

Sec. 11. *Cross-Designation of Federal Law Enforcement Officers.* The Chief, Domestic Liaison Section, Office of Domestic Operations, Operations Division is authorized to exercise all necessary functions with respect to the cross-designation of Federal law enforcement officers to undertake title 21 drug investigations under the supervision of DEA pursuant to 21 U.S.C. 873(a).

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Dated: September 25, 1997.

Thomas A. Constantine,
Administrator.

[FR Doc. 97-26660 Filed 10-7-97; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

Authorization of DEA Laboratory Directors to Release DEA Laboratory Information to Federal and State Prosecutors; Redelegation of Authority

AGENCY: Department of Justice.
ACTION: Final rule.

SUMMARY: This final rule authorizes Drug Enforcement Administration (DEA) Laboratory Directors to release DEA laboratory information, and to authorize testimony by DEA laboratory personnel, in response to Federal and State prosecutors' requests for same.

EFFECTIVE DATE: January 22, 1997.

FOR FURTHER INFORMATION CONTACT: Jayme S. Walker, Associate Chief Counsel, Office of Chief Counsel, Drug Enforcement Administration, (202) 307-8030.

SUPPLEMENTARY INFORMATION: The Administrator of the DEA is authorized at 28 CFR 0.103(a) to release DEA information, and to authorize DEA personnel to testify, in response to requests from Federal and State prosecutors who are engaged in the enforcement of laws which are related to controlled substances. The Administration is authorized by § 0.104 to redelegate to any of his subordinates any of the powers and functions assigned to him by subpart R.

DEA Special Agents in Charge were previously delegated the authority to grant § 0.103(a) requests as they related to DEA Special Agents, Diversion Investigators, and other personnel under this supervision, at 28 CFR, Appendix to Subpart R, section 2. This redelegation will amend section 2 to give DEA Laboratory Directors corresponding authority over DEA laboratory information and testimony, specifically, the authority to release

DEA laboratory information, and to authorize the testimony of DEA laboratory personnel, under the circumstances described at 28 CFR 0.103(a).

The Administrator certifies that this action will have no impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601). Pursuant to sections 1 (a)(3) and 1(b) of Executive Order 12291, this rule is not a major rule and relates only to the organization of functions with DEA. Accordingly, it has not been reviewed by the Office of Management and Budget. This action has been analyzed in accordance with Executive Order 12612 and it has been determined that this matter has no federalism implications which would warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 0

Authority Delegations (Government Agencies), Organizations and functions (Government Agencies).

For the reasons set forth above, and pursuant to the authority vested in the Administrator of the Drug Enforcement Administration by 28 CFR 0.100 and 0.104, and 21 U.S.C. 871, title 28 of the Code of Federal Regulations, part 0, Appendix to Subpart R, Redelegation of Functions, section 2, is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

2. The Appendix to subpart R, section 2, is revised to read as follows:

Appendix to Subpart R—Redelegation of Functions

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Sec. 2. *Supervisors.* All Special Agents-in-Charge of the DEA, and the FBI are authorized to conduct enforcement hearings under 21 U.S.C. 883, and to take custody of seized property under 21 U.S.C. 881. All Special Agents-in-Charge of the DEA and the FBI are authorized to release information pursuant to 28 CFR 0.103(a) (1) and (2) which is obtained by the DEA and the FBI, and to authorize the testimony of DEA and FBI officials in response to prosecution subpoenas under 28 CFR 0.103(a)(3). All DEA Laboratory Directors are authorized to release information pursuant to 28 CFR 0.103(a) (1) and (2) which is obtained by a DEA laboratory, and to authorize the testimony of DEA laboratory personnel in response to prosecution subpoenas

under 28 CFR 0.103(a)(3). All DEA Special Agents-in-Charge are authorized to take custody of, and make disposition of, controlled substances seized pursuant to 21 U.S.C. 824(g).

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Dated: September 25, 1997.

Thomas A. Constantine,
Administrator.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501 and 597

Reporting and Procedures Regulations; Foreign Terrorist Organizations Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is issuing the Foreign Terrorist Organizations Sanctions Regulations to implement sections 302 and 303 of the Antiterrorism and Effective Death Penalty Act as they relate to the Treasury Department. Conforming and technical amendments are made to the Reporting and Procedures Regulations.

EFFECTIVE DATE: October 6, 1997.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220; tel.: 202/622-2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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Background

On April 24, 1996, President Clinton signed into law the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1214-1319 (the "Act"). Section 302 of the Act (new 8 U.S.C. 1189) authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate organizations meeting stated requirements as foreign terrorist organizations, with prior notification to Congress of the intent to designate. Upon that notification to Congress, the Secretary of the Treasury may require U.S. financial institutions to block financial transactions involving assets in their possession or control of the foreign organizations proposed for designation.

Section 303 of the Act (new 18 U.S.C. 2339B) prohibits persons within the United States or subject to U.S. jurisdiction from knowingly providing material support or resources to a designated foreign terrorist organization, and makes violations punishable by criminal penalties under title 18, United States Code. Additionally, except as authorized by the Treasury Department, financial institutions in possession or control of funds in which a foreign terrorist organization or its agent has an interest are required to block such funds and file reports in accordance with Treasury Department regulations. Financial institutions in violation of 18 U.S.C. 2339B(a)(2) are subject to civil penalties administered by the Treasury Department. In implementation of sections 302 and 303 and the statutory purpose stated in section 301, the Treasury Department is issuing the Foreign Terrorist Organizations Sanctions Regulations (the "Regulations").

Transactions otherwise prohibited under this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of this chapter. Penalties for

violations of the Regulations are described in subpart G.

Conforming and technical amendments are also made to the Reporting and Procedures Regulations, 31 CFR Part 501. Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 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 Regulations are being issued without prior notice and public comment procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). The collections of information related to the Regulations are contained in part 501 of this chapter (the "Reporting and Procedures 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 ("OMB") 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

31 CFR Part 501

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign trade, Reporting and recordkeeping requirements

31 CFR Part 597

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign terrorist organizations, Penalties, Reporting and recordkeeping requirements, Terrorism, Transfer of assets.

For the reasons set forth in the preamble, 31 CFR chapter V is amended as follows:

PART 501—REPORTING AND PROCEDURES REGULATIONS

1. The authority citation for part 501 continues to read as follows:

Authority: 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 501.101 is revised to read as follows:

§ 501.101 Relation of this part to other parts in this chapter.

This part sets forth standard reporting and recordkeeping requirements and license application and other procedures governing transactions regulated pursuant to other parts codified in this chapter, as well as to economic sanctions programs for which implementation and administration are delegated to the Office of Foreign Assets Control. Substantive prohibitions and policies particular to each economic sanctions program are not contained in this part but are set forth in the particular part of this chapter dedicated to that program, or, in the case of economic sanctions programs not yet implemented in regulations, in the applicable executive order or other authority. License application procedures and reporting requirements set forth in this part govern transactions undertaken pursuant to general or specific licenses. The criteria for general and specific licenses pertaining to a particular economic sanctions program are set forth in subpart E of the individual parts in this chapter. Statements of licensing policy contained in subpart E of the individual parts in this chapter, however, may contain additional information collection provisions that require production of specified documentation unique to a given general license or statement of licensing policy.

3. The following note is added to the end of § 501.601 to read as follows:

Note: See subpart F of part 597 for the relationship between this section and part 597.

4. Section 501.602 is amended by revising the last sentence to read as follows, and by adding the following note to the end of the section:

§ 501.602 Reports to be furnished on demand.

* * * Except as provided in parts 596 and 597, the Director may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation, regardless of whether any report has been required or filed in connection therewith.

Note: See subpart F of part 597 for the relationship between this section and part 597.

5. The following note is added to the end of § 501.603 to read as follows:

Note: See subpart F of part 597 for the relationship between this section and part 597.

6. Section 501.806 is amended by revising paragraph (b) to read as follows:

§ 501.806 Procedures for unblocking funds believed to have been blocked due to mistaken identity.

* * * * *

(b) Requests to release funds which a party believes to have been blocked due to mistaken identity must be made in writing and addressed to the Office of Foreign Assets Control, Compliance Programs Division, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220, or sent by facsimile transmission to the Compliance Programs Division at 202/622-1657.

* * * * *

7. Section 501.807 is amended by revising paragraph (a) to read as follows:

§ 501.807 Procedures governing removal of names from appendices A, B, and C to this chapter.

* * * * *

(a) A specially designated national (“SDN”), specially designated terrorist (“SDT”), specially designated narcotics trafficker (“SDNT”), or an agent of a foreign terrorist organization (“AFTO”) (collectively, a “designated person”), or a person owning a majority interest in a blocked vessel, may request disclosure of the factual basis for designation and, subject to the limitations contained in paragraph (c) of this section, review factual materials relied upon by the Office of Foreign Assets Control in designating the person or vessel.

8. Part 597 is added to read as follows:

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

597.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

- 597.201 Prohibited transactions involving blocked assets or funds of foreign terrorist organizations or their agents.
- 597.202 Effect of transfers violating the provisions of this part.
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- 597.204 Evasions; attempts; conspiracies.

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- 597.302 Assets.
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- 597.601 Records and reports.

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- 597.701 Penalties.
- 597.702 Prepenalty notice.
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- 597.704 Penalty notice.
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Subpart H—Procedures

- 597.801 Procedures.
- 597.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

- 597.901 Paperwork Reduction Act notice.

Authority: 31 U.S.C. 321(b); Pub. L. 104-132, 110 Stat. 1214, 1248-53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

Subpart A—Relation of This Part to Other Laws and Regulations

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

(a) This part is separate from, 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. Differing statutory authority and foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those

other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) 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. This part does not implement, construe, or limit the scope of any other part of this chapter, including (but not limited to) the Terrorism Sanctions Regulations, part 595 of this chapter, and does not excuse any person from complying with any other part of this chapter, including (but not limited to) part 595 of this chapter.

(c) This part does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

Subpart B—Prohibitions

§ 597.201 Prohibited transactions involving blocked assets or funds of foreign terrorist organizations or their agents.

(a) Upon notification to Congress of the Secretary of State’s intent to designate an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), until the publication in the **Federal Register** as described in paragraph (c) of this section, any U.S. financial institution receiving notice from the Secretary of the Treasury by means of order, directive, instruction, regulation, ruling, license, or otherwise shall, except as otherwise provided in such notice, block all financial transactions involving any assets of such organization within the possession or control of such U.S. financial institution until further directive from the Secretary of the Treasury, Act of Congress, or order of court.

(b) Except as otherwise authorized by order, directive, instruction, regulation, ruling, license, or otherwise, from and after the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), any U.S. financial institution that becomes aware that it has possession of or control over any funds in which the designated foreign terrorist organization or its agent has an interest shall:

- (1) Retain possession of or maintain control over such funds; and
- (2) Report to the Secretary of the Treasury the existence of such funds in accordance with § 501.603 of this chapter.

(c) Publication in the **Federal Register** of the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a) shall be deemed to constitute a further directive from the Secretary of the Treasury for purposes of paragraph (a) of this section, and shall require the actions contained in paragraph (b) of this section.

(d) The requirements of paragraph (b) of this section shall remain in effect until the effective date of an administrative, judicial, or legislative revocation of the designation of an organization as a foreign terrorist organization, or until the designation lapses, pursuant to 8 U.S.C. 1189.

(e) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter. Requests for the unblocking of funds pursuant to § 501.806 must be submitted to the attention of the Compliance Programs Division.

§ 597.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of § 597.201 or any other provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such funds or assets.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, or has had an interest since such date, unless the financial institution with whom such funds or assets are held or maintained, prior to such date, had written notice of the transfer or by any written evidence 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 render it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of funds or assets which 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 financial institution with whom such funds or assets were held or maintained (and as to such financial institution only) in cases in which such financial institution 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 financial institution with whom such funds or assets were held or maintained;

(2) The financial institution with which such funds or assets were held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such institution, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The financial institution with which such funds or assets were held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Except for exercises of judicial authority pursuant to 8 U.S.C. 1189(b),

unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any funds or assets which, on or since the effective date, were in the possession or control of a U.S. financial institution and were held in the name of a foreign terrorist organization or its agent or in which there existed an interest of a foreign terrorist organization or its agent.

§ 597.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. financial institution holding funds subject to § 597.201(b) shall hold or place such funds in a blocked interest-bearing account which is in the name of the foreign terrorist organization or its agent and which is located in the United States.

(b)(1) For purposes of this section, the term *interest-bearing account* means a blocked account:

(i) in a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable for the amount of funds in the account or certificate of deposit; or

(ii) with a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) Funds held or placed in a blocked interest-bearing account pursuant to this paragraph may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same and must clearly indicate the foreign terrorist organization or agent having an interest in the accounts.

(c) Blocked funds held as of the effective date in the form of stocks, bonds, debentures, letters of credit, or instruments which cannot be negotiated for the purpose of placing the funds in a blocked interest-bearing account pursuant to paragraph (a) may continue to be held in the form of the existing security or instrument until liquidation or maturity, provided that any dividends, interest income, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with the requirements of this section.

(d) Funds subject to this section may not be held, invested, or reinvested in

a manner in which an immediate financial or economic benefit or access accrues to the foreign terrorist organization or its agent.

§ 597.204 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 597.301 Agent.

(a) The term *agent* means:

(1) Any person owned or controlled by a foreign terrorist organization; or
(2) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of a foreign terrorist organization.

(b) The term *agent* includes, but is not limited to, any person determined by the Director of the Office of Foreign Assets Control to be an agent as defined in paragraph (a) of this section.

Note to § 597.301: Please refer to the appendices at the end of this chapter for listings of persons designated as foreign terrorist organizations or their agents. Section 501.807 of this chapter sets forth the procedures to be followed by a person seeking administrative reconsideration of a designation as an agent, or who wishes to assert that the circumstances resulting in the designation as an agent are no longer applicable.

§ 597.302 Assets.

The term *assets* includes, but is not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, 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 indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real

estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, 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 interests therein, present, future or contingent.

§ 597.303 Blocked account; blocked funds.

The terms *blocked account* and *blocked funds* shall mean any account or funds subject to the prohibitions in § 597.201 held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 597.304 Designation.

The term *designation* includes both the designation and redesignation of a foreign terrorist organization pursuant to 8 U.S.C. 1189.

§ 597.305 Effective date.

Except as that term is used in § 597.201(d), the term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is October 6, 1997, or, in the case of foreign terrorist organizations designated after that date and their agents, the earlier of the date on which a financial institution receives actual or constructive notice of such designation or of the Secretary of Treasury's exercise of his authority to block financial transactions pursuant to 8 U.S.C. 1189(a)(2)(C) and § 597.201(a).

§ 597.306 Entity.

The term *entity* includes a partnership, association, corporation, or other organization, group, or subgroup.

§ 597.307 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) as from time to time amended, notwithstanding the definition of that term in 31 CFR part 103.

Note: The breadth of the statutory definition of *financial institution* precludes its reproduction in this section. Among the types of businesses covered are insured banks (as defined in 12 U.S.C. 1813(h)), commercial banks or trust companies, private bankers, agencies or branches of a foreign

bank in the United States, insured institutions (as defined in 12 U.S.C. 1724(a)), thrift institutions, brokers or dealers registered with the Securities and Exchange Commission under 15 U.S.C. 78a *et seq.*, securities or commodities brokers and dealers, investment bankers or investment companies, currency exchanges, issuers, redeemers, or cashiers of traveler's checks, checks, money orders, or similar instruments, credit card system operators, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan or finance companies, travel agencies, licensed senders of money, telegraph companies, businesses engaged in vehicle sales, including automobile, airplane or boat sales, persons involved in real estate closings and settlements, the United States Postal Service, a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 as further described in 31 U.S.C. 5312(a)(2), or agencies of the United States Government or of a State or local government carrying out a duty or power of any of the businesses described in 31 U.S.C. 5312(a)(2).

§ 597.308 Financial transaction.

The term *financial transaction* means a transaction involving the transfer or movement of funds, whether by wire or other means.

§ 597.309 Foreign terrorist organization.

The term *foreign terrorist organization* means an organization designated or redesignated as a foreign terrorist organization, or with respect to which the Secretary of State has notified Congress of the intention to designate as a foreign terrorist organization, under 8 U.S.C. 1189(a).

§ 597.310 Funds.

The term *funds* includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing. An electronic representation of any of the foregoing includes any form of digital or electronic cash, coin, or currency in use currently or placed in use in the future.

§ 597.311 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 597.312 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to funds or assets (e.g., "an interest in funds") means an interest of any nature whatsoever, direct or indirect.

§ 597.313 License.

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

§ 597.314 Person.

The term *person* means an individual or entity.

§ 597.315 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 597.316 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of any asset, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 597.317 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, surrender, release, convey, transfer, 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, power, 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, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason 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 acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 597.318 United States.

The term *United States* means the United States, its territories, states, commonwealths, districts, and possessions, and all areas under the jurisdiction or authority thereof.

§ 597.319 U.S. financial institution.

The term *U.S. financial institution* means:

(a) Any financial institution organized under the laws of the United States, including such financial institution's foreign branches;

(b) Any financial institution operating or doing business in the United States; or

(c) Those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such foreign financial institutions' other foreign branches, offices, or agencies.

Subpart D—Interpretations**§ 597.401 Reference to amended sections.**

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 597.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 597.403 Termination and acquisition of an interest in blocked funds.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of funds (including any interest in funds) away from a foreign terrorist organization or its agent, such funds shall no longer be deemed to be funds in which the foreign terrorist organization or its agent has or has had an interest, or which are held

in the name of a foreign terrorist organization or its agent, unless there exists in the funds another interest of a foreign terrorist organization or its agent, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if funds (including any interest in funds) are or at any time since the effective date have been held by a foreign terrorist organization or its agent, or at any time thereafter are transferred or attempted to be transferred to a foreign terrorist organization or its agent, including by the making of any contribution to or for the benefit of a foreign terrorist organization or its agent, such funds shall be deemed to be funds in which there exists an interest of the foreign terrorist organization or its agent.

§ 597.404 Setoffs prohibited.

A setoff against blocked funds (including a blocked account) by a U.S. financial institution is a prohibited transaction under § 597.201 if effected after the effective date.

§ 597.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, foreign terrorist organization or its agent or involving a debit to a blocked account or a transfer of blocked funds not explicitly authorized within the terms of the license.

§ 597.406 Offshore transactions.

The prohibitions contained in § 597.201 apply to transactions by U.S. financial institutions in locations outside the United States with respect to funds or assets which the U.S. financial institution knows, or becomes aware, are held in the name of a foreign terrorist organization or its agent, or in which the U.S. financial institution knows, or becomes aware that, a foreign terrorist organization or its agent has or has had an interest since the effective date.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy**§ 597.501 Effect of license or authorization.**

(a) 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, shall be deemed to authorize or validate any transaction effected prior to

the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license 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.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an 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.

§ 597.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

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

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets by a financial institution into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

Note to § 597.503: Please refer to §§ 501.603 and 597.601 of this chapter for mandatory reporting requirements regarding financial transfers.

§ 597.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 597.505 Payment for certain legal services.

Specific licenses may be issued, on a case-by-case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses through a U.S. financial institution for the following legal services by U.S. persons:

(a) Provision of legal advice and counseling to a foreign terrorist organization or an agent thereof on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of any of the prohibitions of this part;

(b) Representation of a foreign terrorist organization or an agent thereof when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(c) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings on behalf of a foreign terrorist organization or an agent thereof;

(d) Representation of a foreign terrorist organization or an agent thereof before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against a foreign terrorist organization or an agent thereof;

(e) Provision of legal services to a foreign terrorist organization or an agent thereof in any other context in which prevailing U.S. law requires access to legal counsel at public expense; and

(f) Representation of a foreign terrorist organization seeking judicial review of a designation before the United States

Court of Appeals for the District of Columbia Circuit pursuant to 8 U.S.C. 1189(b)(1).

Subpart F—Reports

§ 597.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter; provided, however, that all of the powers afforded the Director pursuant to the first 3 sentences of § 501.602 of this chapter may also be exercised by the Attorney General in conducting administrative investigations pursuant to 18 U.S.C. 2339B(e); provided further, that the investigative authority of the Director pursuant to § 501.602 of this chapter shall be exercised in accordance with 18 U.S.C. 2339B(e); and provided further, that for purposes of this part no person other than a U.S. financial institution and its directors, officers, employees, and agents shall be required to maintain records or to file any reports or furnish any information under §§ 501.601, 501.602, or 501.603 of this chapter.

Subpart G—Penalties

§ 597.701 Penalties.

(a) Attention is directed to 18 U.S.C. 2339B(a)(1), as added by Public Law 104-132, 110 Stat. 1250-1253, section 303, which provides that whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(b) Attention is directed to 18 U.S.C. 2339B(b), as added by Public Law 104-132, 110 Stat. 1250-1253, section 303, which provides that, except as authorized by the Secretary of the Treasury, any financial institution that knowingly fails to retain possession of or maintain control over funds in which a foreign terrorist organization or its agent has an interest, or to report the existence of such funds in accordance with these regulations, shall be subject to a civil penalty in an amount that is the greater of \$50,000 per violation, or twice the amount of which the financial institution was required to retain possession or control.

(c) Attention is 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 5 years, or both.

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

§ 597.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part, and the Director, acting in coordination with the Attorney General, determines that civil penalty proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents.*—(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 respondent's right to respond within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 597.703 Response to prepenalty notice.

(a) *Time within which to respond.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to respond in writing to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should respond to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty 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 a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30-day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 597.704 Penalty notice.

(a) *No violation.* If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent, the Director promptly shall issue a written notice of the imposition of the monetary penalty on the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(2) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(3) The penalty notice shall inform the respondent of the requirement to furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Department intends to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the

event of a failure to pay the penalty imposed.

§ 597.705 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 mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 597.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

§ 597.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to 8 U.S.C. 1189 or 18 U.S.C. 2339B, as added by Public Law 104-132, 110 Stat. 1248-1253, sections 302 and 303, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Part I—Paperwork Reduction Act

§ 597.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 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.

Dated: September 26, 1997.

Loren L. Dohm,

Acting Director, Office of Foreign Assets Control.

Approved: September 30, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97-26787 Filed 10-6-97; 2:22 pm]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-97-074]

RIN 2115-AE46

Special Local Regulations for Marine Events; Thunder on the Lake Powerboat Races, Sunset Lake, Wildwood Crest, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Thunder on the Lake Powerboat Races to be held in Sunset Lake, Wildwood Crest, New Jersey. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of the event participants and transiting vessels.

EFFECTIVE DATE: This regulation is effective from 9:30 a.m. to 6:30 p.m. on October 11 and 12, 1997.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Tom Peck, Marine Events Coordinator, Commander, Coast Guard Group Cape May, Cape May, NJ 08204-5082. Telephone number (609) 898-6981.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold the event was not received until September 5, 1997. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to the public posed by the large number of racing vessels participating in this event.

Discussion of Regulations

On October 11 and 12, 1997, the New Jersey Hot Rod Association will sponsor the Thunder on the Lake Powerboat Races on Sunset Lake, Wildwood Crest, New Jersey. The event will consist of Hydroplanes, Jersey Speed Skiffs and Pro-Stock boats racing at high speeds along a one mile oval course. These regulations are necessary to provide for the safety of life and property on navigable waters during the event.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory procedures of DOT is unnecessary. Entry into the regulated area will only be prohibited while the race boats are actually competing. Since vessels will be allowed to transit the event area between races, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard expects the economic impact of this temporary rule to be minimal, and certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities, because the regulations will only be in effect for a short duration in a limited area.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.b.2.e(34)(h) of Commandant Instruction M16475.1b (as amended, 61 FR 13564; March 27, 1996), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35T-05-074 is added to read as follows:

§ 100.35T-05-074 Sunset Lake, Wildwood Crest, NJ.

(a) *Definitions:*

(1) *Regulated area:* The waters of Sunset Lake, including the waters of the Intracoastal Waterway between NJICW Daybeacon 469 (LLNR 36690) located at latitude 38°59'07" North, longitude 074°50'41" West, and NJICW Light 471 (LLNR 36700) located at latitude 38°58'41" North, longitude 074°51'01" West. All coordinates reference Datum: NAD 1983.

(2) *Coast Guard Patrol Commander:* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Cape May.

(b) *Special Local Regulations:*

(1) The regulated area will be intermittently closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area while it is closed unless authorized by the Coast Guard Patrol Commander.

(2) The Patrol Commander will allow vessel traffic to transit the event area between races. Transiting vessels shall proceed at no-wake speeds and remain