

*Estimated number of respondents and/or record keepers: 50. Estimated annual frequency of responses: once or less,* given that OFAC expects that persons who voluntarily disclose their violations will take better care to avoid future violations.

Comments are invited on: (a) Whether this new collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments concerning the above information, the accuracy of estimated average annual burden, and suggestions for reducing this burden should be directed to OMB, Paperwork Reduction Project, control number 1505-0164, Washington, DC, 20503, with a copy to the Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., NW.,—Annex, Washington, DC 20220. Any such comments should be submitted not later than March 31, 2003. Comments on aspects of this proposed rule other than those involving collections of information subject to the PRA should not be sent to OMB.

## Background

OFAC hereby publishes as appendices to 31 CFR parts 501 and 515 its Guidelines for the enforcement of the various economic sanctions programs it administers. These Guidelines review OFAC's procedures for determining whether an economic sanctions violation has occurred and outline the range of enforcement options available, including the imposition of a civil monetary penalty. A schedule of proposed penalties for certain violations of the Cuban Assets Control Regulations, 31 CFR part 515, is published as a separate appendix to those particular regulations. These Guidelines serve as a general framework for OFAC's enforcement activities, but OFAC may depart from them in particular cases.

The primary mission of OFAC is to administer and enforce economic sanctions against targeted foreign countries, terrorists and terrorist organizations, and narcotic traffickers in

furtherance of U.S. foreign policy and national security objectives. OFAC acts under general Presidential wartime and national emergency powers, as well as specific legislation, to prohibit transactions and freeze (or "block") assets subject to U.S. jurisdiction. Economic sanctions are designed to deprive the target of the use of its assets and deny the target access to the U.S. financial system and the benefits of trade, transactions, and services involving U.S. markets, businesses, and individuals. These same authorities have also been used to protect assets subject to U.S. jurisdiction of countries subject to foreign occupation and to further important U.S. nonproliferation goals.

OFAC currently administers and enforces 24 economic sanctions programs pursuant to Presidential and Congressional mandates. Active enforcement of these programs is a crucial element in preserving and advancing the foreign policy and national security objectives that underlie these initiatives, usually taken in conjunction with diplomatic and occasionally military action. Penalties, both civil and criminal, serve as a deterrent to conduct that undermines or prevents these sanctions from achieving their foreign policy and national security goals. When violations occur, penalties serve a punitive purpose.

The Economic Sanctions Enforcement Guidelines (the "Guidelines") published today are intended to provide OFAC with a procedural framework of general applicability to promote consistency while allowing for the appropriate exercise of agency discretion. They are also intended to promote the transparency of OFAC's procedures and better inform the regulated community. OFAC has always sought to maximize voluntary compliance by the public with U.S. sanction laws and regulations. To further its commitment to maximize voluntary compliance, OFAC is publishing these Guidelines in the **Federal Register** for comment. These Guidelines supersede and replace internal Guidelines previously used by OFAC.

## Historical Overview of Statutory Authorities and Regulatory Framework

The United States Department of the Treasury has a long history of dealing with economic sanctions. Prior to the War of 1812, Secretary of the Treasury Gallatin administered sanctions against Great Britain, in the form of the Embargo Act and the Non-Intercourse Act, for British harassment of American sailors. In 1861, during the Civil War, Congress passed the "Trading With the

Enemy Act," which prohibited transactions with the Confederacy, called for the forfeiture of goods involved in such transactions, and provided a licensing system under rules and regulations administered by the Treasury Department. This Civil War legislation was updated as the Trading With the Enemy Act of 1917, 50 U.S.C. App. 1-44, for purposes of responding to World War I.

*OFAC and The Trading with the Enemy Act of 1917.* OFAC is the successor to the Office of Foreign Funds Control (the "FFC"), which was established at the advent of World War II following the German invasion of Norway in 1940. The FFC's initial purpose, in exercising authorities under Section 5(b) of the Trading With the Enemy Act of 1917 ("TWEA"), was to prevent Nazi use of the occupied countries' holdings of foreign exchange and securities and to prevent forced repatriation of funds belonging to nationals of those countries. These controls were later extended to protect assets of other invaded countries.

After the United States formally entered World War II, the FFC played a leading role in economic warfare against the Axis powers by blocking enemy assets and prohibiting foreign trade and financial transactions. These assets also would serve as a future source of war reparations. The FFC program was administered by the Secretary of the Treasury throughout the war. After the cessation of hostilities, most foreign property subject to protective blocking was gradually released by licenses under the Foreign Funds Control Regulations (the "FFCR"). Most enemy property was vested by the U.S. Government during and immediately after the war. Responsibility for administering the FFCR was transferred to the Attorney General (Office of Alien Property), effective October 1, 1948.

OFAC was formally created in December 1950, following the entry of China into the Korean War, when President Truman declared a national emergency under TWEA in response to the threat of international communism and blocked all Chinese and North Korean assets subject to U.S. jurisdiction. Economic sanctions against these countries, later expanded to include Vietnam and Cambodia, were promulgated at 31 CFR part 500. Part 505 was added in 1953 to restrict offshore trade with the Soviet Bloc in items of the kind controlled for export from the United States for national security reasons.

In 1963, pursuant to TWEA, President Kennedy imposed a trade embargo and ordered the blocking of assets of Cuba