

§ 592.602

apply with respect to any rough diamond imported in violation of the Act.

NOTE TO PARAGRAPH (a). As reflected in paragraphs (a)(1) and (2) of this section, section 8(a) of the Clean Diamond Trade Act (Pub. L. 108-19) establishes penalties with respect to any violation of any regulation issued under the Act. OFAC prepenalty, penalty, and administrative collection procedures relating to such violations are set forth below in §§ 592.602 through 592.605. Section 8(c) of the Act also authorizes the U.S. Bureau of Customs and Border Protection and the U.S. Bureau of Immigration and Customs Enforcement, as appropriate, to enforce the penalty provisions set forth in paragraph (a) of this section and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the U.S. Bureau of the Census. The Office of Foreign Assets Control civil penalty procedures set forth below are separate from, and independent of, any penalty procedures that may be followed by the U.S. Bureau of Customs and Border Protection and the U.S. Bureau of Immigration and Customs Enforcement in their exercise of the authorities set forth in section 8(c) of the Clean Diamond Trade Act.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 592.602 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any regulation or order issued by or pursuant to the direction or au-

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thorization of the Secretary of the Treasury pursuant to this part or otherwise under the Clean Diamond Trade Act, and the Director determines that further civil proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice—(1) Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 592.603 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 592.603 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director of the Office of Foreign Assets Control may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable