

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 16, 2002.

Peter A. Rutledge,

Acting Regional Director, Western Regional Coordinating Center

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 501

Rules Governing Availability of Information

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Proposed rule; request for comments.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury invites public comments on a proposed rule

concerning the disclosure of certain civil penalties information. On a periodic basis, not less frequently than quarterly, OFAC intends to make public certain information about civil penalties imposed and informal settlements.

DATES: Public comments must be received by OFAC on or before July 19, 2002.

ADDRESSES: Comments may be submitted to the Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Alternatively, comments may be submitted via facsimile to the Chief of Records at 202/622-1657 or via OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/comment.html>>.

FOR FURTHER INFORMATION CONTACT: Chief of Records, tel.: 202/622-2500, or Chief Counsel, tel. 202/622-2410.

SUPPLEMENTARY INFORMATION:

Background

OFAC is committed to making its enforcement activities more transparent to the public. In an effort to achieve this goal, while balancing foreign policy considerations and the requirements of the statutes, Executive Orders, and regulations it administers and enforces, OFAC offers this notice of a proposed rule governing the public availability of certain civil penalties information. OFAC expects that making certain additional information public will promote greater awareness of its enforcement activities and encourage compliance with the economic sanctions programs OFAC administers and enforces under 31 CFR chapter V.

OFAC has already made public certain information pertaining to informal settlements of civil penalties matters in response to a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. Within a given range of dates, the FOIA requester sought, inter alia, the identity of each entity with which a civil penalties matter was settled, the nature of the alleged violation, and the amount of the settlement. OFAC is still in the process of completing its response to this particular FOIA request, but an interim release of documents generated substantial public interest.

Prospectively, OFAC intends to make public the following civil penalties information on a periodic basis, not less frequently than quarterly. In proceedings against an entity that result in either the imposition of a civil monetary penalty or an informal settlement, OFAC plans to release (1) the name of the entity involved, (2) the

sanctions program involved, (3) a brief description of the violation or alleged violation, and (4) the amount of the penalty imposed or the amount of the agreed settlement. At this time, OFAC does not plan to release the names of individuals involved in civil penalties matters, but OFAC may decide to do so in the future; we would welcome public comments on the potential disclosure of individual names in response to this notice. For the time being, penalties and informal settlements involving individuals will be included in the periodic release on an aggregate basis. The information concerning civil penalties and informal settlements will be made available to the public through OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/index.html>>.

In addition to the names of individuals, there are certain types of information that OFAC does not propose to make public under this rule. These include information relating to the Foreign Narcotics Kingpin Sanctions Regulations, trade secrets and other sensitive commercial or financial information, and information on proceedings that have not yet been completed.

Civil Penalties Proceedings Under the Kingpin Act. Section 805(e)(3) of the Foreign Narcotics Kingpin Designation Act ("FNKDA"), 21 U.S.C. 1904(e)(3), provides that a key disclosure provision of FOIA, 5 U.S.C. 552(a)(3), shall not apply to any record or information obtained or generated in the implementation of FNKDA. OFAC has implemented FNKDA through the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598, which explain that information obtained or created in the implementation of those regulations shall not be disclosed under section 552(a)(3) of FOIA. *See* 31 CFR § 598.802. In recognition of the important policies underlying this provision of FNKDA, OFAC does not plan to make public, under this proposed rule, information from civil penalties proceedings conducted under the Foreign Narcotics Kingpin Sanctions Regulations.

Trade Secrets and Commercial or Financial Information. OFAC does not intend to make public any "trade secrets and commercial or financial information obtained from a person and privileged or confidential," within the meaning of section 552(b)(4) of FOIA.

Pending Proceedings. As a matter of policy, OFAC does not publicly comment on pending enforcement and civil penalties proceedings. OFAC plans to make public the information described in this proposed rule only

after the conclusion of any such proceedings.

Electronic Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512-1387 and type "/GO FAC," or call 202/512-1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web, Telnet, or FTP protocol is <fedbbs.access.gpo.gov>.

This document and additional information concerning the Office of Foreign Assets Control are available from OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/index.html>> or via facsimile through OFAC's 24-hour fax-on-demand service, tel: 202/622-0077. Comments on this proposed rule may be submitted electronically via OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/comment.html>>.

Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is hereby certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no regulatory burdens on the public and simply announces that OFAC will publicly release certain information about civil penalties imposed and informal settlements. Accordingly, no regulatory flexibility analysis is required.

The Paperwork Reduction Act does not apply because the proposed rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* A regulatory assessment is not required because this proposed rule is not a "significant regulatory action" as defined in Executive Order 12866.

Request for Comment

OFAC invites public comments concerning this proposed rule. Comments must be received within thirty (30) days of the publication date of this notice. The address for submitting comments appears near the beginning of this notice. All relevant comments received will be made available to the public on OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/index.html>>.

List of Subjects in 31 CFR Part 501

Administrative practice and procedure, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, OFAC proposes to amend 31 CFR Part 501 to read as follows:

PART 501—REPORTING AND PROCEDURES REGULATIONS

Subpart D—Procedures

Amend § 501.805 by adding paragraph (d) to read as follows:

§ 501.805 Rules governing availability of information.

* * * * *

(d) *Certain Civil Penalties Information.* (1) After the conclusion of a civil penalties proceeding that results in either the imposition of a civil monetary penalty or an informal settlement, OFAC shall make available to the public certain information on a periodic basis, not less frequently than quarterly, as follows:

(i) In each such proceeding involving an entity, OFAC shall make available to the public

- (A) The name of the entity involved,
- (B) The sanctions program involved,
- (C) A brief description of the violation or alleged violation, and
- (D) The amount of the penalty imposed or the amount of the agreed settlement.

(ii) In such proceedings involving individuals, OFAC shall release on an aggregate basis

- (A) The number of penalties imposed and informal settlements reached,
- (B) The sanctions programs involved,
- (C) A brief description of the violations or alleged violations, and
- (D) The amounts of the penalties imposed and the amounts of the agreed settlements.

(iii) On a case-by-case basis, OFAC may release additional information concerning a particular civil penalties proceeding.

(2) The information made available pursuant to paragraph (d)(1) of this section shall not include the following:

- (i) The name of any violator or alleged violator who is an individual.
- (ii) Records or information obtained or created in the implementation of part 598 of this chapter.

Dated: June 12, 2002.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 12, 2002.

Kenneth Lawson,

*Assistant Secretary (Enforcement),
Department of the Treasury.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG-2001-11865]

RIN 2115-AG35

Notification of Arrival in U.S. Ports

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes permanent changes to its notification of arrival and departure requirements for commercial vessels greater than 300 gross tons bound for or departing from ports or places in the United States. We propose to incorporate most of the temporary changes we made following the September 11, 2001, terrorist attacks. We also propose to consolidate the notice of departure and notice of arrival; require electronic submission of cargo manifest information to U.S. Customs Service; and require additional crew and passenger information. The proposed permanent changes would help ensure public safety, security, and the uninterrupted flow of commerce.

DATES: Comments and related material must reach the Docket Management Facility on or before August 19, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before August 19, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2001-11865), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the website for the Docket Management System at <http://dms.dot.gov/>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this