



Office of Foreign Assets Control

31 CFR Part 539

Weapons of Mass Destruction Trade Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is amending the Weapons of Mass Destruction Trade Control Regulations to add a June 28, 2005 Executive order as an authority, remove the appendix to the part, and modify three definitions referencing the appendix.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202-622-2480; Assistant Director for Regulatory Affairs, 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC’s website: www.treasury.gov/ofac.

Background

On February 23, 1999, OFAC issued the Weapons of Mass Destruction Trade Control Regulations, 31 CFR part 539 (64 FR 8715, February 23, 1999) (the “Regulations”), to implement Executive Order (E.O.) 12938 of November 14, 1994, “Proliferation of Weapons of Mass Destruction” (59 FR 59099, November 16, 1994), as amended by E.O. 13094 of July 28, 1998, “Proliferation of Weapons of Mass Destruction” (63 FR 40803, July 30, 1998). Since that

time, OFAC has amended the Regulations to remove two names from appendix I to the Regulations (66 FR 57371, November 15, 2001).

Appendix I to the Regulations lists the names of foreign persons who are determined by the Secretary of State pursuant to section 4(a) of E.O. 12938, as amended by E.O. 13094, to have materially contributed or attempted to contribute materially to the efforts of a foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction or missiles capable of delivering such weapons, and who are subject to import measures authorized in E.O. 12938, as amended. Although appendix I to the Regulations has not been updated since November 15, 2001, the names of persons subject to the import measures authorized in E.O. 12938, as amended, are published in the *Federal Register* and maintained on the Department of State's website. All persons currently listed in appendix I to the Regulations have been determined by the Department of State to no longer be subject to the import measures authorized in E.O. 12938, as amended, and the Department of State has published these determinations in the *Federal Register*.¹ The list maintained on the Department of State's website has been updated to reflect that these persons are no longer subject to sanctions under E.O. 12938, as amended.

In addition, since November 15, 2001, E.O. 12938, as amended, has been further amended. On June 28, 2005, the President, invoking the authority of, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), issued E.O. 13382, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters” (70 FR 38567, July 1, 2005), effective at 12:01 a.m. eastern daylight time on June 29, 2005. E.O. 13382 blocks the property and interests in property of certain persons and is implemented in the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544. In addition, E.O. 13382

¹ Baltic State Technical University was removed on February 4, 2010 (74 FR 5836); Europlace 2000, Grafit, MOSO Company, and NKIET were removed on April 1, 2004 (69 FR 17262); Glakosmos was removed on March 10, 2010 (75 FR 11223); D. Mendelyev University of Chemical Technology of Russia and Moscow Aviation Institute (MAI) were removed on May 21, 2010 (75 FR 28672).

further amended section 4(a) of E.O. 12938 to add the Secretary of the Treasury as a consultative party and expand the foreign persons who could be subject to the import measures of E.O. 12938, as amended, to the following: foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items, by any person or foreign country of proliferation concern. Accordingly, OFAC is adding E.O. 13382 as an authority to the Regulations.

In light of the further amendment to section 4(a) of E.O. 12938, the removal of all persons from appendix I, and the Department of State's regular practice of publishing in the *Federal Register* notices of the determinations of the Secretary of State, in consultation with the Secretary of the Treasury, that a person meets or no longer meets the criteria of section 4(a) of E.O. 12938, as amended, OFAC is also now removing appendix I from the Regulations.

OFAC is also amending the definitions in §§ 539.301, 539.302, and 539.304 in the Regulations to reflect the removal of appendix I and making technical edits to the authority citation to conform to *Federal Register* guidance.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 539

Administrative practice and procedure, Arms and munitions, Foreign Trade, Imports, Penalties, Reporting and recordkeeping requirements, Sanctions, Services, Weapons of mass destruction.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 539 as follows:

PART 539—WEAPONS OF MASS DESTRUCTION TRADE CONTROL

REGULATIONS

1. The authority citation for part 539 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 2751–2799aa-2; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101-410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200; E.O. 13382, 70 FR 38567, 3 CFR, 2005 Comp., p. 170.

Subpart C—General Definitions

2. Revise § 539.301 to read as follows:

§ 539.301 Designated foreign person.

The term *designated foreign person* means any person determined by the Secretary of State, in consultation with the Secretary of the Treasury, to be subject to import measures pursuant to section 4(a) of Executive Order (E.O.) 12938 of November 14, 1994, as amended by E.O. 13094 of July 28, 1998 and E.O. 13382 of June 28, 2005.

Note 1 to § 539.301. The Department of State publishes in the *Federal Register* the names of persons determined to be subject to import measures pursuant to section 4(a) of E.O. 12938, as amended, and maintains a list of such persons accessible through the following page on the Department of State’s website: <https://www.state.gov/key-topics-bureau-of-international-security-and-nonproliferation/nonproliferation-sanctions/>.

§ 539.302 [Amended]

3. In §539.302, remove the last sentence of the section.

§ 539.304 [Amended]

4. Amend § 539.304 as follows:

a. Remove “person listed in appendix I to this part” everywhere it appears and add in its place “designated foreign person.”

b. Remove “entities listed in appendix I to this part” and add in its place “entities that are designated foreign persons.”

Appendix I to Part 539 [Removed]

5. Remove appendix I.

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