regulation issued under this Act shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who willfully participates in such violation may be punished by a like fine, imprisonment, or both; and

(4) Those customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall

apply with respect to any rough diamond imported in violation of the Act.

NOTE TO PARAGRAPH (a): As reflected in paragraphs (a)(1) and (2) of this section, section 8(a) of the Act establishes penalties with respect to any violation of any regulation issued under the Act. OFAC pre-penalty, penalty, and administrative collection procedures relating to such violations are set forth below in §§ 592.602 through 592.604. Section 8(c) of the Act also authorizes the U.S. Bureau of Customs and Border Protection and U.S. Immigration and Customs Enforcement, as appropriate, to enforce the penalty provisions set forth in paragraph (a) of this section and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the U.S. Bureau of the Census. The Office of Foreign Assets Control (OFAC) civil penalty procedures set forth below are separate from, and independent of, any penalty procedures that may be followed by the U.S. Bureau of Customs and Border Protection and U.S. Immigration and Customs Enforcement in their exercise of the authorities set forth in section 8(c) of the Act.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to other applicable laws.

[69 FR 56938, Sept. 23, 2004, as amended at 81 FR 43076, July 1, 2016; 82 FR 10439, Feb. 10, 2017; 83 FR 11880, Mar. 19, 2018; 83 FR 28373, June 19, 2018; 84 FR 27718, June 14, 2019; 85 FR 19888, Apr. 9, 2020; 86 FR 14538, Mar. 17, 2021; 87 FR 7373, Feb. 9, 2022; 88 FR 2234, Jan. 13, 2023]

§ 592.602 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Clean Diamond Trade Act, and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b) *Response—(1) Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice

was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Office of Compliance and Enforcement by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

[83 FR 28373, June 19, 2018]

§ 592.603 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Pen-

alty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

[83 FR 28374, June 19, 2018]

§ 592.604 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

[83 FR 28374, June 19, 2018]

§ 592.605 Finding of violation.

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Clean Diamond Trade Act;

(ii) Considers it important to document the occurrence of a violation; and,

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the

matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond*. An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; default determination*. A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(i) *Computation of time for response*. A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response*. If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response*. A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier and must be postmarked or date-stamped

in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response*. Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted*. If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(2) *Determination that a Finding of Violation is not warranted*. If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

NOTE 1 TO PARAGRAPH (c)(2): A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation*. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

[83 FR 28374, June 19, 2018]

Subpart G—Procedures**§ 592.701 Procedures.**

For procedures relating to rule-making and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 592.702 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13312 (FR vol. 68, No. 147, July 31, 2003) and any further Executive orders relating to the Clean Diamond Trade Act (Pub. L. 108–19) may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart H—Paperwork Reduction Act**§ 592.801 Paperwork Reduction Act notice.**

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of the information collections relating to the recordkeeping and reporting requirements of §§ 592.301(a)(1), subpart C, § 592.501, subpart E, and 592.603, subpart F, see § 501.901 of this chapter. The information collection requirements in §§ 592.301(a)(3) and (a)(4), subpart C, have been approved by the OMB and assigned control numbers 1505–0198 and 0607–0152, respectively. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS**Subpart A—Relation of This Part to Other Laws and Regulations**

Sec.

594.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

- 594.201 Prohibited transactions involving blocked property.
- 594.202 Effect of transfers violating the provisions of this part.
- 594.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
- 594.204 Prohibited transaction or dealing in property; contributions of funds, goods, or services.
- 594.205 Evasions; attempts; conspiracies.
- 594.206 Expenses of maintaining blocked property; liquidation of blocked property.
- 594.207 Exempt transactions.

Subpart C—General Definitions

- 594.301 Blocked account; blocked property.
- 594.302 Effective date.
- 594.303 Entity.
- 594.304 Foreign person.
- 594.305 Information or informational materials.
- 594.306 Interest.
- 594.307 Licenses; general and specific.
- 594.308 Person.
- 594.309 Property; property interest.
- 594.310 Specially designated global terrorist; SDGT.
- 594.311 Terrorism.
- 594.312 Transfer.
- 594.313 United States.
- 594.314 U.S. financial institution.
- 594.315 United States person; U.S. person.
- 594.316 [Reserved]
- 594.317 Financial, material, or technological support.
- 594.318 Agency or instrumentality of a foreign state.
- 594.319 HAMAS.
- 594.320 Hizballah.
- 594.321 Knowingly.
- 594.322 Arms or related materiel.

Subpart D—Interpretations

- 594.401 Reference to amended sections.
- 594.402 Effect of amendment.
- 594.403 Setoffs prohibited.
- 594.404 Termination and acquisition of an interest in blocked property.
- 594.405 Transactions incidental to a licensed transaction.
- 594.406 Provision of services.
- 594.407 Offshore transactions.
- 594.408 Payments from blocked accounts to satisfy obligations prohibited.
- 594.409 Charitable contributions.
- 594.410 Credit extended and cards issued by U.S. financial institutions.
- 594.411 Palestinian Authority.
- 594.412 Entities owned by one or more persons whose property and interests in property are blocked.