PERIODIC REPORT ON THE NATIONAL EMERGENCY
WITH RESPECT TO THE WESTERN BALKANS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A SIX MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY
WITH RESPECT TO THE WESTERN BALKANS THAT WAS DECLARED IN EXECUTIVE ORDER 13219 OF JUNE 26, 2001, PURSUANT TO 50 U.S.C. 1641(c) AND 50 U.S.C. 1703(c)

FEBRUARY 4, 2003.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
19-011 WASHINGTON : 2003
To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month report prepared by my Administration on the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001.

GEORGE W. BUSH.

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE WESTERN BALKANS

This report to the Congress addresses developments over the course of the past 6 months concerning the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001, in response to the threats to peace and international stabilization efforts in the Western Balkans resulting from the actions of persons engaged in, or assisting, sponsoring, or supporting, (i) extremist violence in the former Yugoslav Republic of Macedonia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c).


2. In the 6-month period since June 27, 2002, OFAC designated three individuals meeting the criteria for blocking under Executive Order 13219. During this period, OFAC has issued no specific licenses authorizing transactions otherwise prohibited by the Regulations, and has neither assessed nor collected any civil monetary penalty for a violation of the Regulations. OFAC continues to administer the Western Balkans sanctions and to disseminate details of this program to the financial, securities, and international trade communities by both electronic and conventional media.

3. The expenses incurred by the Federal Government in the 6-month period from June 27 to December 26, 2002, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to the Western Balkans, are estimated at approximately $90,000, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of the State.

4. The situation in the Western Balkans continues to present an extraordinary and unusual threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to deal with this unusual and extraordinary threat and will report periodically to the Congress on significant developments as required by law.
DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1
[TD 8092]
RIN 1545-AW87
Equity Options With Flexible Terms—Qualifying Co-Governed Call Treatment; Suspension of Rule
AGENCY: Internal Revenue Service (IRS), Treasury.
ACTION: Suspension of final rule and announcement of new effective date.
SUMMARY: This document suspends a final rule that was published in the Federal Register on Monday, April 22, 2002 (77 FR 23351) providing guidance on the application of the rules governing qualified co-governed calls.
DATES: The final rule published April 22, 2002 (77 FR 23351) is suspended effective April 29, 2002. That rule will be effective July 31, 2002.
FOR FURTHER INFORMATION CONTACT: Pamela L. (202) 622-9596 (not a toll free number).
LaNita Van Dyke,
Paroleal Specialist, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).
For the IRS.
April 22, 2002.

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1, 2, and 601
[TD 8032]
RIN 1545-AWS7
Information Reporting for Payments of Interest on Qualified Education Loans—Magnetic Media Filing Requirements for Information Returns, Correc tions
AGENCY: Internal Revenue Service (IRS), Treasury.
ACTION: Correction to final regulations.
SUMMARY: This document contains a correction to final regulations (TD 8012), which were published in the Federal Register on Monday, April 29, 2002 (77 FR 23392), for payments of interest on qualified education loans, including the filing of information returns on magnetic media. This correction is effective April 29, 2002.

Supplementary Information
Background
The final regulations that are subject to this correction are under section 6095 of the Internal Revenue Code.
Need for Correction
As published, final regulations (TD 8012) contain an error that may prove to be misleading and is in need of clarification.
Correction of Publication
Accordingly, the publication of final regulations (TD 8012), which were the subject of FR Doc. 02-9981, is corrected as follows:

DEPARTMENT OF THE TREASURY
Office of Foreign Assets Control
31 CFR Part 585
Western Balkans Transactions Regulations
AGENCY: Office of Foreign Assets Control, Treasury.
ACTION: Interim final rule.
SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing regulations to carry out the purposes of Executive Order 13225 of June 26, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism; International Stabilization Efforts in the Western Balkans;"
DATES: Effective Date: May 30, 2002.
Comments: Written comments must be received no later than July 29, 2002.
ADDRESS: Comments may be sent either via regular mail to the attention of Chief, Policy Planning and Program Management Division, enr. 2376, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave NW, Washington, DC 20222, or via OFAC’s website (http://www.treas.gov/frac).
Section 1 of the order blocks, with certain exceptions, all property and interests in property of (1) persons listed in the Annex to the order and (2) persons designated by the Secretary of the Treasury, pursuant to criteria set forth in the order. Section 1 of the order further states that the blocking of property and interests in property includes, but is not limited to, the prohibition of purchasing or receiving from a United States person, any contribution or provision of goods or services to or for the benefit of a person designated in or pursuant to the order.

Section 2 of the order prohibits any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the order, as well as any conspiracy formed to violate such prohibitions.

Section 4 of the order authorizes the Secretary of the Treasury, in consultation with the Secretaries of State, Commerce, and the Attorney General, to administer the regulations and to issue such orders as may be necessary to carry out the purposes of the order. In furtherance of such purposes, the Department of the Treasury's Office of Foreign Assets Control ("OFAC"). acting under authority delegated by the Secretary of the Treasury, is promulgating the Western Hemisphere Sanctions Regulations, 31 CFR part 540.2 ("Regulations").

Subpart B of the Regulations sets forth in sections 1 through 3 of the order. See 55 FR 54201, 54203; and 31 CFR chapter V. The Regulations are the first of their kind and have been designed to be as comprehensive and as effective as possible. They provide for the blocking of foreign assets and the blocking of transactions between United States persons and foreign persons. The Regulations also provide for the blocking of foreign persons and their transactions with United States persons. The Regulations are intended to be as comprehensive and as effective as possible.

Section 5 of the order sets forth in sections 4 through 6 of the Regulations. This section provides for the blocking of property and interests in property of any person who is a substantial part owner of a blocked entity. The Regulations are the first of their kind and have been designed to be as comprehensive and as effective as possible. They provide for the blocking of foreign assets and the blocking of transactions between United States persons and foreign persons. The Regulations also provide for the blocking of foreign persons and their transactions with United States persons. The Regulations are intended to be as comprehensive and as effective as possible.

Subject to the provisions of the Regulations, the Secretary of the Treasury may block all property and interests in property of any person who is a substantial part owner of a blocked entity. The Regulations are the first of their kind and have been designed to be as comprehensive and as effective as possible. They provide for the blocking of foreign assets and the blocking of transactions between United States persons and foreign persons. The Regulations also provide for the blocking of foreign persons and their transactions with United States persons. The Regulations are intended to be as comprehensive and as effective as possible.

Accordingly, the Department encourages interested persons to submit written comments on the Regulations at the earliest possible time, to permit the Department to consider their views and recommendations before finalizing the Regulations. Comments may be submitted by any means, including by electronic mail, to: OFAC. Department of the Treasury, P.O. Box 861, Washington, D.C. 20224. Comments should be submitted, in writing, to the Secretary of the Treasury, in consultation with the Secretaries of State, Commerce, and the Attorney General, to administer the regulations and to issue such orders as may be necessary to carry out the purposes of the order. In furtherance of such purposes, the Department of the Treasury's Office of Foreign Assets Control ("OFAC"). acting under authority delegated by the Secretary of the Treasury, is promulgating the Western Hemisphere Sanctions Regulations, 31 CFR part 540.2 ("Regulations").

Subpart B of the Regulations sets forth in sections 1 through 3 of the order. See 55 FR 54201, 54203; and 31 CFR chapter V. The Regulations are the first of their kind and have been designed to be as comprehensive and as effective as possible. They provide for the blocking of foreign assets and the blocking of transactions between United States persons and foreign persons. The Regulations also provide for the blocking of foreign persons and their transactions with United States persons. The Regulations are intended to be as comprehensive and as effective as possible.
Subpart A—Relation of This Part to Other Laws and Regulations

§584.101 Relation of this part to other laws and regulations.

This part is separate, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Failing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to these other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§584.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, letters, or otherwise, and notwithstanding any contracts entered into or any license or permission granted prior to the effective date, property or interests in property of the following persons, and any successor or assign of those persons, or any entity that controls or is under common control with such persons, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13224 of June 26, 2001 (66 FR 38190, August 9, 2001; 3 CFR, 2002 Comp., p. 790); and

(2) Any person designated by the Secretary of the Treasury, in consultation with the Secretary of State, because those persons:

(i) Have committed, or pose a significant risk of committing, acts of violence that have the purpose or effect of debilitating or destabilizing the economy or security of any area or state in the Western Balkans region, undermining the authority, efforts, or objectives of international organizations or entities present in the region, or endangering the safety of persons participating in or providing support for the activities of those international organizations or entities; or

(ii) To have actively obstructed, or to pose a significant risk of actively obstructing, implementation of the Dayton Accords as set forth in the United Nations Security Council Resolution 744 of June 18, 1999, in Kosovo; and

(iii) Maturity to take, or controlled by, or acting or purporting to act directly or indirectly for or on behalf of any person designated in the Annex to Executive Order 13224, or any person otherwise designated by the Secretary of the Treasury pursuant to this section.

Note to paragraph (a): The annex of persons whose property or interests in property orblocked property are subject to this section will be published on the OFAC Web site maintained in the Federal Register and incorporated in an ongoing basis with the identification (DELAJAN) into appendix A to 31 CFR chapter V, Sections 510.600-.620. The thresholds of paragraph (a) of this section will be published on OFAC's Web site maintained in the Federal Register and incorporated in an ongoing basis with the identification (DELAJAN) into appendix A to 31 CFR chapter V, Sections 510.600-.620.
(b) The blocking of property and interests in property pursuant to paragraph (a) of this section includes, but is not limited to, the prohibition of the making or receiving by a United Nations person of any contribution or provision of funds, goods or services to or for the benefit of a person whose property or interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license or covered by an exemption applicable to this part, any title to or interest in any property whose property or interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof, disposition, remittance, receipt, allocation, or withdrawal of any such security or the endorsement or assignment of any of such security), in any form, of any interest in property whose property or interests in property are blocked pursuant to paragraph (a) of this section.

§588.213 - Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, rule, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to §588.210(a), is null and void and shall not be the basis for the assertion or recognition, by the United States or right, vested, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, vested, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to §588.210(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any writings had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), this part, and any regulations, order, directive, rule, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person who held such property was not, in good faith, aware of the circumstances relating to such transfers at the time the transfer was made; and

(3) Such transfers were made subject to and in compliance with the terms and conditions of the license.

§588.213(c) - Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, rule, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to §588.210(a), is null and void and shall not be the basis for the assertion or recognition, by the United States or right, vested, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, vested, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to §588.210(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any writings had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), this part, and any regulations, order, directive, rule, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person who held such property was not, in good faith, aware of the circumstances relating to such transfers at the time the transfer was made; and

(3) Such transfers were made subject to and in compliance with the terms and conditions of the license.
(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to §588.201(a) may continue to be held in the same type of accounts or instruments, provided that the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to §588.201(a).

(f) If blocked funds are subject to this section, they may be held, invested, or reinvested in a manner that provides immediate financial or economic benefit to access to any person whose property or interests in property are blocked pursuant to §588.201(a), or to any person who has otherwise shown an interest in blocked funds or other assets.

§588.204 Exemptions: attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States after the effective date that involves or affects, or attempts to involve or affect, any prohibited transaction is prohibited.

(b) Except as otherwise authorized, a transaction by an entity or a person acting on behalf of an entity or a person who is resident or has a principal place of business in the United States after the effective date that involves or affects, or attempts to involve or affect, any prohibited transaction is prohibited.

§588.205 Exercising of blocking order property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m., eastern daylight time, June 27, 2001, any expenses incurred in the maintenance of physical property blocked pursuant to §588.201(a) shall be the responsibility of the owner or operators of such property, which expenses shall not be paid from blocked funds.

(b) Property blocked pursuant to §588.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§588.206 Exempt transactions.

(a) Personal communications. The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) Information or informational materials. (1) The importation for any country and the exportation to any country of information or informational materials, as defined in §588.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodicals; publications); provision of services to market, produce or reproduce, create, or assist in the creation of information or informational materials, or to the provision of marketing and sales-related services; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to §588.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(c) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730-774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity or capacity on telecommunications transmission facilities (such as satellite or terrestrial networking) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to §588.201(a) are prohibited.

(d) The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including transportation or importation of accommodations, baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangements or facilitation of such travel including unscheduled air, sea, or land voyages.

Subpart C—General Definitions

§588.301 Blocked account; blocked property.

(a) The terms blocked account and blocked property shall mean an account or property subject to the prohibitions in §§588.301 to 588.307, held in the name of a person whose property or interests in property are blocked pursuant to §588.201(a), or to which such person has an interest, and with respect to which payments, transfers, deposits, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§588.302 Effective date.

The term effective date refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property or interests in property are blocked pursuant to §588.201(d)(1), 12:01 a.m., eastern daylight time, June 27, 2001.

(b) With respect to a person whose property or interests in property are blocked pursuant to §588.201(d)(2), the earlier of the date on which is received actual or constructive notice of such person's designation by the Secretary of the Treasury.

§588.303 Entity.

The term entity means a partnership, association, trust, joint venture, corporation, group, sub-group, or other organization.

§588.304 Information or informational materials.

(a) For purposes of this part, the term information or informational materials includes, but is not limited to, publications, films, posters, pamphlets, records, photographs, microfilms, microfiche, tapes, compact discs, CD-ROMs, networks, and news wire feeds.

Note to paragraph (a) of §588.304: To be considered information or informational materials...
materials, goods, or articles must be classified under chapter heading 1021, 1281, or 1701 of the Harmonized Tariff Schedule of the United States.

(b) The term "information or informational material," with respect to United States persons, does not include: 
(1) That done, as of April 20, 1994, or that thereafter became, controlled for export pursuant to section 3 of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2439 (1978) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or nonproliferation policies of the United States; or
(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 588.305 Interest.

Except as otherwise provided in this part, the term "interest" is used with respect to property (e.g., "an interest in property") as an interest in any nature whatsoever, direct or indirect.

§ 588.310 License; general and specific.

(a) Except as otherwise specified, the term "license" means any license or authorization contained in or issued pursuant to this part.

(b) The term "general license" means any license or authorization that is not set forth in subpart E of this part.

(c) The term "specific license" means any license or authorization that is set forth in subpart E of this part but is issued pursuant to this part.

Note to § 588.310: See 50 CFR 401 of this chapter on licensing procedures.

§ 588.317 Person.

The term "person" means an individual or an entity.

§ 588.306 Property; property interest.

The terms "property" and "property interest" are not limited to: money, cash, drafts, billion, bank deposits, savings accounts, drafts, indorsements, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bearer securities, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indubitable, letters of credit and any documents relating to any right or obligation therefor, powers of attorney, goods, ware, merchandise, choses in action, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, lease contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trademarks, copyrights, insurance policies, seaport deposits and their coupons, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interest therein, present, future or contingent.

§ 588.309 Transfer.

The term "transfer" means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, destroy, release, convert, suspend, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement, the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien, the issuance, depositing, filling, or levy of or under any judgment, decree, attachment, insolvency, execution, or any judicial or administrative process or order, or the service of any legal process; the acquisition of any interest in any nature whatsoever by means of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisitions, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 588.303 United States.

The term "United States" means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 588.311 U.S. financial institution.

The term "U.S. financial institution" means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent, including but not limited to, depository, institutions, banks, savings banks, trust companies, mortgage brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodity exchanges, clearing corporations, investment companies, employer benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes foreign branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 588.312 United States person; U.S. person.

The term "United States person" or "U.S. person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 588.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 588.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeiture, and liabilities under any such order, regulation, ruling, instruction, directive, or license continue in effect as if such amendment, modification, or revocation had not been made.

§ 588.403 Termination and acquisition of an interest in blocked property.

When a transaction is licensed or authorized by or pursuant to this part results in the transfer or disposition of any property (including any property interest) away from a person, such property shall no longer be deemed to be property
regarding the prohibition in §588.291 in transactions involving blocked property applies to transactions by any U.S. person in a location outside the United States.

With respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to §588.291(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to §588.291(a) has or has had an interest since the effective date.

Payments from blocked accounts to satisfy obligations prohibited. Pursuit to §588.291, no debit may be made to a blocked account to pay obligations to U.S. persons or others, except as authorized pursuant to this part.

Charitable contributions. Unless otherwise specifically authorized by the Office of Foreign Assets Control, no charitable contributions or donations of funds, goods, services, or technology may be made to or for the benefit of a person whose property or interests in property are blocked pursuant to §588.291(a). For purposes of this part, contributions to, or donations of funds, goods, services, or technology made to or for the benefit of a person whose property or interests in property are blocked pursuant to §588.291(a) if made to or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, each person or, if made in an attempt to evade, to evade or to avoid the use of the provision of contributions or donations to such a person.

Credit extended and cards issued by U.S. financial institutions.

The prohibition in §588.291 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property or interests in property are blocked pursuant to §588.291(a).

Safeguards comprehensively prohibits. An activity subject to another prohibition, whether or not a U.S. financial institution or credit card is a prohibited transaction under §588.291(a) is prohibited after the effective date.

Appendix E—Licensees, Authorization and Statements of Licensing Policy

General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

Effect of License or Authorization.

No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(5) regulation, ruling, instruction, or license authorizing any transaction prohibited under this part has the effect of enacting a prohibition contained in this part on the transaction, but only to the extent specifically stated in the terms. Unless the regulation, ruling, instruction, or license otherwise specifies, any license, authority, or authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

Exclusion of licenses.

The Director of the Office of Foreign Assets Control exercises the authority to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to §588.291(a) has any interest, that comes within the possession or control of a U.S. financial institution.
Institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note: See §588.601. Please refer to §581.603 of this chapter for mandatory reporting requirements regarding financial institutions, see also §581.605 concerning the obligation to hold blocked funds in interest-bearing accounts.

§588.605—Entitled in certain accounts for normal service charges authorized.
(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed by the owner of that blocked account.

(b) As used in this section, the term "normal service charge" shall include charges in payment or reimbursement for interest, service, telephone, telegraph, demand, service, credit card, or similar fees, and charges for reference services such as courier, clearing, collection, and related services.

§588.606—Investment and reinvestment of certain funds.
Subject to the requirements of §588.202, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to §588.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name as the U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds are segregated;

(c) No indirect financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to §588.201(a).

§588.607—Provision of certain legal services authorized.
(a) The provision of the following legal services, in or on behalf of persons whose property or interests in property are blocked pursuant to §588.201(a), is authorized provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

(b) Provision of legal advice and counseling on the requirements and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part; and

(c) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(d) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(e) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against each person; and

(f) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(g) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to §588.201(a), or otherwise authorized in this part, requires the issuance of a specific license.

(h) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or order by other means, or otherwise permitted to persons whose property or interests in property are blocked pursuant to §588.201(a) is prohibited unless specifically licensed in accordance with §588.202.

§588.608—Authorization of emergency medical services.
The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to §588.201(a) is authorized provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports
§588.601—Records and reports.
For provisions relating to required records and reports, see part 501, subpart C, of this chapter.

§588.602—Reportkeeping and recordkeeping requirements imposed by part 501 of this chapter with respect to prohibited transactions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties
§588.701—Penalties.
(a) Attention is directed to section 216 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 2401), which is applicable to violations of the provisions of any license, order, regulation, or other sanction imposed by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 235 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-508, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $10,000 per violation may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act; and

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3553.

(c) Attention is also directed to 18 U.S.C. 1005, which provides that whosoever, in any manner within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and with intent to defraud, cheat, trick, or wheats, any one person, does make or attempt to make such false writing or document knowing the same to contain any material false and 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 representation, 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.

§538.702 Prepayment notice.

(a) When required. If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has been a violation of the provisions of this part or a violation of the regulations, ruling, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, the Director determinates that further proceedings are warranted, the Director shall not be the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepayment notice. The prepayment notice shall be in writing. The prepayment notice may be issued whenever or not another agency has taken any action with respect to the matter.

(b) Contents of notice. The prepayment notice shall set forth the violation, specify the law and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(c) Right to respond. The prepayment notice also shall inform the respondent of the director's right to make a written presentation within the applicable period set forth in §538.703 as to why a monetary penalty should not be imposed or why it should be in a lesser amount than proposed.

(d) Incomplete settlement prior to issuance of notice. At any time prior to the issuance of a prepayment notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withdraw issuance of the prepayment notice for a period not to exceed sixty days and enter into settlement negotiations of the potential civil monetary penalty claim.

§538.703 Response to prepayment notice; informal settlement.

(a) Deadline for response. The respondent may submit a response to the prepayment notice within the applicable sixty-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepayment notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(b) Computation of time for response. A response to the prepayment notice must be postmarked or date-stamped by the U.S. Postal Service or foreign postal service, if mailed abroad, or other service provider if transmitted to OFAC by certified or registered mail on or before the 30th day after the postmark date on the enveloped in which the prepayment notice was mailed. If the respondent refuses delivery or otherwise avoids receipt of the prepayment notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped return receipt maintained at the Office of Foreign Assets Control. If the prepayment notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(c) Extension of time for response. If a date falls on a federal holiday or weekend, that date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(d) Form and method of response. The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(e) Contents of response. A written response must contain information sufficient to indicate that it is in response to the prepayment notice.

(f) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(g) A written response should either admit or deny each specific violation alleged in the prepayment notice and also state if the respondent has any knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepayment notice, that alleged violation shall be deemed to be admitted.

(h) A written response should include any information in defense, evidence in support of a denial, defense, or other factor that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repledged in the written response. Any defense not raised in the written response will be considered waived.

(i) Written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(j) Default. If the respondent fails to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will consider the respondent not to respond to the prepayment notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the prepayment notice.

(k) Informal settlement. In addition to or in lieu of a written response to a prepayment notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as provided in the prepayment notice to propose a settlement of all or any of the allegations contained in the prepayment notice and related matters. However, the requirements set forth in paragraph (b) of this section as to oral communication by the representative of the respondent shall be removed from the outset of settlement at the prepayment stage, and any agreement reached in the prepayment notice will be withdrawn, the respondent will not be required to sign a written agreement, and all allegations contained in the prepayment notice and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in the prepayment notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event an settlement is reached, the time limit set forth in paragraph (a) of this section for written response to the prepayment notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(l) Representation. A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written response regarding any specific allegations contained in the prepayment notice must be preceded by a written letter of representation, unless the
prepenalty notice was served upon the respondent in care of the representative.

§ 589.214 Penalty imposition or withdrawal.

(a) No violation is, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determined that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and the imposition of the proposed monetary penalty.

(b) Violation. (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 51 U.S.C. 7758(b)(1)(B). Such number will be used for purposes of collecting and reporting any delinquent penalty amount.

(4) The issuance of the penalty notice for any violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 589.715 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury to the United States Department of Justice for appropriate action to recover the penalty as a civil suit in a federal district court.

Subpart H—Procedures

§ 589.801 Procedures.

For license applications and procedures relating to amendments, modifications, or revocations of licenses, administrative decisions, reclassifications, and requests for documents pursuant to the Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a), see part 910, subpart D, of this chapter.

§ 589.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13208 of June 26, 2006 (3 CFR, 2006 Comp., p. 775), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control as by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 589.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 589.801 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.


R. Richard Newcomb, Director, Office of Foreign Assets Control.

[FR Doc. 02-10451 Filed 5-24-02; 8:31 am]

BILLING CODE 4810-2P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 97-06-019]

RIN 2115-AG67

Druginter Operation Regulations:

Lady's Island Bridge Project, Intracoastal Waterway (AIWW), Beaufort, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting, with changes, the interim rule published in the Federal Register on July 20, 1999, governing the operation of the Lady's Island Bridge at Beaufort, South Carolina. This rule changes the operating requirements from a seasonal operating schedule to an annual schedule that coincides with daily traffic volume. This rule will accommodate the needs of roadway traffic and still provide for the reasonable needs of navigation. DATES: This rule is effective July 1, 2002.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD07-99-055 and are available for inspection or copying at Commander (br), Seventh Coast Guard District, 509 S.E. 1st Avenue, Room 432, Miami, Florida, 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragan, Project Officer, Seventh Coast Guard District, Bridge Branch, at (202) 415-0743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 20, 1999, the Coast Guard published an interim rule entitled, Druginter Operation Regulations, Atlantic Intracoastal Waterway SC in the Federal Register (64 FR 38820). The Coast Guard received 41 comments on the interim rule, although 12 of these were actually in response to the non-continued last period preceding the interim rule. A public hearing was not requested and one was not held.

Background and Purpose

The Lady's Island Bridge (also known as the Words Memorial Bridge) over the Atlantic Intracoastal Waterway (Beaufort River), mile 336.0 at Beaufort, South Carolina, has a vertical clears