

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Gloria Prettiman, Branch of Environmental and Economic Analysis, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone: (202)208-2840.

SUPPLEMENTARY INFORMATION: On March 31, 1993, Arkansas submitted to OSM a proposed amendment to its approved permanent regulatory program (administrative record No. AR-496). The amendment consisted of proposed revisions to the Arkansas Surface Coal Mining and Reclamation Act of 1979 at Arkansas Code Annotated. The amendment redefined the term "small operator" and expanded the permitting activities eligible for funding under SOAP. On November 17, 1994, OSM approved the amendment submitted by Arkansas (59 FR 59365). This document explains and corrects OSM's instructions for codified approval of the Arkansas amendment.

In the November 17, 1994, **Federal Register** document, OSM codified approval of Arkansas' March 31, 1993, amendment by revising 30 CFR 904.15 to add paragraph (l). However, in the codified section of the document, OSM used the term "revising" and omitted five asterisks above the paragraph (l). This caused the elimination of the introductory paragraph and previous approvals for amendments to the Arkansas regulatory program that had been codified at 30 CFR 904.15 (a) through (k), with paragraph (l) published as the introductory paragraph at 30 CFR 904.15. OSM's intent was not to eliminate the introductory paragraph and previous approvals at paragraphs (a) through (k), but was only to add the approval at paragraph (l).

The Federal regulations at 30 CFR Part 904 codifying decisions concerning the Arkansas program are being amended to implement these intended instructions for codification of approval of Arkansas' amendment. Accordingly, the amendatory instruction for 30 CFR 904.15, second column on page 59369, 59 FR 59365, is being corrected to use the term "amending" rather than "revising," and to add five asterisks between the amendatory instruction and the newly codified paragraph (l). The substance of OSM's approval at paragraph (l) has not been revised.

Dated: June 27, 1995.

James F. Fulton,

Acting Regional Director, Western Regional Coordinating Center.

The following corrections are made in 30 CFR Part 904, Arkansas Regulatory

Program, final rule, published in the **Federal Register** on November 17, 1994 (59 FR 59365). OSM is correcting the amendatory instruction at 30 CFR 904.15, second column on page 59369 (to use the term "amending" rather than "revising," and to add five asterisks between the amendatory instruction and the newly codified paragraph (l)), to read as follows:

2. Section 904.15 is amended by adding paragraph (l) to read as follows:

§ 904.15 Approval of amendments to the Arkansas regulatory program.

* * * * *

(l) Revisions to and/or addition of the following provisions of the Arkansas Surface Coal Mining and Reclamation Act of 1979, as submitted to OSM on March 31, 1993, and revised on July 22, 1993, and August 26, 1994, are approved effective November 14, 1994: Arkansas Code Annotated (ACA) 15-58-104(11), definition of "small operator;"

ACA 15-58-503(a)(2)(A), activities associated with the development of a surface coal mining and reclamation permit application that are eligible for funding under the small operator's assistance program (SOAP);

ACA 15-58-503(a)(2)(B), the responsibility for training coal operators that meet the SOAP qualifications regarding the preparation of permit applications, and ensuring that qualified coal operators are aware of the available assistance;

ACA 15-58-503(a)(2)(C), an operator's obligation to reimburse the Arkansas Department of Pollution Control and Ecology for the cost of the services rendered under SOAP.

[FR Doc. 95-16273 Filed 6-29-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Chapter V

Compliance with 31 CFR Chapter V with Respect to Fully-Automated Financial Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Policy Statement.

SUMMARY: Due to the wide availability and use by financial institutions of name-recognition software to screen fully-automated financial transactions for potential violations of economic sanctions programs, the Office of

Foreign Assets Control ("FAC") will no longer treat fully-automated transactions differently from manually-processed transactions for civil penalty purposes.

EFFECTIVE DATE: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief, Compliance Programs Division, tel.: 202/622-2490, or Mrs. B.S. Scott, Chief, Civil Penalties Program, tel.: 202/622-6140, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

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Background

Essential elements of economic sanctions programs administered by FAC include prohibitions on transfers of property to or for the benefit of targeted governments, entities, and individuals, including the blocking of targeted persons' property, when it comes within the jurisdiction of the United States. Civil monetary penalties may be imposed administratively by FAC for violations of these transfer prohibitions and blocking requirements pursuant to the statutes authorizing most FAC sanctions programs. See, e.g., 22 U.S.C. 5113(b) (*repealed* June 8, 1994, see Pub. L. 103-149, section 4(a), 107 Stat. 1504 (1993)); Pub. L. 101-513, section 586E, 104 Stat. 2047 (1990); 50 U.S.C. 1705; 50 U.S.C. App. 16.

A large proportion of financial transactions are now handled by computer, without intervention by bank or other financial institution personnel. In the past, FAC treated such fully-automated or "straight through" transactions as being beyond the knowledge of financial institutions. Thus, for purposes of administering its

civil monetary penalty authority under sanctions programs contained in 31 CFR chapter V, FAC considered the fact that a transfer violation arose in a fully-automated transaction as a strongly mitigating circumstance in determining liability.

In the past few years, financial institutions that handle significant volumes of international transfers have developed and put into use "interdiction software" that scans incoming automated transfer instructions for words (names of banks and transaction parties, geographical locations, and transaction descriptions) likely to indicate that a transaction is subject to the prohibitions in 31 CFR chapter V. Commercial interdiction software is now widely available and in use, and information needed to update the database used in screening transactions as FAC amends its lists of blocked persons and specially designated nationals is immediately available for computer downloading from numerous governmental and private sources. The use of such software by financial institutions has substantially enhanced the effectiveness of FAC sanctions programs.

It has been determined that it is no longer appropriate to treat fully-automated financial transactions that violate economic sanctions prohibitions as being beyond a financial institution's knowledge or intent. Beginning on September 1, 1995, FAC will no longer treat the fully-automated processing of violative transactions as a full defense in civil penalty proceedings.

Dated: May 31, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 5, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

[FR Doc. 95-16121 Filed 6-27-95; 4:26 pm]

BILLING CODE 4810-25-F

Office of Foreign Assets Control

31 CFR Part 505

Regulations Prohibiting Transactions Involving the Shipment of Certain Merchandise Between Foreign Countries; Partial Lifting of Restrictions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Treasury Department is lifting prospectively prohibitions set forth in the Transaction Control Regulations as they relate to offshore trade in strategic goods of the types controlled for exportation from the United States for national security reasons under the Export Administration Act of 1979. Offshore transactions in items of the types controlled for exportation under the Arms Export Control Act of 1976 or the Atomic Energy Act of 1954 remain subject to the prohibitions.

EFFECTIVE DATE: June 27, 1995.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

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Background

On April 4, 1994, the Department of Commerce amended the Export Administration Regulations, 31 CFR parts 768-799 (1994) (the "EAR"), to reflect the termination of the Cold War regime known as The Coordinating

Committee for Multilateral Export Controls ("COCOM") on March 31, 1994. The exportation of many dual-use items to civil end-users in the former Soviet Bloc and China was authorized by a new General License GLX. In light of these developments, the Office of Foreign Assets Control is amending the Transaction Control Regulations, 31 CFR part 505 (the "TCR"), that prohibit "persons within the United States" (U.S. firms and residents and foreign firms owned or controlled by them) from involvement in offshore strategic exports from third countries to certain Communist and formerly Communist countries listed on a schedule in § 505.10.

Section 505.10 is amended by removing prohibitions pertaining to transactions in items that, were they of U.S. origin, would be restricted for exportation from the United States for national security reasons, as listed on the Commodity Control List in supplement no. 1 to part 799 of the EAR. Persons within the United States remain subject to the prohibitions in the TCR as they relate to offshore trade in items of the types controlled for exportation from the United States under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or the Atomic Energy Act of 1954, 42 U.S.C. 2011-2297g-4. Any person within the United States who sells or purchases, or arranges the purchase, sale or financing of these items from a third country to a designated country must be covered by a general or specific license from the Office of Foreign Assets Control authorizing the transaction. This final rule does not affect enforcement actions with respect to prior violations of this part.

Because the TCR involve a foreign affairs function, Executive Order 12866 and the provisions of 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.

List of Subjects in 31 CFR Part 505

Administrative practice and procedure, Banks, banking, COCOM, Communist countries, Exports, Finance, Foreign trade, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 31 CFR part 505 is amended as set forth below: