

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

1. Circumstances Making the Collection Necessary.

This application is submitted for approval of a revision to 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 the Office of Management and Budget (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 U.S. Department of Commerce, Bureau of the Census (Census Bureau) Foreign Trade Regulations (15 CFR part 30) (FTR). After consulting with the State Department and the Department of Homeland Security, U.S. Customs and Border Protection (CBP), OFAC subsequently decided that revisions to the Regulations were necessary to more effectively implement the Clean Diamond Trade Act, including one that required approval of a new information collection. Prior to the publication of the revised Regulations, OMB granted OFAC's request for an emergency processing and waiver of the generally applicable requirements of 5 CFR § 1320.8(d) from OMB and approved a new information collection identified by OMB Control Number 1505-0198. Since that time, OFAC has revised this information collection on several occasions.

In consultation with the Census Bureau, the Department of State, and CBP, OFAC is again amending the Regulations. In coordination with a regulatory amendment by the Census Bureau, OFAC is amending § 592.301(a)(1) to incorporate existing Census Bureau requirements for submission of Kimberley Process Certificates (KPCs) in connection with the importation and exportation of rough diamonds. The Census Bureau is amending the FTR to clarify that the data it collects from KPCs is collected in compliance with the Clean Diamond Trade Act and not Title 13, United States Code (U.S.C.), and to clarify submission requirements for and permissible uses of the KPCs.

OFAC collections of information (1505-0198)

Report to foreign exporting authority. The collection of information in § 592.301(a)(3) will remain unchanged. This section requires the person identified as the ultimate consignee on the Customs Form 7501 Entry summary filed with CBP in connection with an importation of rough diamonds to report to the relevant foreign exporting authority within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. This collection has been approved by OMB under control number 1505-0198.

These collections of information are 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.

Annual State report. OFAC is removing the requirement that all rough diamond importers and exporters file annual reports with the Department of State detailing their import, export, and stockpile information as previously set forth in § 592.502. OFAC is removing this requirement as unnecessary in light of alternate sources from which to obtain relevant information.

Note that the collections of information in §§ 592.301(a)(1)(i)-(ii), 592.501, and 592.603 of the Regulations are made pursuant to OFAC's Reporting, Procedures and Penalties Regulations (31 CFR part 501) and have been approved by OMB under control number 1505-0164.

#### Census Bureau collections of information (0607-0152)

- KPC immediately after entry. In § 592.301(a)(1)(iii), OFAC is incorporating the existing requirement pursuant to the FTR that importers or customs brokers provide a copy of the KPC accompanying a shipment of rough diamonds to the Census Bureau immediately after entry of the shipment in the United States
- KPC immediately after export. In § 592.301(a)(1)(iv), OFAC is incorporating the FTR requirement that with respect to rough diamond exports, the U.S. Principal Party in Interest or U.S authorized agent, see 15 CFR § 30.1, must provide a copy of the KPC to the Census Bureau immediately after export from the United States.
- Voided KPCs. In § 592.301(a)(1)(v), OFAC is incorporating the FTR requirement that any voided certificate be provided to the Census Bureau immediately upon voiding.
- Automated Export System (AES) reporting. Section 592.301(a)(4) included a reporting requirement for exporters to report shipments to the Census Bureau through the AES in connection with an exportation of rough diamonds from the United States. OFAC is redesignating this provision as § 592.301(a)(5) and clarifying the steps necessary to validate a KPC prior to exporting rough diamonds from the United States.

Pursuant to the Census Bureau, the collections of information in § 592.301(a)(1)(iii)-(v) and in § 592.301(a)(5) related to exporter and importer reporting requirements and the Census Bureau's FTR previously were approved by OMB under control number 0607-0152. Accordingly, the remainder of this submission does not address these requirements.

## 2. Purpose and Use of the Information Collected.

Report to foreign exporting authority. Section 592.301(a)(3) of the Regulations requires the person identified as the ultimate consignee on the Customs Form 7501 Entry Summary filed with CBP 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 KPC 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, CBP, and U.S. 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.

### 3. Consideration Given to Information Technology.

Section 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.

### 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 the copy of the KPC and 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) 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.

### 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.

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;*

Section 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 CBP 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.

OFAC will be soliciting public comments on this rule when it is published.

Officials from the State Department, CBP, the Census Bureau, and the Treasury Department who are 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).

#### 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, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, and in conformity with the Trade Secrets Act, 18 U.S.C. § 1905.

#### 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 KPCS for rough diamonds.

#### 12. Burden of Information Collection.

Report to foreign exporting authority. The anticipated number of respondents is approximately 80. OFAC expects that the majority of these respondents will report to foreign exporting authorities approximately 15 times per year. Based on information from rough diamond traders and CBP, roughly 1,200 individual transaction reports are expected annually. The total number of burden hours associated with the individual transaction reports is anticipated to be 200. This is based on an estimated completion and submission time of ten minutes per report. This is a decrease from the prior based on current estimates that indicate there are fewer respondents and fewer imports than previously assumed. Based on information from 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. OFAC does not anticipate any significant change to these figures over the next three years.

Annual State report removed. The regulatory amendment removes the annual State Department reporting requirement, thus reducing the total number of burden hours by an estimated 1,250 hours. This is based on an estimated completion and submission time of five hours per report. The aggregate burden hours now associated with this information collection is 200 burden hours, a reduction of 1,550 burden hours.

<b>Reporting Requirement</b>	<b>Burden as of 10/16/14</b>	<b>Burden as of date of submission</b>
Report to foreign exporting authority	500 hours	200 hours
Annual State report	1,250 hours	0 hours

### 13. Annual Cost to Respondents.

Of the 1,200 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 200 burden hours to be \$10 per hour, for a total cost of \$2,000.

### 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.

OFAC is amending the Regulations in consultation with the U.S. Department of Commerce, the Census Bureau, the Department of State, and CBP.

Annual State report removed. OFAC is removing the requirement that all rough diamond importers and exporters file annual reports with the Department of State detailing their import, export, and stockpile information as previously set forth in § 592.502. OFAC is removing this requirement as unnecessary in light of alternate sources from which to obtain relevant information.

Report to foreign exporting authority. There is no change to the collection of information in § 592.301(a)(3) relating to reports to the relevant foreign exporting authority that was approved by OMB under control number 1505-0198.

Census Bureau collections of information (0607-0152). In coordination with a simultaneous regulatory amendment by the Census Bureau, OFAC is also amending § 592.301 to incorporate existing Census Bureau requirements for submission of KPCs in connection with the importation and exportation of rough diamonds. The Census Bureau is simultaneously amending the FTR to clarify that the data it collects from KPCs is collected in compliance with the Clean Diamond Trade Act and not Title 13, U.S.C., and to clarify submission requirements for and permissible uses of the KPCs. Pursuant to the Census Bureau, the collections of information in § 592.301(a)(1)(iii)–(v) related to exporter and importer reporting requirements and the FTR previously were approved by OMB under control number 0607-0152 and are unchanged.

There is no change to the collection of information in § 592.301(a)(5) (previously located in § 592.301(a)(4)) that relates to exporter reporting requirements and the FTR, and which remains approved by OMB under control number 0607-0152.

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.