

SUPPORTING STATEMENT
**1505-0198, Requirement to Report Information Regarding the Shipment of Rough
Diamonds**

This filing contains the information required by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520, and 5 CFR Part 1320.

A. Justification.

1. Circumstances Making the Collection Necessary.

This application is submitted to renew the information collection authority pertaining to the Office of Foreign Assets Control's (OFAC) Rough Diamonds Control Regulations (31 CFR part 592) (the Regulations).

The Regulations were originally promulgated on August 4, 2003, pursuant to the Clean Diamond Trade Act (Pub. L. 108-19) and Executive Order 13312. At the time of their promulgation, the information collections in the regulations were authorized under OMB control number 1505-0164, which pertains to OFAC's Reporting, Procedures and Penalties Regulations (31 CFR part 501), and control number 0607-0152, which pertains to the Census Bureau's Foreign Trade Statistics Regulations (15 CFR part 30).

After consulting with the State Department and U.S. Customs and Border Protection, OFAC subsequently decided that revisions to the Regulations were necessary to more effectively implement the Clean Diamond Trade Act. One of the revisions to the Regulations was determined to require approval of a new information collection. Prior to the publication of the revised Regulations, OFAC requested an emergency processing and waiver of the generally applicable requirements of 5 CFR 1320.8(d) from OMB so that the information collection contained in the revised Regulations would be immediately enforceable upon publication. OMB granted OFAC's emergency application and, on September 23, 2004, OFAC published a final rule containing revisions to the Regulations and a request for comments on the just-approved information collection contained in the Regulations and identified by OMB Control Number 1505-0198.

This information collection is contained in § 592.301 of the Regulations, which describes requirements that apply, pursuant to § 592.201, to the importation into or exportation from the United States of any shipment including any rough diamond. In addition to the other requirements outlined in § 592.301, § 592.301(a)(3), as revised on September 23, 2004, requires the person identified as the ultimate consignee on the Customs Form 7501 Entry summary filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds to 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.

Following publication of the September 2004 revisions to the regulations, OFAC consulted with the State Department and U.S. Customs and Border Protection and determined that further revisions to the information collection contained in the Regulations and identified by OMB Control Number 1505-0198 were required. On May 21, 2008, OFAC published revisions to the Regulations intended to enhance the compilation of statistical data relating to the

importation and exportation of rough diamonds. Specifically, the May 21, 2008 revisions added new § 592.502 to the Regulations, which sets forth requirements for persons who import rough diamonds into the United States or export rough diamonds from the United States to file an annual report identifying total rough diamond import and/or export activity during the reporting year, as well as information on stockpiles of rough diamonds, if any, as of the end of the reporting year. Prior to the publication of the May 21, 2008 revisions to the Regulations, OFAC requested a revision of the information collection contained in the Regulations and identified by OMB Control Number 1505-0198. OMB provided pre-approval of the revision of the information collection on August 5, 2008. The first annual reports pursuant to § 592.502 were required to be submitted on September 1, 2008.

This collection of information is needed to monitor the integrity of international rough diamond shipments, and the information collected will be used to further OFAC's compliance and enforcement programs. The information collected will also further the effective implementation by the United States of the multilateral Kimberley Process Certification Scheme (KPCS) for rough diamonds, as implemented through the Clean Diamond Trade Act and Executive Order 13312. The KPCS is a control regime that seeks to prevent the illicit trade in rough diamonds that in the past has fueled bloodshed, instability, and human rights abuses.

2. Purpose and Use of the Information Collected.

§ 592.301(a)(3) of the Regulations requires the person identified as the ultimate consignee on the Customs Form 7501 Entry Summary filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds to 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 serial 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 purpose of this information collection requirement is to facilitate the foreign exporting authority's prompt and efficient determination as to whether a parcel of rough diamonds arrived in the United States in the same condition as when exported. Such facilitation will strengthen the proper functioning of the KPCS and, thus, implementation of the Clean Diamond Trade Act.

The information collected by foreign exporting authorities will assist in monitoring the integrity of international shipments of rough diamonds and, therefore, can be used to further the compliance and enforcement programs of OFAC, U.S. Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement, each of which has enforcement authority under the Clean Diamond Trade Act and various implementing regulations. See §§ 5(a) and 8 of the Clean Diamond Trade Act.

§ 592.502 of the Regulations requires all persons who import rough diamonds into the United States or who export rough diamonds from the United States to file with the State Department's Office of the Special Advisor for Conflict Diamonds via e-mail, on an annual basis, a report identifying total rough diamond import and/or export activity during the reporting year, as well as information on stockpiles of rough diamonds, if any, as of the end of the

reporting year.

3. Consideration Given to Information Technology.

As revised, § 592.301(a)(3) states that the report filed by the ultimate consignee need not be in any particular form and may be submitted electronically or by mail or courier. Generally, persons engaged in the rough diamond trade have indicated to the U.S. Government their intention to submit such reports usually by way of e-mail. § 592.502 states that the report need not be in any specified format, but must be filed by e-mail with the State Department.

4. Duplication of Information.

The information that OFAC requires pertains to individual transactions, as well as the records of individual importers and exporters. It is not available other than through a specific report. Each individual report of information provided is of a limited nature, separate, and unique. Thus, there is no duplication of records.

5. Reducing the Burden on Small Entities.

The information collection requirements of revised § 592.301(a)(3) and § 592.502 may affect a limited number of small businesses or other small entities that are engaged in the rough diamond trade. The reporting procedures are simple and straightforward and the estimated time to prepare and submit an individual transaction report is expected to be ten minutes. Additionally, as noted above, reports need not be in any particular form and may be submitted electronically or by mail or courier. The estimated time to prepare and submit an annual report is expected to be five hours and the report, which need not be in any specified format, is to be submitted by e-mail.

6. Consequences of not Conducting Collection.

One of the principal objectives of the KPCS, and thus the Clean Diamond Trade Act, is to safeguard the integrity of rough diamond shipments while in transit. If the individual transaction information collection is not conducted, it will be more difficult for the United States and other countries participating in the KPCS to determine whether an international rough diamond shipment has been tampered with. If the annual report information collection is not conducted, it will be more difficult for the United States to compile statistical data relating to the importation and exportation of rough diamonds, which data is used to further OFAC's compliance and enforcement programs.

Conducting the information collection on a less frequent basis would also run counter to the aim of the KPCS and the Clean Diamond Trade Act to prevent conflict diamonds from entering the legitimate channels of trade. The prompt detection of tampering has a strong deterrent effect and also will assist in the interdiction and recovery of conflict diamonds.

7. Special Circumstances.

- *Requiring respondents to report information to the agency more often than quarterly;*

Prompt and complete reporting on a transaction-by-transaction basis is consistent with the objectives of the KPCS and the Clean Diamond Trade Act and is necessary for OFAC and other implementing agencies to maintain effective compliance and enforcement.

- *Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*

Revised § 592.301(a)(3) requires the ultimate consignee to report on its receipt of the rough diamond shipment within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. This 15-day period represents the maximum period of time for the filing of required entry documents under U.S. Customs and Border Protection regulations. A 30-day requirement would potentially frustrate the objectives of the KPCS and the Clean Diamond Trade Act. As explained above, a prompt determination that a shipment may have been tampered with is important to effective compliance and enforcement.

- *Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*

Pursuant to § 501.601 of OFAC's Reporting, Penalties and Procedures Regulations (31 CFR part 501), § 592.501 of the Regulations requires respondents to retain full and accurate records relating to rough diamond shipments for five years from the date of importation. The requirement for five years of record retention, which is covered by OMB control number 1505-0164, corresponds to the statute of limitations set forth in 28 U.S.C. 2462.

- *That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;*

Though the Regulations do not themselves provide assurances of confidentiality to persons who furnish information to foreign exporting authorities, it is our understanding that those authorities have committed to safeguard commercially sensitive information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act and in conformity with the requirements of the Trade Secrets Act.

- *Requiring respondents to submit proprietary trade secret, or other confidential information unless the bureau can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

Though the Regulations do not themselves provide assurances of confidentiality to persons who furnish information to foreign exporting authorities, it is our understanding that those authorities have committed to safeguard commercially sensitive information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act and in conformity with the requirements of the Trade Secrets Act.

There are no other special circumstances. The collection of information is conducted in a

manner consistent with the guidelines in 5 CFR 1320.5.

8. Consultation with Persons Outside the Agency.

A copy of the Federal Register notice of July 10, 2014, soliciting comments can be found at 79 FR 39460. OFAC received no comments.

The State Department, U.S. Customs and Border Protection, and Treasury Department officials directly responsible for the implementation of the KPCS and the Clean Diamond Trade Act have, in recent years, participated in a series of meetings and teleconferences with numerous individuals and firms engaged in the rough diamond trade in the United States. The effectiveness of the process for confirming receipt of rough diamonds shipments has been discussed and the industry's input is reflected in § 592.301(a)(3) and § 592.502.

9. Payment or Gift.

Respondents receive no payment or gifts for providing information to OFAC.

10. Confidentiality.

Though the Regulations do not themselves provide assurances of confidentiality to persons who furnish information to foreign exporting authorities, it is our understanding that those authorities have committed to safeguard commercially sensitive information. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act and the Privacy Act and in conformity with the Trade Secrets Act.

11. Questions of a Sensitive Nature.

OFAC does not collect any Sensitive information. Any personally identifiable information (PII) that is collected is business contact information in furtherance of OFAC's compliance and enforcement programs and the effective implementation by the United States of the multilateral Kimberley Process Certification Scheme for rough diamonds.

12. Burden of Information Collection.

The anticipated number of respondents is approximately 250. OFAC expects that the majority of these respondents will report to foreign exporting authorities 10 to 15 times per year. Based on discussions with the rough diamond traders and U.S. Customs' experience, roughly 3,000 individual transaction reports are expected annually. The total number of burden hours associated with the individual transaction reports is anticipated to be 500. This is based on an estimated completion and submission time of ten minutes per report. Based on discussions with rough diamonds traders, OFAC does not expect the hour burden on respondents to vary widely. Additionally, OFAC understands that it is the customary and usual business practice for most traders to send a detailed acknowledgment of receipt of a shipment to their overseas counterparts to the transaction. The total number of burden hours associated with annual reports is anticipated to be 1,250. This is based on an estimated completion and submission time of five hours per report. The aggregate burden hours associated with this information collection is 1,750.

13. Annual Cost to Respondents.

Of the 3,250 estimated responses, a great majority are expected to be processed quickly by individuals acting on their own behalf or by clerk-level administrators. OFAC estimates the cost per burden hour of the anticipated 1,750 burden hours to be \$10 per hour, for a total cost of \$17,500.

14. Cost to the Federal Government.

There is no cost to the U.S. Government attributable to this information collection effort that would not have been incurred without the paperwork burden.

15. Reason for Change.

Not Applicable.

16. Tabulation of Results, Schedule, and Analysis Plans.

Results will not be published.

17. Display of OMB Approval Date.

The display of the OMB expiration date may cause confusion with respondents as to when this information is required. It is requested not to display this expiration date.

18. Exceptions to Certification For Paperwork Reduction Act Submission.

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.