

language substantially similar to the proposed rule.

Security Risks. Some commenters argued that release of this civil penalties information would provide clues to terrorists or others about which financial institutions have the weakest OFAC compliance programs. OFAC disagrees. The frequency of civil penalty actions does not necessarily correspond to the effectiveness of a financial institution's compliance program; a small community bank should be expected to have fewer incidents than a large financial institution that processes thousands of transactions daily. As noted above, this information about OFAC's civil penalties proceedings is already available to the public under FOIA, and OFAC does not see any substantial security risk in the implementation of this rule.

Additional Information. One commenter sought clarification of proposed section 501.805(d)(1)(iii), which provided that OFAC may, "[o]n a case-by-case basis, * * * release additional information concerning a particular civil penalties proceeding." This subsection has been relocated to section 501.805(d)(4) in the final rule. Section 501.805(d)(4) is intended to clarify that this rule does not restrict OFAC's ability to disclose additional information about a penalty or settlement to the extent authorized by law. For example, the Department of the Treasury occasionally issues press releases to announce the conclusion of noteworthy OFAC civil penalty actions, and these press releases may include more detail than what is contemplated in the routine releases of information under this rule. OFAC does not intend to release any trade secrets or confidential business information it may acquire during the course of a civil penalty action.

A few commenters urged OFAC to publish, in the implementation of this rule, additional information unique to each civil penalty action. Some urged publication of an analysis of aggravating and mitigating factors in each case; others urged that we describe what the affected entity could have done to avoid the incident. With respect to settlements, one commenter urged that OFAC explain why it decided to settle a case rather than pursue a penalty. At this time, OFAC does not intend to release these types of information on a regular basis as part of the implementation of this rule. Some of this information would be privileged, and in each case preparing detailed additional information would encumber the prompt and efficient implementation of this rule.

Other Comments. OFAC received a wide variety of other comments, including suggestions that OFAC develop free compliance software for banks, add a "frequently asked questions" section to its website, and publish its internal civil penalties guidelines. These matters are not addressed in the final rule because they are outside the scope of this rulemaking. We note, however, that OFAC's website does include a "frequently asked questions" section <http://www.treas.gov/ofac> and that OFAC's enforcement guidelines are due to be published in the **Federal Register** in the near future.

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This document and additional information concerning OFAC are available from OFAC's website <http://www.treas.gov/ofac> or via facsimile through OFAC's 24-hour fax-on-demand service, tel: 202/622-0077. Comments on this proposed rule may be viewed electronically via OFAC's website.

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 final rule will not have a significant economic impact on a substantial number of small entities. The 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 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 rule is not a "significant regulatory action" as defined in Executive Order 12866.

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, 31 CFR Part 501 is amended as follows:

PART 501—REPORTING AND PROCEDURES REGULATIONS

1. The authority citation continues to read as follows:

Authority: 21 U.S.C. 1901-1908; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1701-1706; 50 U.S.C. App. 1-44.

2. Section 501.805 is amended 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 routine basis, not less frequently than monthly, as follows:

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

(A) The name and address of the entity involved,

(B) The sanctions program involved,

(C) A brief description of the violation or alleged violation,

(D) A clear indication whether the proceeding resulted in an informal settlement or in the imposition of a penalty,

(E) An indication whether the entity voluntarily disclosed the violation or alleged violation to OFAC, and

(F) The amount of the penalty imposed or the amount of the agreed settlement.

(ii) In such proceedings against 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,

(D) A clear indication whether the proceedings resulted in informal settlements, in the imposition of penalties, or in administrative hearing requests pursuant to the Trading With the Enemy Act (TWEA), 50 U.S.C. 5(b), and

(E) The amounts of the penalties imposed and the amounts of the agreed settlements.