Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	$0.09 or $0.27		
2. All others:			
(i) If all the officers are citizens	.09 or .27		
(ii) If any officer is not a citizen	.09 or .27	[1] 0.50	[1] .50
Undocumented vessels which are owned by citizens [2]	.09 or .27	.50	[3] .05
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money	.09 or .27		
2. All others:			
(i) Built in the U.S	.09 or .27	.30	.50
(ii) Not built in the U.S	.09 or .27	.50	.50
(iii) In addition to (i) or (ii) of 2., Foreign Vessels, when entering from a foreign port or place where vessels of the U.S. are not ordinarily permitted to enter and trade [3a].	.09 or .27	[4] 2.00	[4] .50

[1] This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.
[2] This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.
[3] This does not apply if the vessel is under a certificate of protection and the owner or master files with the district director the oath required by 46 U.S.C. App. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. App. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.
[3a] The following countries ordinarily do not permit vessels of the United States to enter and trade: Democratic Kampuchea (Cambodia); Democratic People's Republic of Korea (North Korea); and, the Socialist Republic of Vietnam.
[4] This is to be collected on each entry of a vessel from such a port or place.

* * * * *

3. Footnotes 36 through 39 are removed from part 4 and reserved.

4. Section 4.21 is amended by revising the introductory text of paragraph (b), by revising paragraph (b)(13), and by adding paragraph (b)(14) to read as follows:

§4.21 Exemptions from tonnage tax.

* * * * *

(b) The following vessels, or vessels arriving in the circumstances as defined below, shall be exempt from tonnage tax and light money:

* * * * *

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse duties or equivalent taxes are not imposed on vessels of the United States (applicable only where the vessel arrives from a port in the province of Ontario, Canada).

(14) It is a coastwise-qualified vessel solely engaged in the coastwise trade (although arriving from a foreign port or place, it is engaged in the transportation of merchandise or passengers, or the towing of a vessel other than a vessel in distress, between points in the U.S. via a foreign point) (see §§ 4.80, 4.80a, 4.80b, and 4.92).

* * * * *

5. Footnote 44 is removed from part 4 and reserved.

§4.64 [Removed]

6. Section 4.64 is removed and reserved.

7. Footnote 124 is removed from part 4 and reserved.

8. Section 4.92 is revised to read as follows:

§4.92 Towing.

No vessel other than a vessel documented for the coastwise or Great Lakes trade, or which would be entitled to be so documented except for its tonnage (see § 4.80), may tow a vessel other than a vessel in distress between points in the U.S. embraced within the coastwise laws, or for any part of such towing (46 U.S.C. App. 316(a)). The penalties for violation of this prohibition are a fine of from $250 to $1000 against the owner or master of the towing vessel and a further penalty against the towing vessel of $50 per ton of the towed vessel.

9. Section 4.96 is amended by revising the second sentence of paragraph (c) to read as follows:

§4.96 Fisheries.

* * * * *

(c) * * * "Fisheries" includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or the exclusive economic zone.

* * * * *

Approved: January 21, 1992.

Carol Hallett,

Commissioner of Customs.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93-5310 Filed 3-9-93; 8:45 am]

BILLING CODE 4820-02-M

Office of Foreign Assets Control

31 CFR Part 505

Transaction Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Transaction Control Regulations to generally license transactions authorized by certain countries designated by the U.S. Commerce Department as fully cooperating with the Coordinating Committee for Multilateral Export Controls ("COCOM"), to add Cambodia and delete Hungary and Tibet from the schedule of proscribed countries, and to update the names of certain countries in the schedule. This amendment serves to bring the Transaction Control Regulations into conformity with changes in the Export Administration Regulations.

EFFECTIVE DATE: March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410).

SUPPLEMENTARY INFORMATION: The Transaction Control Regulations, 31 CFR part 505 (the "TCR"), supplement the national security export controls administered by the Commerce Department by restricting involvement of "persons within the United States" in the exportation of strategic goods from third countries to certain countries designated under the TCR. The designated countries now controlled under the TCR are: Albania, Bulgaria, Cambodia, the Czech Republic, Estonia, Latvia, Lithuania, North Korea, Mongolia, the People's Republic of China, Poland, Romania, the Slovak Republic, the geographic area formerly known as the Union of Soviet Socialist Republics, and Vietnam. Hungary is deleted from the list in accordance with its removal from the list of "controlled countries" under the EAR on May 8, 1992 (57 FR 19805). Cambodia is no longer an embargoed country, although it remains a COCOM-proscribed destination. Tibet is removed from the list, since it is not recognized as a country.

The term "person within the United States" is defined by reference to 31 CFR 500.330 to include: Any individual, wherever located, who is a resident of the United States; any person within the United States; any corporation organized under the laws of the United States; and any domestic or foreign entity owned or controlled by any of the foregoing. Any such person who sells or purchases, or arranges the purchase or sale or financing of strategic exports from third countries to a designated country, must apply to the Office of Foreign Assets Control for a license authorizing the transaction, unless the strategic goods are being exported from a COCOM-participating or fully-cooperating country that has already authorized the exportation. This rule augments the list of COCOM-participating countries currently set forth in the TCR to add countries determined to be fully cooperating in the multilateral export control regime. This rule allows involvement by "persons within the United States" in exports of multilaterally-controlled ("A" level) commodities from COCOM participating and fully cooperating countries to destinations in designated countries other than North Korea and Vietnam.

Since the Regulations involve a foreign affairs function, Executive Order 12291 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 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 505

Administrative practice and procedure, Austria, Banking, Cambodia, Communist countries, Exports, Finland, Foreign Trade, Hong Kong, Ireland, New Zealand, Sweden, Switzerland.

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

PART 505—TRANSACTION CONTROL REGULATIONS

1. The authority citation for part 505 continues to read as follows:

Authority: 50 U.S.C. app. 5(b), as amended; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp, p. 748.

2. The schedule to paragraph (b) of § 505.10 is revised to read as follows:

§ 505.10 Prohibitions.

(b) * * *

Schedule

Albania
Bulgaria
Cambodia
The Czech Republic
Estonia
Latvia
Lithuania
North Korea
Mongolia
People's Republic of China
Poland
Romania
The Slovak Republic
The geographic area formerly known as the Union of Soviet Socialist Republics
Vietnam

3. Paragraphs (a) (1) and (2) of § 505.31 are revised to read as follows:

§ 505.31 General license for offshore transactions from certain countries.

(a) * * *

(1) Shipment is to a country listed in the schedule to § 505.10, other than North Korea and Vietnam.

(2) Shipment is made from and licensed by one of the following foreign countries: Australia, Austria, Belgium, Canada, Denmark, France, Finland, Germany, Greece, Hong Kong, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, or the United Kingdom.

* * * * *

Dated: February 22, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: February 26, 1993.

John P. Simpson,

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

[FR Doc. 93–5446 Filed 3–5–93; 12:44 pm]

BILLING CODE 4810–25–M

31 CFR Part 550

Libya Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Office of Foreign Assets Control ("FAC") is amending the Libyan Sanctions Regulations by adding a section providing FAC's interpretation of the prohibition on the exportation of services to Libya, and a section setting forth licensing policy with regard to the provision of certain legal services to the Government of Libya ("GOL") and persons in Libya.

EFFECTIVE DATE: March 10, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, tel.: (202) 622–2490, or William B. Hoffman, Chief Counsel, tel.: (202) 622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: The Libyan Sanctions Regulations, 31 CFR part 550 (the "LSR"), are amended by adding § 550.422, further interpreting the prohibition in § 550.202 of the LSR against the exportation of "goods, technology (including technical data or other information) or services" to Libya from the United States. This prohibition includes the provision of services performed in the United States (including legal services), the benefit of which is received in Libya. The benefit of services performed on behalf of the GOL is presumed to be received in Libya, whether rendered in the United States, in Libya, or in a third country on behalf of the GOL or a Libyan government entity located in a third country by a person located in or ordinarily resident in the United States.

This final rule also adds § 550.517, generally authorizing the exportation of certain legal services and containing a statement of licensing policy stating that the receipt of payment for such legal services exported to Libya will normally be authorized by specific license. Such circumstances are limited to cases involving (1) the provision of legal advice and counselling to the GOL on requirements of and compliance with U.S. law; (2) representation of the GOL or a person in Libya when named as a defendant in domestic U.S. legal or administrative proceedings; and (3) initiation of domestic legal or administrative proceedings in defense of the GOL's property interests in existence prior to the blocking of GOL property on January 8, 1986, or of a person in Libya. Furthermore, the enforcement of any judgment, decree, attachment, or lien through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a GOL property interest must be specifically licensed in accordance with § 550.210(e).

Legal services performed by U.S. persons outside the United States with respect to property interests of the GOL are prohibited pursuant to § 550.209, which prohibits U.S. persons from dealing in any property (including contracts) in which the GOL has an interest. Section 550.205, which prohibits performance of a contract by U.S. persons in support of an industrial or other commercial or governmental project in Libya, may also be applicable in these instances. For example, it continues to be prohibited pursuant to § 550.205 and/or § 550.209 of the LSR for U.S. persons to represent a foreign entity in contract negotiations, contract performance, arbitration or other dealings with the GOL. Such representation may only be authorized by specific license.

Because the Regulations involve a foreign affairs function, Executive Order 12291 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 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 550

Exports, Libya, Services.

For the reasons set forth in the preamble, 31 CFR part 550 is amended as set forth below:

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 22 U.S.C. 2349aa–8 and 9; E.O. 12543, 3 CFR, 1986 Comp., pp. 181–2; E.O. 12544, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319, April 17, 1992.

Subpart D—Interpretations

2. Section 550.422 is added to subpart D to read as follows:

§ 550.422 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 550.202 applies to services performed:

(1) In the United States;

(2) By an entity located in the United States, including its overseas branches; or

(3) Outside the United States by an individual U.S. person ordinarily resident in the United States; on behalf of the Government of Libya, or where the benefit of such services is otherwise received in Libya. The benefit of services performed anywhere in the world on behalf of the Government of Libya, including services performed for a controlled entity or specially designated national of the Government of Libya, is presumed to be received in Libya.

(b) The prohibitions contained in §§ 550.205 and 550. 209 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of Libya;

(2) With respect to property interests of the Government of Libya; or

(3) In support of an industrial or other commercial or governmental project in Libya.

(c) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of Libya. See § 550.517 on licensing policy with regard to the provision of certain legal services.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 550.517 is added to subpart E to read as follows:

§ 550.517 Exportation of certain legal services to the Government of, or persons in, Libya

(a) The provision to the Government of Libya, or to a person in Libya, of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 550.422 requires the issuance of a specific license.

(b) Specific licenses are issued, on a case-by-case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of Libya or to a person in Libya:

(1) Provision of legal advice and counselling to the Government of Libya or to a person in Libya on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions in violation of subpart B of this part;

(2) Representation of the Government of Libya or of a person in Libya when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of Libya that were in existence prior to January 8, 1986, or of a person in Libya;

(4) Representation of the Government of Libya or a person in Libya before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against Libya; and

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

(c) Enforcement of any lien, judgment, arbitral award, decree or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of Libya is prohibited unless specifically licensed in accordance with § 550.210(e).

Dated: January 13, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 13, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–1616 Filed 3–5–93; 12:44 pm]

BILLING CODE 4810–25–M

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31 CFR Part 585

Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Treasury Department is issuing the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations to implement the President's declaration of national emergency and imposition of sanctions against the former Yugoslav republics of Serbia and Montenegro.

EFFECTIVE DATE: March 10, 1993, except as follows: §§ 585.201 through 585.202 & 585.214, 11:59 p.m. EDT, May 30, 1992; §§ 585.204 through 585.213, with the exception of §§ 585.206(c) and 585.207(b)(3), 12:20 p.m. EDT, June 5, 1992; § 585.203, July 15, 1992; § 585.206(c) and § 585.207(b)(3), January 15, 1993.

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, DC 20220.

SUPPLEMENTARY INFORMATION: On May 30, 1992, the President issued Executive Order 12808, declaring a national emergency with respect to Serbia and Montenegro, and invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). The order blocks all property and interests in property of the Governments of Serbia and Montenegro, as well as all property and interests in property held in the name of the former Government of Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia. The order also authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

Pursuant to this declaration, and pursuant to his authority under the United Nations Participation Act of 1945 (22 U.S.C. 287c), the President issued Executive Orders 12810 of June 5, 1992 and 12831 of January 15, 1993, continuing the blocking under Executive Order 12808 and imposing additional sanctions on the unrecognized Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter referred to as the "FRY (S&M)"), consistent with United Nations Security Council Resolutions 757, dated May 30, 1992, and 787, dated November 16, 1992. In implementation of these orders, the Treasury Department is issuing the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations").

The Regulations block all property and interests in property of the FRY (S&M), as well as property and interests in property in the name of the former Government of the Socialist Federal Republic of Yugoslavia, or any person purporting to be the FRY (S&M), its agencies, instrumentalities, and controlled entities, including the National Bank of Yugoslavia, the Yugoslav National Army, the Yugoslav Chamber of Economy, the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenergo, and Montenegrin Chamber of Economy, that are in the United States, that hereinafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. Section 2(g)of Executive Order 12810 also prohibits any transfer of funds by U.S. persons to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M). General License No. 4, however, issued on July 15, 1992, authorizes transfers for the benefit of individuals located in Serbia and Montenegro, provided that no funds are transferred into Serbia or Montenegro or for the benefit of the Government of the FRY (S&M).

The Regulations also generally prohibit:

(a) Imports into the United States of goods or services exported from the FRY (S&M) after May 30, 1992;

(b) Exports from the United States of goods, technology, or services to the FRY (S&M) or entities operated from the FRY (S&M) or owned or controlled by the Government of the FRY (S&M);

(c) Any dealing by any U.S. person in property originating in the FRY (S&M) and exported therefrom after May 10, 1992, or any other property intended for importation or exportation between the FRY (S&M) and any country or being transhipped through the FRY (S&M), or activities that promote or are intended to promote such dealings;

(d) Transactions by U.S. persons, or involving the use of U.S.-registered vessels and aircraft, relating to transportation to or from the FRY (S&M) and transportation services to or from the United States by any person or vessel or aircraft registered in the FRY (S&M), or any transaction relating to a vessel owned or controlled by persons or entities in or operating from the FRY (S&M), regardless of registration, or the sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes any stop in the FRY (S&M);

(e) The granting of permission to any aircraft to take off from, land in, or overfly the United States en route to or from the FRY (S&M);

(f) Performance by U.S. persons of contracts in support of industrial, commercial, public utility, or governmental projects in the FRY (S&M);

(g) Any commitment or transfer, direct or indirect, of funds, or other financial or economic resources by any U.S. person to or for the benefit of the Government of the FRY (S&M) or to any other person in the FRY (S&M);

(h) Any transaction related to participation in sporting events in the United States by persons or groups representing the FRY (S&M); and

(i) Any transaction related to scientific and technical cooperation and cultural exchanges and other visits involving persons officially sponsored by or representing the FRY (S&M). The Regulations are not applicable to activities related to the United Nations Protection Force (UNPROFOR), the Conference on Yugoslavia, or the European Community Monitor Mission.

All General Licenses issued by the Office of Foreign Assets Control prior to March 10, 1993, may continue to be relied on to validate actions prior to this date during the period of their validity. Specific licenses issued prior to this date continue in effect according to their terms unless modified by the Office of Foreign Assets Control. Authorizations contained in General Licenses issued prior to publication of the Regulations can now be found in the following sections:

Issuance date	General license No.	Regulation section
06/30/92	1	585.514
06/30/92	2	585.513
06/30/92	3	585.507 & .519
07/15/92	4	585.203/.503/ .520/.523 & .603
07/16/92	5	585.507 & .508
07/24/92	6	585.512
07/27/92	7	585.509

Transactions otherwise prohibited under this part may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in § 585.801 of subpart H.

Since the Regulations involve a foreign affairs function, Executive Order 12291 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 *et seq.*) does not apply.

The Regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act. For this reason, the collections of information contained in the Regulations are being submitted to the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Comments concerning the collection of information and the accuracy of estimated average annual burden, and suggestions for reducing this burden should be directed to OMB, Paperwork Reduction Project (1505–****), Washington, DC 20503, with copies to the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220. Any such comments should be submitted not later than May 10, 1993. Notice of OMB action on these requests will be published in the **Federal Register**.

The collections of information in the Regulations are contained in §§ 585.503, 585.506, 585.509, 585.510, 585.511, 585.515–585.518, 585.520, 585.521, subpart F, and §§ 585.703 and 585.801. This information is required by the Office of Foreign Assets Control for licensing, compliance, civil penalty and enforcement purposes. This information will be used to determine the eligibility of applicants for the benefits provided through specific licenses, to determine whether persons subject to the Regulations are in compliance with applicable requirements, and to determine whether and to what extent civil penalty or other enforcement action is appropriate. The likely respondents and recordkeepers are individuals and business organizations.

Estimated total annual reporting and/or recordkeeping burden: 1000 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 2 hours.

Estimated number of respondents and/or recordkeepers: 500.

Estimated annual frequency of responses: 1–12.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banking and finance, Blocking of assets, Exports, Federal Republic of Yugoslavia (Serbia and Montenegro), Foreign trade, Imports, Intellectual property, Loans, Penalties, Reporting and recordkeeping requirements, Securities, Services, Shipping, Telecommunications, Transfer of assets, Vessels.

For the reasons set forth in the preamble, 31 CFR part 585 is added as follows:

PART 585—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) SANCTIONS REGULATIONS

Authority: 50 U.S.C. 1701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 3 U.S.C. 301; E.O. 12808, 57 FR 23299 (May 30, 1992); E.O. 12810, 57 FR 24347 (June 9, 1992); E.O. 12831, 58 FR 5253 (January 21, 1993).

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

Subpart B—Prohibitions

Subpart C—General Definitions

Subpart D—Interpretations

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

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

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

(a) This part is separate from, and independent of, the other parts of this chapter. Differing 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.

Subpart B—Prohibitions

§ 585.201 Prohibited transactions involving blocked property; transactions with respect to securities.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before 11:59 p.m. Eastern Daylight Time ("EDT"), May 30, 1992, no property or interest in property of the Government of the FRY (S&M), or that are held in the name of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, the transfer (including the transfer on the books of any issuer or agent thereof), the endorsement or guaranty of signatures on, or any other dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia and held within the possession or control of a U.S. person is prohibited, irrespective of the fact that at any time either at or subsequent to the effective date the registered or inscribed owner thereof may have, or appears to have, assigned, transferred, or otherwise disposed of any such security.

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

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, or in which the Government of the FRY (S&M) 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 property.

(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 property in which the Government of the FRY (S&M) has an interest, or has had an interest since such date, or which is held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, unless the person with whom such property is 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 the International Emergency Economic Powers Act, the United Nations Participation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property 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 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 with whom such property was 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 person, 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) 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; the person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed evidence that the terms of paragraphs (d) (1) and (2) of this section have been satisfied.

(e) 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 property in which, on or since the effective date, there existed an interest of the Government of the FRY (S&M) or that was held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia.

§585.203 Holding of certain types of blocked property in interest-bearing accounts.

(a)(1) Any person, including a U.S. financial institution, currently holding property subject to § 585.201, which, as of July 15, 1992, or the date of receipt if subsequent to July 15, 1992, is not being held in an interest-bearing account or otherwise invested in a manner authorized by the Office of Foreign Assets Control, shall transfer such property to, or hold such property or cause such property to be held in, an interest-bearing account or interest-bearing status in a U.S. financial institution as of July 15, 1992, or the date of receipt if subsequent to July 15, 1992, unless otherwise authorized or directed by the Office of Foreign Assets Control.

(2) The requirement set forth in paragraph (a)(1) of this section shall apply to currency, bank deposits, accounts, obligations, and any other financial or economic resources or assets, and any proceeds resulting from the sale of tangible or intangible property. If interest is credited to an account separate from that in which the interest-bearing asset is held, the name of the account party on both accounts must be the same and must clearly indicate the entity of the FRY (S&M) having an interest in the accounts. If the account is held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, the name of the account to which interest is credited must be the same.

(b) For purposes of this section, the term "interest-bearing account" means a blocked account in a U.S. financial institution earning interest at rates that are commercially reasonable for the amount of funds in the account, *i.e.*, a rate similar to that currently offered other depositors on deposits of comparable size and maturity. Overnight investment of blocked funds is authorized, provided that the funds remain within the possession and control of the U.S. person holding the funds and that the funds remain in a blocked status at all times. Except as otherwise authorized, the funds may not be re-invested or held in instruments the maturity of which exceeds 90 days.

(c) U.S. financial institutions receiving instructions to execute a payment or transfer of funds they hold in which the Government of the FRY (S&M) has an interest, or which are held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, or to persons located in the FRY (S&M), shall block the funds and provide written notification to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—2131 Annex, Washington, DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into an existing or newly-established blocked account, and shall provide the account number, the name of the account, the location of the account, the name and address of the transferor and transferee financial institutions, the date of the deposit and the amount of the payment or transfer.

(d) This section does not apply to blocked tangible property, such as chattels, nor does it create an affirmative obligation on the part of the holder of such blocked tangible property to sell or liquidate the property and put the proceeds in a blocked account. However, the Office of Foreign Assets Control may issue licenses permitting or directing sales of tangible property in appropriate cases.

§ 585.204 Prohibited importation of goods or services from the FRY (S&M).

Except as otherwise authorized, no goods originating in, or services performed in, the FRY (S&M), exported from the FRY (S&M) after May 30, 1992, may be imported into the United States, nor may any U.S. person engage in any activity that promotes or is intended to promote such importation.

§ 585.205 Prohibited exportation and reexportation of goods, technology, or services to the FRY (S&M).

Except as otherwise authorized, no goods, technology (including technical data or other information controlled for export pursuant to the Export Administration Regulations, 15 CFR parts 768–799), or services, either (a) from the United States, (b) requiring the issuance of a license by a Federal agency, or (c) involving the use of U.S.-registered vessels or aircraft, may be exported, directly or indirectly, to the FRY (S&M), or to any entity operated from the FRY (S&M), or owned or controlled by the Government of the FRY (S&M), nor may any U.S. person engage in any activity that promotes or is intended to promote such exportation.

§ 585.206 Prohibited dealing in property.

Except as otherwise authorized, no U.S. person may deal in:

(a) Property originating in the FRY (S&M) and exported from the FRY (S&M) after May 30, 1992, or

(b) Property intended for exportation from the FRY (S&M) to any country, or for exportation to the FRY (S&M) from any country, or

(c) Property being transshipped through the FRY (S&M), or in any activity of any kind that promotes or is intended to promote such dealing.

§ 585.207 Prohibited transportation-related transactions involving the FRY (S&M).

Except as otherwise authorized, the following are prohibited:

(a) Any transaction by a U.S. person, or involving the use of U.S. registered vessels and aircraft, relating to transportation to or from the FRY (S&M);

(b) The provision of transportation to or from the United States by:

(1) Any person in the FRY (S&M) or

(2) Any vessel or aircraft registered in the FRY (S&M), or

(3) Any vessel in which a majority or controlling interest is held by a person or entity in or operating from the FRY (S&M), regardless of registry; or

(c) The sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 *et seq.*) of any transportation by air that includes any stop in the FRY (S&M).

(d) *Example:* Unless licensed or exempted, no U.S. person may insure, or provide ticketing, ground, port, refueling, bunkering, clearance, or freight forwarding services with respect to, (i) any sea or air transportation the destination of which is the FRY (S&M), or which is intended to make a stop in the FRY (S&M), or (ii) any vessel in which a majority or controlling interest is held by a person or entity in or operating from the FRY (S&M).

§ 585.208 Prohibited overflights, takeoffs and landings of aircraft enroute to or from the FRY (S&M).

Except as otherwise authorized, no aircraft, regardless of registry, may take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or as a continuation of that flight, is destined to land in or has taken off from the territory of the FRY (S&M). See also: Special Federal Aviation Regulation (SFAR) No. 66, 14 CFR part 91.

§ 585.209 Prohibited performance of contracts.

Except as otherwise authorized, no U.S. person may perform any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in the FRY (S&M).

§ 585.210 Prohibited transfer of funds to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M).

Except as otherwise authorized, no U.S. person may commit or transfer, directly or indirectly, funds or other financial or economic resources to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M).

§ 585.211 Prohibited transactions related to participation in sporting events.

Except as otherwise authorized, transactions in the United States or by a U.S. person related to participation in sporting events in the United States by persons or groups representing the FRY (S&M) are prohibited.

§ 585.212 Prohibited transactions related to scientific and technical cooperation, cultural exchanges, and other official visits.

Except as otherwise authorized, transactions in the United States or by a U.S. person related to scientific and technical cooperation and cultural exchanges involving persons or groups officially sponsored by or representing the FRY (S&M), or related to visits to the United States by such persons or groups other than as authorized for the purpose of participation at the United Nations, are prohibited.

§ 585.213 Exemption of activities related to certain international organizations.

Any activities related to the United Nations Protection Force (UNPROFOR), the Conference on Yugoslavia, or the European Community Monitor Mission are exempt from the prohibitions and regulations of this part.

§ 585.214 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 subpart, 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

§ 585.301 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in subpart B as follows:

(a) With respect to §§ 585.201, 585.202, and 585.214, 11:59 p.m. EDT, May 30, 1992;

(b) With respect to §§ 585.204, 585.205, 585.206, 585.207, 585.208, 585.209, 585.210, 585.211, 585.212, and 585.213, 12:20 p.m. EDT, June 5, 1992, except as provided in paragraph (d) of this section;

(c) With respect to § 585.203, July 15, 1992; and

(d) With respect to § 585.206(c) and § 585.207(b)(3), January 15, 1993.

§ 585.302 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 585.201 in which the Government of the FRY (S&M) has an interest, or that is held in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, 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.

§ 585.303 Interest.

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

§ 585.304 Property; property interest.

The terms *property* and *property interest* include, but are 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.

§ 585.305 Transfer.

The term *transfer* means any actual or purported act of 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, including funds, 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 the 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.

§ 585.306 License.

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

§ 585.307 General license.

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

§ 585.308 Specific license.

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

§ 585.309 Person.

The term *person* means an individual, partnership, association, corporation, or other organization.

§ 585.310 Entity.

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

§ 585.311 Government of the FRY (S&M).

The term *Government of the FRY (S&M)* includes:

(a) The state and the Government of the FRY (S&M), the Government of Serbia, and the Government of Montenegro, including any subdivisions thereof or local governments therein, their respective agencies or instrumentalities, including the National Bank of Yugoslavia, the Yugoslav National Army, the Yugoslav Chamber of Economy, the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenegro, and the Montenegrin Chamber of Economy;

(b) Any entity owned or controlled by the foregoing. For purposes of the prohibitions of this part, all entities located in or organized under the laws of any jurisdiction within the FRY (S&M) are presumed to be controlled by the Government of the FRY (S&M), unless proven otherwise;

(c) 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 any of the foregoing; and

(d) Any person or organization determined by the Director of the Office of Foreign Assets Control to be included within this section, or owned or controlled by such a person or organization.

[Note: On July 6, 1992, the Office of Foreign Assets Control issued a list of "Blocked Yugoslav Entities Currently Identified," containing the names of entities owned or deemed to be controlled by the Government of the FRY (S&M). Property interests of these entities in the United States or in the possession or control of U.S. persons is thus blocked under § 585.201. Section 585.210 further prohibits the transfer of funds or other financial or economic resources by U.S. persons to or for the benefit of entities appearing on the list. This list may be updated periodically as further information becomes available. A copy of the list may be obtained from the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220.]

§ 585.312 Government of the Socialist Federal Republic of Yugoslavia.

The term *Government of the Socialist Federal Republic of Yugoslavia* is used in this part only in reference to property held in the name of the former Government of the Socialist Federal Republic of Yugoslavia. Property and property interests held solely in the name of the Government of Slovenia, Croatia, Bosnia-Hercegovina or Macedonia, or in the name of any political subdivision, agency, or instrumentality thereof, do not constitute property held in the name of the former Government of the Socialist Federal Republic of Yugoslavia.

§ 585.313 Federal Republic of Yugoslavia (Serbia and Montenegro); FRY (S&M).

The term *Federal Republic of Yugoslavia (Serbia and Montenegro)* or *FRY (S&M)* means the territory of Serbia and Montenegro.

§ 585.314 Goods and services originating in the FRY (S&M).

The term *goods or services originating in the FRY (S&M)* includes:

(a) Goods produced, manufactured, grown, or processed within the FRY (S&M);

(b) Goods which have entered into the commerce of the FRY (S&M);

(c) Services performed in the FRY (S&M), or by a national thereof, wherever located, who is acting as an agent, employee, or contractor of the Government of the FRY (S&M) or of a business entity located in the FRY (S&M). Such services are not considered imported into the United States when such services are provided in the United States by a national of the FRY (S&M) employed in the United States who is not acting on behalf of the Government of the FRY (S&M).

§ 585.315 Person in the FRY (S&M).

The term *person in the FRY (S&M)* includes any individual, partnership, association, corporation, or other organization or entity located in or organized under the laws of any jurisdiction in the FRY (S&M).

§ 585.316 United States.

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

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

The term *United States person* or *U.S. person* means any United States citizen; permanent resident alien; juridical person 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, and vessels and aircraft of U.S. registration.

§ 585.318 U.S. financial institution.

The term *U.S. financial institution* means any U.S. person (including 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, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 585.319 UNSC Resolution 757.

The term *UNSC Resolution 757* means United Nations Security Council Resolution No. 757, adopted May 30, 1992, prohibiting certain transactions with respect to the FRY (S&M).

Subpart D—Interpretations

§ 585.401 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.

§ 585.402 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.

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

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) from the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, such property shall no longer be deemed to be property in which the Government of the FRY (S&M) has or has had an interest, or which is held in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, respectively, unless there exists in the property another interest of the Government of the FRY (S&M), or an interest held in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, 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 property (including any property interest) is transferred or attempted to be transferred to the Government of the FRY (S&M), such property shall be deemed to be property in which there exists an interest of the Government of the FRY (S&M).

§ 585.404 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, technology or services exported prior to the effective date, except as authorized pursuant to this part.

§ 585.405 Acquisition of instruments including bankers acceptances.

No U.S. person may acquire or deal in any obligation, including bankers acceptances and debt of or guaranteed by the Government of the FRY (S&M) or the former Government of the Social Federal Republic of Yugoslavia, where the documents evidencing the obligation indicate, or the U.S. person has actual knowledge, that the underlying transaction is in violation of § 585.201 and §§ 585.204–585.212. This interpretation does not apply to obligations arising from an underlying transaction licensed or otherwise authorized pursuant to this part.

§ 585.406 Extensions of credits or loans.

(a) The prohibition in § 585.210 applies to the unlicensed renewal of credits or loans held in the name of the Government of the FRY (S&M) or has had an interest since the effective date, or that is held in the name of Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, or in which the Government of the FRY (S&M) has an interest, that were in existence on the effective date, whether by affirmative action or operation of law.

(b) The prohibition in § 585.210 applies to credits or loans extended in any currency.

§ 585.407 Payments in connection with certain authorized transactions.

Except as otherwise specified, payments are authorized in connection with transactions authorized in or pursuant to subpart E.

§ 585.408 Offshore transactions.

(a) The prohibitions contained in §§ 585.201 and 585.206 apply to transactions by U.S. persons in locations outside the United States with respect to property in which the U.S. person knows, or has reason to know, the Government of the FRY (S&M) has or has had an interest since the effective date, or that is held in the name of Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia.

(b) Prohibited transactions include, but are not limited to, importation into locations outside the United States of, or dealings within such locations in, goods or services originating in the FRY (S&M).

(c) *Examples:* (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in, shoes made in the FRY (S&M).

(2) A U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is operated from the FRY (S&M) or owned or controlled by the Government of the FRY (S&M).

§ 585.409 Transshipments through the United States prohibited.

(a) The prohibitions in § 585.205 apply to the importation into the United States, for transshipment or transit, of goods which are intended or destined for the FRY (S&M), or an entity operated from the FRY (S&M), or to the Government of the FRY (S&M) in any country.

(b) The prohibitions in § 585.204 apply to the importation into the United States, for transshipment or transit, of goods originating in the FRY (S&M) which are intended or destined for third countries.

(c) Goods in which the Government of the FRY (S&M) has an interest that are imported into or transshipped through the United States are blocked pursuant to § 585.201.

§ 585.410 Imports from third countries of goods originating in the FRY (S&M); transshipments.

Importation into the United States from third countries of goods containing raw materials or components originating in the FRY (S&M) is prohibited. In light of the universal prohibition in UNSC Resolution 757 on the importation of goods exported from the FRY (S&M) after May 30, 1992, substantial transformation or incorporation of such goods in a third country does not exempt the third-country products from the prohibitions contained in this part.

§ 585.411 Exports to third countries; transshipments.

Exportation of goods or technology (including technical data and other information) from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for reexportation or transshipment to the FRY (S&M), including passage through, or storage in, intermediate destinations. The exportation of goods and technology intended specifically for incorporation or substantial transformation into a third-country product is also prohibited if the particular product is to be used in the FRY (S&M), is being specifically manufactured to fill an order from the FRY (S&M), or if the manufacturer's sales of the particular product are predominantly to the FRY (S&M).

§ 585.412 Release of goods originating in the FRY (S&M) from a bonded warehouse or foreign trade zone.

Section 585.204 does not prohibit the release from a bonded warehouse or foreign trade zone of goods originating in the FRY (S&M) imported into a bonded warehouse or a foreign trade zone either prior to the effective date or in a transaction authorized pursuant to this part after the effective date.

(Note: Pursuant to § 585.201, property in which the Government of the FRY (S&M) has an interest may not be released unless authorized or licensed by the Office of Foreign Assets Control.)

§ 585.413 Imports of goods originating in the FRY (S&M), and purchases of goods from the FRY (S&M).

Goods originating in the FRY (S&M) imported into the United States pursuant to an authorization or license are not blocked by the provisions of § 585.201. However, any payment in connection with such importation are subject to the prohibitions contained in §§ 585.201 and 585.210, prohibiting transfers to the FRY (S&M) or in which the Government of the FRY (S&M) has an interest.

§ 585.414 Services performed in the Federal Republic of Yugoslavia (Serbia and Montenegro) or by the Government of the FRY (S&M).

Services performed in the FRY (S&M), or by the Government of the FRY (S&M), as defined in § 585.312, are imported into the United States when the benefit of such services is received in the United States. Services performed in the FRY (S&M) or by the Government of the FRY (S&M) for the benefit of a U.S. person outside the United States are prohibited pursuant to §§ 585.201 and 585.206. Services provided in the United States by a national of the FRY (S&M) resident in the United States and not acting on behalf of the Government of the FRY (S&M) are not imported into the United States.

§ 585.415 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 585.201 if effected after May 30, 1992.

§ 585.416 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 585.205 applies to services performed:

(1) In the United States;

(2) Outside the United States by an entity located in the United States, including its overseas branches; or

(3) Outside the United States by an individual U.S. person ordinarily resident in the United States; on behalf of the Government of the FRY (S&M), or where the benefit of such services is otherwise received in the FRY (S&M). The benefit of services performed anywhere in the world on behalf of the Government of the FRY (S&M), including services performed for a controlled entity or specially designated national of the Government of the FRY (S&M), is presumed to be received in the FRY (S&M).

(b) The prohibitions contained in §§ 585.201 and 585.209 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of the FRY (S&M);

(2) With respect to property interests of the Government of the FRY (S&M); or

(3) In support of an industrial or other commercial or governmental project in the FRY (S&M).

(c) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of the FRY (S&M). *See* § 585.517 on licensing policy with regard to the provision of certain legal services.

§ 585.417 Transactions incidental to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, blocked person or involving an unlicensed debit to a blocked account.

(b) *Example:* A license authorizing an exportation of goods to the FRY (S&M) also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, brokers, transfer agents, banks, etc.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 585.501 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 subpart B 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.

§ 585.502 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.

§ 585.503 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 into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account may only be made to another blocked account held in the same name on the books of the same U.S. financial institution. A U.S. financial institution must provide written notification of any transfer into a blocked account to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW.—2131 Annex, Washington, DC 20220, within 10 days from the value date of the payment or transfer.

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

§ 585.504 Investment and reinvestment of certain funds.

U.S. financial institutions are hereby authorized to invest and reinvest blocked assets in which the Government of the FRY (S&M) has an interest, or that are held in blocked accounts in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, 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 at the same U.S. financial institution, or within the possession or control of a U.S. person, but in no case may funds be transferred outside the United States for this purpose; and

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

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to the Government of the FRY (S&M).

§ 585.505 Completion of certain transactions related to bankers acceptances authorized.

(a) Persons other than the Government of the FRY (S&M) are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, involving an interest of the Government of the FRY (S&M) as long as the bankers acceptances were created or the deferred payment undertakings were incurred prior to the effective date.

(b) Persons other than the Government of the FRY (S&M) are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, involving the importation or exportation of goods to or from the FRY (S&M) that do not involve an interest of the Government of the FRY (S&M) as long as the bankers acceptances or the deferred payment undertakings were accepted prior to the effective date.

(c) Nothing in this section shall authorize or permit a debit to a blocked account. Specific licenses for the debiting of a blocked account may be issued on a case-by-case basis.

§ 585.506 Payment by the Government of the FRY (S&M) of obligations to persons within the United States authorized.

(a) The transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person solely for the purpose of payment of obligations of the Government of the FRY (S&M) to persons or accounts within the United States is authorized, provided that the obligation arose prior to the effective date, and the payment requires no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

(b) A person receiving payment under this section may distribute all or part of that payment to any person, provided that any such payment to the Government of the FRY (S&M) must be to a blocked account in a U.S. financial institution.

(c) The authorization in this section is subject to the condition that written notification from the U.S. financial institution or U.S. person transferring or receiving funds is furnished to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, within 10 business days from the date of transfer or receipt. The notification shall provide the account number, name and address of the transferor and/or transferee U.S. financial institution or person, and the account number, name and address of the person into whose account payment is made.

§ 585.507 Certain exportations to the FRY (S&M) authorized.

(a) All transactions ordinarily incident to the exportation of any item, commodity, or product from the United States to or destined for the FRY (S&M) are authorized if:

(1) Such exports would ordinarily be authorized under one of the following regulations administered by the Department of Commerce: 15 CFR 771.6—General license BAGGAGE (accompanied and unaccompanied baggage); 15 CFR 771.13—General license GUS (shipments to personnel and agencies of the U.S. Government); or,

(2) Such exports are for the official use of the United Nations, its personnel and agencies (excluding its relief or development agencies).

(b) All transactions related to exportation or reexportation not otherwise authorized in this part are prohibited unless licensed by the Office of Foreign Assets Control pursuant to the procedures described in § 585.801.

§ 585.508 Importation of household and personal effects from the FRY (S&M) authorized.

The importation of household and personal effects originating in the FRY (S&M), including baggage and articles for family use, of persons arriving in the United States directly or indirectly from the FRY (S&M) is authorized. Articles included in such effects may be imported without limitation provided they were actually used by such persons or their family members abroad, are not intended for any other person or for sale, and are not otherwise prohibited from importation.

§ 585.509 Trading in certain pre-sanctions obligations authorized.

(a) All transactions by U.S. persons involving secondary market trading in debt obligations, or portions thereof, originally incurred by banks ("Original Borrowers") organized and headquartered in the Republics of Slovenia, Croatia, Bosnia-Hercegovina, and Macedonia, and rescheduled pursuant to the "New Financing Agreement" of September 20, 1988 (the "NFA"), are authorized, notwithstanding the joint and several liability undertaken by the National Bank of Yugoslavia and/or of banks located in the FRY (S&M), for repayment of such obligations.

(b) Nothing in this section shall authorize trading in debt obligations, or portions thereof, subject to the NFA for which the Original Borrower was the National Bank of Yugoslavia or an entity organized or headquartered in Serbia or Montenegro.

(c) No transfer of debt obligations, or portions thereof, for which the National Bank of Yugoslavia or a bank located in the FRY (S&M) has joint or several liability may be completed unless the transferee undertakes in writing that the debt obligations will not be further transferred to or for the benefit of the Government of the FRY (S&M), including the National Bank of Yugoslavia, or any person in the FRY (S&M), until permitted by U.S. law.

(d) A U.S. person involved in the transfer of any debt obligation for which the National Bank of Yugoslavia or an entity located in the FRY (S&M) has joint or several liability must file a report with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, within 10 days of the transfer, providing:

(1) The names and addresses of the transferor, transferee and the U.S. person involved if neither of the foregoing;

(2) (i) A copy of the "Refinancing Loan Notice" required pursuant to the NFA concerning the debt obligation transferred, and

(ii) If an Original Borrower located or headquartered in Serbia or Montenegro, including the National Bank of Yugoslavia, is included in a consortium of obligors identified in a "Refinancing Loan Notice" for the debt obligation transferred, a copy of the transferor's confirmation(s) that each portion of the debt obligation transferred is that of an Original Borrower organized and headquartered in the Republic of Slovenia, Croatia, Bosnia-Hercegovina, or Macedonia; and

(3) A certification that the transfer documents include the transferee's undertaking required in paragraph (c) of this section.

§ 585.510 Payments and transfers authorized for goods and services exported to the FRY (S&M) prior to the effective date.

(a) Specific licenses may be issued on a case-by-case basis to permit payment involving an irrevocable letter of credit issued or confirmed by a U.S. bank, or a letter of credit reimbursement confirmed by a U.S. bank, from a blocked account or otherwise, of amounts owed to or for the benefit of a person with respect to goods or services exported prior to May 30, 1992, directly or indirectly to the FRY (S&M), or to third countries for an entity operated from the FRY (S&M), or for the benefit of the Government of the FRY (S&M), where the license application presents evidence satisfactory to the Office of Foreign Assets Control that the exportation occurred prior to the effective date (such evidence may include, for example, the bill of lading, the air waybill, the purchaser's written confirmation of completed services, customs documents, and insurance documents).

(b) This section does not authorize exportation or the performance of services after the effective date pursuant to a contract entered into or partially performed prior to the effective date.

(c) Separate criteria may be applied to the issuance of licenses authorizing payment from an account of or held by a blocked U.S. bank owned or controlled by the Government of the FRY (S&M).

§ 585.511 Extensions or renewals of letters of credit authorized.

(a) The extension or renewal, at the request of the account party, of a letter of credit or a standby letter of credit issued or confirmed by a U.S. financial institution is authorized, provided no transfer of funds is made except to a blocked account.

(b) Transactions conducted pursuant to this section must be reported to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, within 10 days after completion of the transaction.

§ 585.512 Transactions relating to travel to or within the FRY (S&M).

(a) All transactions by U.S. persons related to nonbusiness travel to, from, and within the FRY (S&M) are authorized, including the booking of travel arrangements, the payment of living expenses, and the acquisition of goods for personal consumption within the FRY (S&M), provided that no such transactions may involve transportation by air into or out of the FRY (S&M).

(b) All transactions by U.S. persons related to travel to, from, and within, and to activities within, the FRY (S&M) for the conduct of the official business of the United States Government or the United Nations and journalistic activity by persons regularly employed in such capacity by a newsgathering organization, are authorized, provided that no such transactions may involve transportation by air into or out of the FRY (S&M).

(c) This section does not authorize U.S. persons to utilize charge cards, including, but not limited to, debit cards, credit cards or other credit facilities, or to engage in transactions, while traveling in the FRY (S&M). This section also does not authorize payments to be sent into the FRY (S&M) from the United States or by a U.S. person located outside the FRY (S&M).

§ 585.513 Transactions related to telecommunications authorized.

(a) All transactions of U.S. common carriers with respect to the receipt and transmission of telecommunications involving the FRY (S&M) are authorized, provided any payment owed to the Government of the FRY (S&M) or to any other person in the FRY (S&M) is paid into a blocked account in a U.S. financial institution. This section does not authorize the exportation of equipment to upgrade telecommunications facilities.

(b) The term "telecommunications" shall mean telephone, telex and telegraph transmissions, and transmissions for the gathering or broadcast of news.

§ 585.514 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between the United States and the FRY (S&M) are authorized. For purposes of this authorization, mail is limited to personal communications not involving a transfer of anything of value, and publications and other informational materials, subject to a maximum weight limitation of 12 ounces.

§ 585.515 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright, or other intellectual property protection in the United States or the FRY (S&M) are authorized.

(1) The filing and prosecution of any application for a patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any patent, trademark or copyright; and

(3) The filing and prosecution of opposition or infringement proceedings with respect to any patent, trademark, or copyright, and the prosecution of a defense to any such proceeding.

(b) The payment of reasonable and customary fees currently due to the United States Government or to attorneys or representatives within the United States in connection with any transaction authorized by paragraphs (a)(1)–(3) of this section may be made from a blocked account held in the name of the entity in the FRY (S&M) holding the patent, trademark or copyright.

(c) The payment of fees currently due to the Government of the FRY (S&M) directly or through an attorney or representative, in connection with any of the transactions authorized by paragraphs (a)(1)–(3) of this section, or for the maintenance of any patent, trademark, or copyright, must be made into a blocked account in a domestic U.S. financial institution in the name of the appropriate governmental entity. In addition, fees currently due to individual attorneys or representatives in the FRY (S&M) in connection with any of the transactions authorized by paragraphs (a)(1)–(3) of this section may not be transferred to the FRY (S&M), but may otherwise be transferred as authorized in § 585.523.

(d) Payments of amounts due into a blocked account in the name of the Government of the FRY (S&M) must be reported to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220. The report shall include the date and amount deposited, the account title, the account number, and the name and address of the U.S. financial institution.

§ 585.516 Procedures established for export transactions initiated prior to effective date.

Goods awaiting exportation to the FRY (S&M) on the effective date and seized or detained by the U.S. Customs Service on the effective date or thereafter may be released to the exporter, provided the following documents are filed with Customs officials at the port where such goods are located:

(a) A copy of the contract governing the exportation (sale or other transfer) of the goods to the FRY (S&M) or, if no contract exists, a written explanation of the circumstances of exportation.

including in either case a description of the manner and terms of payment received or to be received by the exporter (or other person) for, or by reason of, the exportation of the goods;

(b) An invoice, bill of lading, or other documentation fully describing the goods; and

(c) A statement by the exporter substantially in the following form:

Any amount received from or on behalf of the Government of the FRY (S&M) by reason of the attempted exportation of the goods released to [name of exporter] by the U.S. Customs Service on [date], and fully described in the attached documents, has been or will be placed into a blocked account in a U.S. bank and the Office of Foreign Assets Control, Blocked Assets Section, will be immediately notified. [Name of exporter] agrees to fully indemnify the U.. Government for any amount ultimately determined by a court of competent jurisdiction to be due or payable to or for the benefit of any person by reason of the failure of [name of exporter] to properly pay into a blocked account any amount received for the goods from or on behalf of the Government of the FRY (S&M). [Name of exporter] also agrees to waive all claims (1) against any payments received and placed into a blocked account, except as may be later authorized by law, regulations, or license, and (2) against the U.S. Government with regard to the disposition of the amounts placed into a blocked account.

The statement should be dated and signed by the exporter or by a person authorized to sign on the exporter's behalf. The Customs Service may release the goods to the exporter upon receipt of the documentation and statement described above, provided it is satisfied that all customs laws and regulations have been complied with, including the execution of such hold harmless assurances as it shall determine to be appropriate. The documentation and statement received by Customs will be forwarded to the Office of Foreign Assets Control for review and appropriate action.

§ 585.517 Exportation of certain legal services to the Government of, or persons in, the FRY (S&M).

(a) The provision to the Government of the FRY (S&M), or to a person in the FRY (S&M), of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 585.416 requires the issuance of a specific license.

(b) Specific licenses are issued, on a case-by-case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of the FRY (S&M) or to a person in the FRY (S&M):

(1) Provision of legal advice and counselling to the Government of the FRY (S&M) or to a person in the FRY (S&M) on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions in violation of subpart B of this part;

(2) Representation of the Government of the FRY (S&M) or of a person in the FRY (S&M) when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of the FRY (S&M) that were in existence prior to May 30, 1992, or of a person in the FRY (S&M);

(4) Representation of the Government of the FRY (S&M) or a person in the FRY (S&M) before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against the FRY (S&M); and

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

(c) Enforcement of any domestic lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of the FRY (S&M) is prohibited unless specially licensed in accordance with § 585.202(e).

§ 585.518 Certain standby letters of credit and performance bonds.

(a) Notwithstanding any other provision of law, payment into a blocked account in a U.S. financial institution by an issuing or confirming bank under a standby letter of credit in favor of a beneficiary that is the Government of the FRY (S&M) or a person in the FRY (S&M) is prohibited by § 585.201 and not authorized, notwithstanding the provisions of § 585.503, if

(1) The account party is a U.S. person; and

(2)(i) A specific license has been issued pursuant to the provisions of paragraph (b) of this section, or (ii) 10 business days have not expired after notice to the account party pursuant to paragraph (b) of this section.

(b) Whenever an issuing or confirming bank shall receive such demand for payment under such a standby letter of credit, it shall promptly notify the account party. The account party may then apply within 5 business days for a specific license authorizing the account party to establish a blocked account on its books in the name of the FRY (S&M) beneficiary in the amount payable under the credit, in lieu of payment by the issuing or confirming bank into a blocked account and reimbursement therefor by the account party. Nothing in this section relieves any such bank or such account party from giving any notice of defense against payment or reimbursement that is required by applicable law.

(c) Where there is outstanding a demand for payment under a standby letter of credit, and the issuing or confirming bank has been enjoined from making payment, upon removal of the injunction, the account party may apply for a specific license for the same purpose and in the same manner as that set forth in paragraph (b) of this section. The issuing or confirming bank shall not make payment under the standby letter of credit unless:

(1) 10 business days have expired since the bank has received notice of the removal of the injunction, and

(2) A specific license issued to the account party pursuant to the provisions of this paragraph has not been presented to the bank.

(d) If necessary to assure the availability of the funds blocked, the Director of the Office of Foreign Assets Control may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) of this section into a blocked account in a U.S. financial institution or the supplying of any form of security deemed necessary.

(e) Nothing in this section precludes the account party on any standby letter or credit or any other person from at any time contesting the legality of the demand from a beneficiary in the FRY (S&M) or from raising any other legal defense to payment under the standby letter of credit.

(f) This section does not affect the obligation of the various parties to the instruments covered by this section if the instruments and payments thereunder are subsequently unblocked.

(g) This section does not authorize any U.S. person to reimburse a non-U.S. bank for payment to an FRY (S&M) beneficiary under a standby letter of credit, except by payments into a blocked account in accordance with § 585.503 or paragraph (b) or (c) of this section.

(h) A person receiving a specific license under paragraph (b) or (c) of this section shall certify to the Office of

Foreign Assets Control within 5 business days after receipt of that license that it has established the blocked account on its books as provided in those paragraphs. However, in appropriate cases, this time period may be extended upon application to the Office of Foreign Assets Control when the account party has filed a petition with an appropriate court seeking a judicial order barring payment by the issuing or confirming bank.

(i) For the purposes of this section:

(1) The term *standby letter of credit* shall mean a letter of credit securing performance of a contract, or repayment of any advance payments or deposits under a contract, or any similar obligation in the nature of a performance bond;

(2) The term *account party* shall mean the person for whose account the standby letter of credit was opened; and

(3) The term *FRY (S&M) beneficiary* shall mean a beneficiary that is (i) a person in the FRY (S&M), (ii) an entity operated from the FRY (S&M), or (iii) the Government of the FRY (S&M).

§585.519 Certain imports for diplomatic or official personnel authorized.

All transactions ordinarily incident to the importation of any goods or services into the United States, which are not for resale, and which are destined for official or personal use by personnel employed by the diplomatic missions of the Government of the FRY (S&M) to the United States and to international organizations located in the United States are authorized, unless the importation is otherwise prohibited by law.

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

(a) U.S. financial institutions are hereby authorized to:

(1) Debit any blocked account on their books in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account; and

(2) Make book entries against any foreign currency account maintained by it with a financial institution in the FRY (S&M) for the purpose of responding to debits to such account for normal service charges in connection therewith.

(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, photocopies, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§585.521 Donations of food to relieve human suffering authorized.

(a) Specific licenses may be issued on a case-by-case basis to permit exportation to the FRY (S&M) of donated food intended to relieve human suffering.

(b) In general, specific licenses will only be granted for donations of food to be provided through the United Nations in accordance with UNSC Resolution 757 and in cooperation with the International Committee of the Red Cross or other appropriate humanitarian agencies for distribution by them or under their supervision, or in such other manner as may be approved under UNSC Resolution 757 and any other applicable Security Council resolutions, in order to ensure that such donations reach the intended beneficiaries.

(c) Applications for specific licenses pursuant to paragraph (a) of this section shall be made in advance of the proposed exportation, and provide the following information:

(1) The nature, quantity, value, and intended use of the donated food; and

(2) The terms and conditions of distribution, including the intended method of compliance with such terms and conditions of distribution as may have been adopted by the United Nations Security Council or a duly authorized body subordinate thereto to govern the shipment of foodstuffs under applicable United Nations Security Council resolutions, including UNSC Resolution 757.

§585.522 Donations of medical supplies authorized.

(a) Specific licenses may be issued on a case-by-case basis to permit exportation to the FRY (S&M) of donated supplies intended strictly for medical purposes, in accordance with the provisions of UNSC Resolution 757 and other applicable Security Council resolutions.

(b) In general, specific licenses will only be granted for the exportation of medical supplies through the International Committee of the Red Cross or other appropriate humanitarian agencies for distribution by them or under their supervision, or in such other manner as may be approved under applicable Security Council resolutions, in order to ensure that such supplies reach the intended recipient.

(c) Applications for specific licenses pursuant to paragraph (a) of this section shall be made in advance of the proposed exportation, and provide the following information:

(1) The nature, quantity, value, and intended use of the medical supplies;

(2) The terms and conditions of distribution, including the intended method of compliance with such terms and conditions of distribution as may have been adopted by the United Nations Security Council or a duly authorized body subordinate thereto to govern the shipment of medical supplies under applicable Security Council resolutions.

§585.523 Certain transactions for the benefit of individuals in the FRY (S&M) authorized.

All transactions are authorized by U.S. financial institutions that are not blocked, including their foreign branches, for the benefit of individuals located in the FRY (S&M) provided that such transactions do not result in the transfer of funds to or for the benefit of the Government of the FRY (S&M) or to persons in the FRY (S&M).

Subpart F—Reports

§585.601 Required records.

(a) Except as otherwise provided, every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each transaction engaged in, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least 5 years after the date of such transaction. Except as otherwise provided, every person holding property subject to § 585.201 shall keep a full and accurate record of such property, and such record shall be available for examination for the period of time that such property is blocked and for at least 5 years after the date such property is unblocked.

(b) Any person, other than individual, required to maintain records pursuant to this section, must designate an individual to be responsible for providing information concerning such records to the Office of Foreign Assets Control when so requested.

§585.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required, complete information relative to any transaction, regardless of whether such transaction is effected pursuant to license or otherwise, subject to the provisions of this part. Such reports may be required to include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the person required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Director of Foreign Assets Control 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.

§ 585.603 Registration of persons holding blocked property subject to § 585.201.

(a) Any individual holding property subject to § 585.201 must register with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, by the latter of July 31, 1992, or within 10 days after the date such property is received or becomes subject to § 585.201.

(b) Any person, other than an individual, holding property subject to § 585.201 must register an individual designated under § 585.601(b) with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, by the latter of July 31, 1992, or 10 days after the date such property is received and becomes subject to § 585.201.

Subpart G—Penalties

§ 585.701 Penalties.

(a) Attention is directed to § 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705), which provides that a civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under the International Emergency Economic Powers Act, and whoever willfully violates any license, order, or regulation issued under the International Emergency Economic Powers Act, shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. Section 206 of the International Emergency Economic Powers Act is applicable to violations of any provision of this part and to violations 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 or otherwise under the International Emergency Economic Powers Act.

(b) Attention is directed to the United Nations Participation Act (22 U.S.C. 287c(b)), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in this section shall, upon conviction, be fined not more than $10,000 or, if a natural person, be imprisoned for not more than 10 years, or both; and the officer, director or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a similar fine, imprisonment or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

(d) Violations of this part may also be subject to relevant provisions of the Custom's laws and other applicable laws.

§ 585.702 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 or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his 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 make presentations.* The prepenalty notice also shall inform the person of his right to make a written presentation 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.

§ 585.703 Presentation responding to prepenalty notice.

(a) *Time within which to respond.* The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director.

(b) *Form and contents of written presentation.* The written presentation 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 contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

§ 585.704 Penalty notice.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice and any relevant facts, the Director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

§ 585.705 Referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this subpart or make payment arrangements acceptable to the Director within 30 days of the mailing of the written notice of the imposition of the penalty, the matter shall be referred for administrative collection measures 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

§585.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in subpart B of this part. All such licenses in effect on the date of publication are set forth in subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses. Failure to file such reports or statements will nullify the authority of the general license.

(b) *Specific licenses*—(1) *General course of procedure.* Transactions subject to the prohibitions contained in subpart B of this part which are not authorized by general license may be effected only under specific licenses.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transactions prohibited by or pursuant to this part may be filed by letter with the Office of Foreign Assets Control. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing such transaction, but the applicant for a specific license is required to make full disclosure of all parties in interest to the transaction so that a decision on the application may be made with full knowledge of all relevant facts and so that the identity and location of the persons who know about the transaction may be easily ascertained in the event of inquiry.

(3) *Information to be supplied.* The applicant must supply all information specified by relevant instructions and/or forms, and must fully disclose the names of all the parties who are concerned with or interested in the proposed transaction. If the application is filed by an agent, the agent must disclose the name of the principal(s). Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. Any applicant or other party in interest desiring to present additional information or discuss or argue the application may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition for the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or licenses may be issued by the Secretary of the Treasury acting directly or through any specifically designated person, agency, or instrumentality.

(7) *Address.* License applications, reports, and inquiries should be addressed to the appropriate section or individual within the Office of Foreign Assets Control, or to the Director, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220.

§585.802 Decisions.

The Office of Foreign Assets Control will advise each applicant of the decision respecting filed applications. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

§585.803 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, whether general or specific, authorizations, instructions, orders, or forms issued hereunder may be amended, modified, or revoked at any time.

§585.804 Rulemaking.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of Foreign Assets Control. In general, rulemaking by the Office of Foreign Assets Control involves foreign affairs functions of the United States, and for that reason is exempt from the requirements under the Administrative Procedure Act (5 U.S.C. 553) for notice of proposed rulemaking, opportunity for public comment, and delay in effective date. Wherever possible, however, it is the practice of the Office of Foreign Assets Control to receive written submissions or hold informal consultations with interested parties before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment, or repeal of any rule.

§585.805 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Orders 12808, 12810, 12831, and any further Executive orders relating to the national emergency declared in Executive Order 12808 may be taken by the Director, Office of Foreign Assets Control.

§585.806 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control which are required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Treasury Department issued pursuant to 5 U.S.C. 552 and published at 31 CFR part 1.

(b) Any form issued for use in connection with the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations may be obtained in person or by writing to the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, or by calling 202/622-2480.

Subpart I—Paperwork Reduction Act

§585.901 [Reserved]

Dated: January 13, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 14, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93-1668 Filed 3-5-93; 12:44 pm]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 93-06]

Special Local Regulations; City of Augusta, GA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the Augusta Port Authority Invitational Rowing Regatta. The event will be held from 7 a.m. EST (Eastern Standard Time) to 5 p.m. EST on March 25–28, 1993 on the Savannah River at Augusta, Georgia. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations will become effective from 7 a.m. on March 25, 1993 to 5 p.m. March 28, 1993.

FOR FURTHER INFORMATION CONTACT: CDR A. A. Sarra, Coast Guard Group Charleston, at (803) 724-7619.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The updated information to hold the event was not received until January 15, 1993, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of these regulations are LTJG J. M. Sicard, Assistant Operations Officer, Coast Guard Group Charleston, project officer, and LT J. M. Losego, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulations

There will be 1,000 participants racing 4 and 8 man racing shells on a fixed course. The event will take place on that portion of the Savannah River at Augusta, Georgia between U.S. Highway 1/78/278 Bridge, at mile marker 199.45, and mile marker 197. These regulations are required to promote the safety of life and property on the navigable waters during the running of the Invitational Rowing Regatta.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the Georgia Department of Natural Resources, the Army Corps of Engineers, and the National Marine Fisheries Services regarding the environmental impact of this event, and it was determined that the event does not threaten protected species.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

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 § 100.35-T0706 is added to read as follows:

§ 100.35-T0706 Augusta Port Authority Invitational Rowing Regatta.

(a) *Regulated Area.* A regulated area is established on that portion of the Savannah River at Augusta, Georgia between U.S. Highway 1/78/278 Bridge, at mile marker 199.45, and mile marker 197. The regulated area encompasses the width of the Savannah River between these two points.

(b) *Special Local Regulations.* (1) Entry into the regulated area is prohibited unless authorized by the Patrol Commander. After termination of the Augusta Invitational Regatta on March 28, 1993, all vessels may resume normal operation.

(2) Four temporary overhead cables will be used to delineate the course's racing lanes, and floats will be used on the surface of the river to mark lane separations.

(c) *Effective dates:* These regulations become effective each day from 7 a.m. EST to 5 p.m. EST on March 25, 26, 27, and 28, 1993.

Dated: February 23, 1993.

William P. Leahy,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 93-5242 Filed 3-9-93; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 921107-2307]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by the inshore component in the Western Regulatory area of the Gulf of Alaska (GOA), statistical area 61. This action is necessary to prevent exceeding the allowance of the interim specification of Pacific cod total allowable catch (TAC) for the inshore component in this area.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), March 9, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(A), the allowance of the interim specification of Pacific cod TAC for the inshore component in the statistical area 61 was established by the proposed specifications (57 FR 57982, December 8, 1992) as 4,208 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the allowance of the 1993 interim specification of Pacific cod TAC for the inshore component in the statistical area 61 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 3,788 mt, with consideration that 420 mt will be taken as incidental catch in directed fishing for other species in the statistical area 61. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by the inshore component in statistical area 61, effective from 12 noon A.l.t., March 9, 1993, through 12 noon A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 5, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5449 Filed 3–5–93; 1:12 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 45
Wednesday, March 10, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-79, Notice No. SC-93-2-NM]

Special Conditions; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 777 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). This notice contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25 of the Federal Aviation Regulations.

DATES: Comments must be received on or before April 26, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-79, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-79. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:
Bob McCracken, FAA, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2118.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action on this proposal is taken. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-79." The postcard will be date stamped and returned to the commenter.

Background

On June 18, 1990, the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207, applied for a type certificate for their new Model 777 airplane. The Model 777 is a long range, transport category airplane powered by two Pratt & Whitney 4073A, Rolls-Royce RB211-Trent 870, or General Electric GE90-B3 engines with 73,500, 71,200, and 74,500 lb. thrust ratings, respectively. The overall length of the Model 777 is 209 feet, the height is 61 feet, and the wingspan is 198 feet. The airplane has a seating capacity in a typical three class configuration of 305 to 328 passengers, or 375 to 400 passengers in a two class configuration. The Model 777 has a maximum takeoff weight of 535,000 lbs., a maximum landing weight of 445,000 lbs., a maximum operating altitude of 43,100 ft., and a range of 4,200 nautical miles in a two class configuration or 6,600 nautical miles in a three class configuration.

Type Certification Basis

Under the provisions of § 21.17, Boeing must show that the Model 777 airplane meets the applicable provisions of part 25, as amended by Amendments 25-1 through 25-71. Boeing has also elected to comply with certain aspects of Amendment 25-72, and all of Amendments 25-73 through 25-77. The amendment levels of the applicable Federal Aviation Regulations (FAR) are: Part 25 through Amendment 25-77, except for § 25.571(e)(1), which remains at Amendment 25-71 level; part 36, as amended at the time of certification; and part 34, as amended through Amendment 34-1. In addition, the certification basis will be upgraded to include any subsequent amendments to part 25 that are required for operation under part 121, and the special conditions proposed in this notice.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model 777 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Model 777 Design Features

The structure of the Model 777 is generally of conventional design and construction, but with considerable use of composite materials. Elements of the primary structure (the fin and horizontal tail) are constructed of composites, as are some elements of secondary structure, including the elevators, rudders, flaps, spoilers, ailerons, engine cowls, and main deck floor beams.

The Model 777 utilizes a combination of multiple computer channels and redundant sensors which channel command signals to various control surface actuators in response to programmed control laws. This control architecture, referred to as fly-by-wire (FBW), provides closed loop command to move servo-actuators for the elevators, ailerons, rudder, spoilers, horizontal stabilizer, slats and flaps, and engine power levers. In the unlikely event of simultaneous failure of all digital primary and analog backup computers, mechanical control is available to control the airplane's attitude until computer control is restored. This mechanical backup is not designed for controlling the airplane to a landing.

Hydraulic power for the flight control system is provided by three independent hydraulic systems. Functions are shared among these systems to ensure airplane control in the event of loss of one or two systems. The left and right systems are pressurized by variable displacement pumps driven from the engine accessory gearboxes. In addition, the left and right systems each have one electrically-driven demand pump. The center system can be pressurized by two electrically-driven hydraulic pumps. This system also has two air-driven demand pumps that use air from the airplane pneumatic system.

Normal electrical power is supplied by two integrated drive generators, one on each engine. An electrical generator powered by an auxiliary power unit (APU) is also available. Backup electrical power is available to selected airplane alternating current (AC) busses from two variable speed constant frequency generators, one of which is mounted on each engine. The main direct current (DC) system can also receive power from the backup generators. Primary power for the FBW system is provided by dedicated permanent magnet generators in each of the two backup generator units. The FBW system can alternately receive power from the main DC system or the standby DC system. The standby DC system is powered by a ram air turbine (RAT) driven AC generator, which can provide a source of standby electrical power that is not time limited. The RAT is deployed automatically upon loss of all normal and backup AC power sources. A manual deploy feature is available to the flightcrew should the RAT fail to deploy automatically.

The engine control system consists of dual channel, full authority, digital engine controls (FADEC) mounted on the fan cases of each engine. The FADEC's are interfaced with the various airplane systems to provide redundant control of the engines through a "hard-wired" throttle angle resolver system. In addition, the throttles move in proportion to commanded changes in engine power, and in the event of a total failure of the engine indicating and crew alerting system (EICAS), analog rotor speeds are available to determine engine power levels. Each FADEC provides gas generator control, engine limit protection, power management, input to the thrust reverser system, and engine parameter inputs for the flight deck displays.

Control inputs are made through conventional flight deck control wheels, columns, and rudder pedals. The flight instruments are displayed on six liquid crystal flat panel displays. Two flat panel displays are mounted directly in front of both the pilot and copilot and display primary flight instruments and navigational information. The other two flat panel displays are located in the center of the instrument panel and display engine parameters, warnings, and system diagnostics.

The proposed type design of the Model 777 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

Systems

1. Operation Without Normal Electrical Power

The Model 777 fly-by-wire control system requires a continuous source of electrical power. Section 25.1351(d), "Operation without normal electrical power," requires safe operation in VFR conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control, while the crew took time to sort out the electrical failure, start engine(s) if necessary, and re-establish some of the electrical power generation capability.

In order to maintain the same level of safety associated with traditional designs, the Model 777 design must not be time limited in its operation, including being without the normal source of electrical power generated by the engine or auxiliary power unit (APU). It should be noted that service experience has shown that the loss of all electrical power generated by the airplane's engines or APU is not extremely improbable. Thus, it must be demonstrated that the airplane can continue through safe flight and landing with inoperative normal engine and auxiliary power unit generator electrical power (electrical power sources excluding the battery and any other standby electrical sources). Therefore, Special Condition No. 1 is proposed.

2. Command Signal Integrity

The Model 777 airplane will be using fly-by-wire technology as a means of sending command and control signals to the Primary Flight Computers (PFC). The PFC's send signals to the Actuator Control Electronics (ACE) which, in turn, send analog command and control signals to the Power Control Units (PCU). The PCU's move the elevator, aileron, flaperon, rudder, spoiler, feel actuator, rudder trim, horizontal stabilizer, and autospeed-brake actuators. In the Model 777 fly-by-wire design being presented, command and control of the airplane's aerodynamic control surfaces will be achieved by electronic interfaces depending on AC and DC signals and digital data buses. These interfaces involve not only direct commands to the PCU, but all the necessary feedback sensor signals, including some that are transmitted on new ARINC 629 buses. These signal paths, as well as the digital electronics that manage them, can be susceptible to outside interferences from electromagnetic and electrostatic sources, as well as internal causes that could modify the command and control signals. Internal causes may include, but are not restricted to, the loss of data bits, unwanted transients in the power supply source, capacity saturation inside a computer, processing of signals by parallel asynchronous computers, and adverse effects caused by transport lag and any other cause that may alter the command and control signals. For these reasons, special design measures, and laboratory tests intended to validate these designs, will be required to demonstrate the integrity of the fly-by-wire flight control system, to a level of safety equivalent to that which is achieved with traditional hydro-mechanical designs. In addition, similar to the conventional steel cable controls, wire routing and electronic box location must provide separation and redundancy to ensure protection from common cause damage. In order to maintain the Model 777 airplane's systems at a level of safety that is equivalent to that intended by the regulations, Special Condition No. 2 is proposed.

3. Protection From Lightning and Unwanted Effects of High Intensity Radiated Fields (HIRF)

The Model 777 airplane will utilize electrical and electronic systems that perform critical and essential functions. These systems include electronic displays, electronic engine controls, fly-by-wire flight controls, and others.

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with new technology avionic systems. There are two regulations that specifically pertain to lightning protection; one for the airframe in general (§ 25.581), and the other for fuel system protection

(§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning could prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it could significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

The existing airworthiness regulations do not contain adequate or appropriate safety standards for protection of the Model 777 electrical and electronic systems from the effects of lightning and HIRF external to the airplane. Therefore, Special Condition No. 3 is proposed.

Airframe

4. Effect of Flight Control Systems on Structures

The Model 777, when in normal operation, incorporates a three-axis digital fly-by-wire (FBW) electronic flight control system (EFCS), with an alternate pilot selectable direct analog system. The FBW is used for all primary, secondary and high lift control surfaces. Under normal operation, the systems significant to loads development include a longitudinal stability augmentation system, yaw damper, rudder limiter, elevator limiter, flap load relief system, and wheel-rudder crosstie. The certification rules for transport airplanes did not envision this relationship between systems and structure. To provide comprehensive criteria in which the structural design safety margins are dependent on systems reliability, Special Condition No. 4 is proposed.

5. Design Maneuver Requirements

The Model 777 is equipped with electronic flight controls that provide control of the airplane through pilot inputs to the flight computer. The flight computer uses airplane flight data to adjust and limit pilot commands. The certification rules for transport airplanes did not envision this relationship between the pilot inputs and the control surfaces. To provide criteria in which the design maneuver requirements of airplane may be addressed, Special Condition No. 5 is proposed.

6. Limit Engine Torque Loads for Sudden Engine Stoppage

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines have changed considerably from what was envisioned when the engine seizure requirement, § 25.361(b), was first adopted. The latest generation of jet engines, as used in the Model 777, are much larger and are capable of producing engine seizure torque loads that are significantly higher than previous generations of engines. The FAA is developing a new regulation and a new advisory circular that will provide more comprehensive criteria for treating engine torque loads resulting from sudden engine stoppage.

The proposed criteria distinguish between the more common seizure events and those rare seizure events resulting from structural failures. For the more rare but severe seizure events, the proposed criteria would allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher factor of safety for those structures. To provide appropriate structural design criteria for the engine torque on the Model 777, Special Condition No. 6 is proposed.

Flight Characteristics

7. Flight Characteristics Compliance via Handling Qualities Rating Method

The Model 777 design incorporates an Electronic Flight Control System (EFCS). This system will provide an electronic interface between the pilot's flight controls and the flight control surfaces (for both normal and failure states), generating the actual surface commands that provide for stability augmentation and control about all three airplane axes. Because EFCS technology has out-paced existing regulations (written essentially for unaugmented airplanes, with provision for limited ON/OFF augmentation), Special Condition No. 7 is proposed to aid in the certification of flight characteristics.

8. Electronic Flight Control System: Control Surface Awareness

With an electronic flight control system and no direct coupling from cockpit controller to control surface, the pilot may not be aware of the actual surface position utilized to fulfill the requested demand. Some unusual flight condition, arising from atmospheric conditions and/or airplane or engine failures, may result in full, or near-full, surface deflection. Unless the flightcrew is made aware of excessive deflection or impending control surface limiting, piloted or Auto-Flight System control of the airplane might be inadvertently continued in such a manner as to cause airplane loss-of-control or other unsafe stability or performance characteristic. To provide criteria in which this feature may be addressed, Special Condition No. 8 is proposed.

In the event additional novel or unusual design features are identified at a later date, appropriate additional special conditions will be proposed for the Model 777.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. app 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 *et seq.*; E.O. 11514; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 777 series airplanes.

1. Operation Without Normal Electrical Power

In lieu of compliance with § 25.1351(d), it must be demonstrated by test, or combination of test and analysis, that the airplane can continue safe flight and landing with inoperative normal engine and APU generator electrical power (electrical power sources excluding the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for the maximum diversion time capability being certified.

The emergency electrical power system must be designed to supply:

1. Electrical power required for immediate safety, which must continue to operate without the need for crew action following the loss of the normal engine (which includes APU power) generator electrical power system.

2. Electrical power required for continued safe flight and landing.

3. Electrical power required to restart the engines.

2. Command Signal Integrity

In addition to compliance with § 25.671 of the FAR:

(a) It must be shown that the Primary Flight Control System (PFCS) signals cannot be altered unintentionally, or that the altered signal characteristics are such that:

(1) Stable gain and phase margins must be maintained for all aerodynamically closed loop systems, excluding pilot in the loop control.

(2) Sufficient pitch, roll, and yaw control power must be available to provide control for continued safe flight and landing, considering all the malfunctions that are not extremely improbable.

(3) The effect of spurious signals on the systems which are included in the aerodynamic loop must not result in unacceptable transients or degradation of the airplane's performance. Specifically, signals that would cause a significant uncommanded motion of a control surface actuator must be readily detected and deactivated or the surface motion must be arrested by other means in a satisfactory manner. Small amplitude residual system oscillations may be acceptable.

(4) The change of mode in one of the flight critical control systems must not be greater than 10^{-5}/flt. hr. This applies to the primary flight control systems. A change of mode can be caused by an automatic switching from the normal (i.e., full-up system) to the secondary mode. The effects of latent failures must be considered in demonstrating compliance with this special condition.

(b) It must be demonstrated that uncommanded sustained oscillations, the result of coupling between electronic or electrical command signals, and the motion of the mechanical actuator drive system together with the interfacing structural components, do not occur over the spectrum of operating frequencies. The effects of minor instabilities may be acceptable provided they are thoroughly investigated, documented, and understood.

3. Protection from Lightning and Unwanted Effects of High-Intensity Radiated Fields (HIRF)

(a) Lightning Protection

(1) Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

(2) Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

(b) Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF)

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

(c) The following definitions apply with respect to these special conditions:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Discussion: To provide a means of compliance with these proposed special conditions, clarification of the threat definition for lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in Advisory Circular (AC) 20–53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depends upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 random sets of 20 strokes each, distributed over a period of 2 seconds. Each set of 20 strokes is made up of 20 repetitive Component H waveforms distributed within a period of one millisecond. The minimum time between individual Component H pulses within a burst is 10μs, the maximum is 50μs. The 24 bursts are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A) "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H). These components are defined by the following double exponential equation: $i(t)=I_o\,(e^{-at}-e^{-bt})$ where:

t=time in seconds,

i=current in amperes, and

		Severe strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple burst (component H)
I_o, amp	=	218,810	109,405	54,703	10,572
a, sec^{-1}	=	11,354	22,708	22,708	187,191
b, sec^{-1}	=	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:					
i_{peak}	=	200 KA	100 KA	50 KA	10 KA
and,					
$(di/dt)_{max}$(amp/sec)	=	1.4×10^{11} @t=0+sec	1.4×10^{11} @t=0+sec	0.7×10^{11} @t=0+sec	2.0×10^{11} @t=0+sec
di/dt, (amp/sec)	=	1.0×10^{11} @t=.5μs	1.0×10^{11} @t=.25μs	0.5×10^{11} @t=.25μs	....
Action Integral (amp^2 sec)	=	2.0×10^{6}	0.25×10^{6}	0.625×10^{6}	....

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems (such as the EFIS, ADC, and AHRS) to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 –100 KHz	50	50
100–500	60	60
500–2000	70	70
2 –30 MHz	200	200
30 –70	30	30
70 –100	30	30
100–200	150	33
200–400	70	70
400–700	4020	935
700–1000	1700	170
1 –2 GHz	5000	990
2 –4	6680	840
4 –6	6850	310
6 –8	3600	670
8 –12	3500	1270
12 –18	3500	360
18 –40	2100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

4. Effect of Flight Control Systems on Structures

(a) General

For airplanes equipped with flight control systems, autopilots, stability augmentation systems, and load alleviation systems that directly, or as a result of a failure, affect its structural performance, the influence of these systems and their failure conditions shall be taken into account in showing compliance with subparts C and D of part 25 of the Federal Aviation Regulations (FAR).

(b) System fully operative

With the system fully operative, the following apply:

(1) Limit loads must be derived for all normal operating configurations of the systems from all the deterministic limit conditions specified in subpart C of part 25, taking into account any special behavior of such systems, associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant non linearity (rate of displacement of control surface, thresholds, or any other system non-linearities) must be accounted for in a realistic and conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (Static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of non-linearities must be investigated beyond limit conditions to ensure that the behavior of the systems present no anomalies compared to the system behavior below limit conditions.

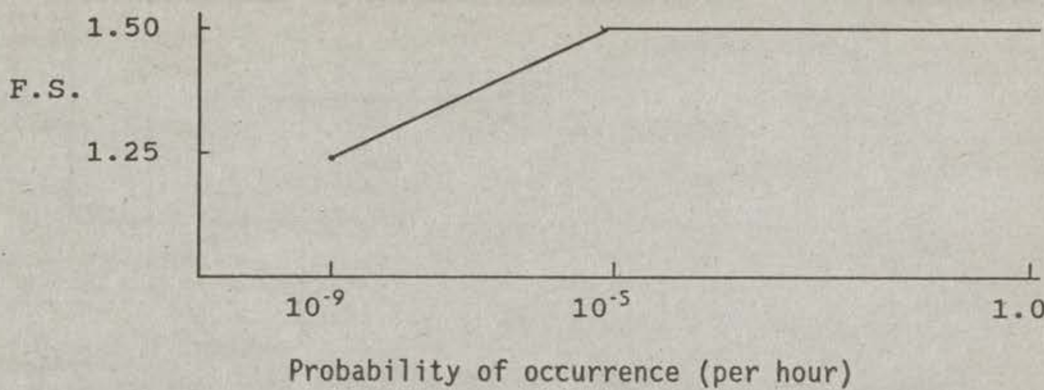
(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) System in a Failure Condition

For any system failure condition not shown to be extremely improbable, the following apply:

(1) *At the time of occurrence.* Starting from lg level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure, and immediately after failure, until the airplane is stabilized. The airplane must be able to withstand these loads, multiplied by an appropriate factor of safety, related to the probability of occurrence of the failure. These loads should be considered ultimate loads for this evaluation. The factor of safety is defined as follows:

Factor of Safety at Time of Occurrence



(i) The loads must also be used in the damage tolerance evaluation required by § 25.571(b), if the failure condition is probable. The loads should be considered as ultimate loads for the damage tolerant evaluation.

(ii) Freedom from flutter and divergence must be shown at speeds up to V_D, or 1.15 V_C, whichever is greater. However, at altitudes where the speed is limited by Mach number, compliance need be shown only up to M_D, as defined by § 25.335(b). For failure conditions that result in speed increases beyond V_C/M_C, freedom from flutter and divergence must be shown to increased speeds so that the above margins are maintained.

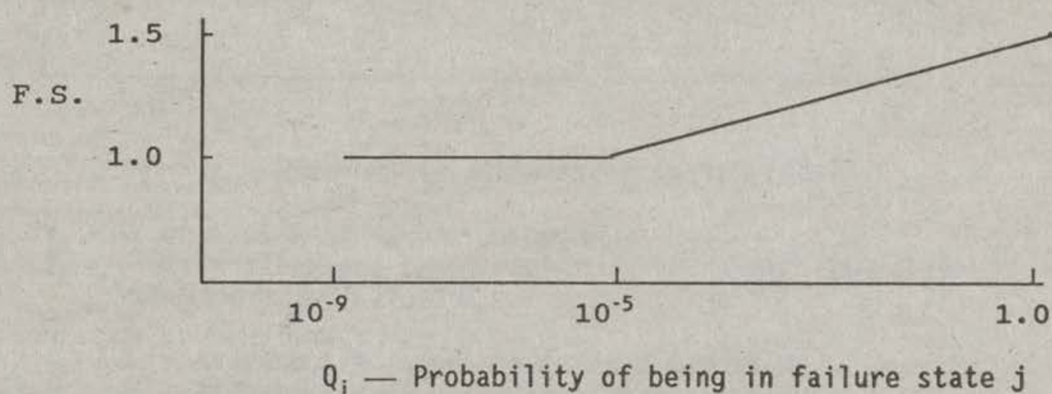
(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce peak loads that could result in permanent deformation of primary structure.

(2) *For the continuation of the flight.* For the airplane in the failed configuration and considering any appropriate flight limitations, the following apply:

(i) Static and residual strength must be determined for loads induced by the failure condition if the loads could continue to the end of the flight. These loads must be combined with the deterministic limit load conditions specified in subpart C of part 25.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads in subparagraph (2)(i) of this paragraph multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety (F.S.) is defined as follows:

Factor Of Safety for Continuation of Flight



$Q_j = T_j * P_j$ where:
T_j = Average time spent in failure condition
P_j = Probability of occurrence of failure mode

Note: If P_j is greater than 10^{-3} per flight hour, then a safety factor of 1.5 must be used.

(iii) For residual strength substantiation as defined in § 25.571(b), structures affected by failure of the system, and with damage in combination with the system failure, a reduction factor may be applied to the residual strength loads of § 25.571(b). However, the residual strength level must not be less than the 1-g flight load combined with the loads introduced by the failure condition, plus two-thirds of the load increments of the conditions specified in § 25.571(b) applied in both positive and negative directions (if appropriate). The reduction factor (R.F.) is defined as follows:

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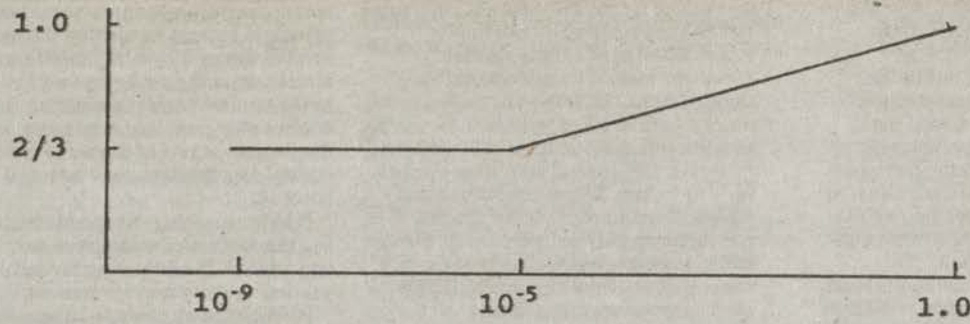
Residual Strength Reduction Factor

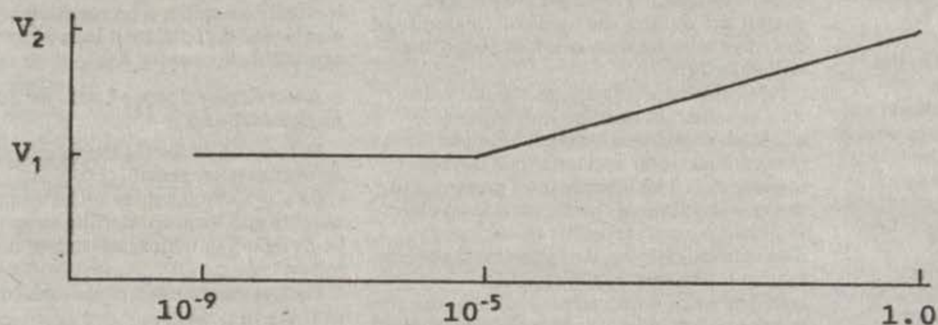


Q_j - Probability of being in failure state j
$Q_j = T_j*P_j$ where:
T_j = Average time spent in failure condition
P_j = Probability of occurrence of failure mode

Note: If P_j is greater than 10^{-3}, per flight hour then a safety factor of 1.0 must be used.

(iv) Freedom from flutter and divergence must be shown up to a speed determined by the following figure:

Flutter Clearance Speed



Q_j - Probability of being in failure state j

$V_1 = V_D$ or 1.15 V_C whichever is greater.
V_2 = Flutter clearance speed required for normal (unfailed) conditions by § 25.629.
$Q_j = T_j*P_j$ where:
T_j = Average time spent in failure condition
P_j = Probability of occurrence of failure mode

Note: If P_j is greater than 10^{-3}, then the flutter clearance speed must not be less than V_2.

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(v) Freedom from flutter and divergence must also be shown up to V_1, as depicted in the above figure, for any probable system failure condition, combined with any damage required or selected for investigation by § 25.571(b).

(vi) If the time likely to be spent in the failure condition is not small compared to the damage propagation period, or if the loads induced by the failure condition may have a significant influence on the damage propagation, then the effects of the particular failure condition must be addressed and the corresponding inspection intervals adjusted to adequately cover this situation.

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the prescribed value of the current requirement.

(d) Warning considerations

For system failure detection and warning, the following apply:

(1) Before flight, the system must be checked for failure conditions, not shown to be extremely improbable, that would degrade the structural capability below the level specified in paragraph (b) of this special condition. The crew must be made aware of these failures, if they exist, before flight.

(2) The existence of any failure condition during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the crew in accordance with § 25.1322.

(3) During flight, any failure condition not shown to be extremely improbable, in which the safety factor existing between the airplane strength capability and loads induced by the deterministic limit conditions of subpart C of part 25 is reduced to 1.3 or less, must be signaled to the crew if appropriate procedures and limitations can be provided so that the crew can take action to minimize the associated reduction in airworthiness during the remainder of the flight.

(e) Dispatch with failure conditions

If the airplane is to be dispatched with a failed system that would reduce the structural performance, then operational limitations must be provided whose effects combined with those of the failure condition allow the airplane to meet the structural requirements as described in paragraph (b) of this special condition. Subsequent system failures must also be considered.

The following definitions are applicable to this special condition.

Structural performance: Capability of the airplane to meet the requirements of part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight failure and that are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., payload limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in this special condition should be understood as defined in AC 25.1309–1A.

Failure condition: The term failure condition is defined in AC 25.1309–1A; however, this special condition applies only to system failure conditions that have a direct impact on the structural performance of the airplane (e.g., failure conditions that induce loads or change the response of the airplane to inputs such as gusts or pilot actions).

5. Design Maneuver Requirements

(a) Pitch maneuvering loads

In addition to the requirements of § 25.331(c), it must be established that pitch maneuver loads induced by the system itself (e.g., abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(b) Roll maneuver loads

In lieu of compliance with § 25.349(a), the following conditions, speeds, spoiler and aileron deflections (except as the deflections may be limited by pilot effort) must be considered in combination with an airplane load factor of zero, and two-thirds of the positive maneuvering factor used in design. In determining the required aileron and spoiler deflections, the torsional flexibility of the wing must be considered in accordance with § 25.301(b).

(1) Conditions corresponding to steady rolling velocities must be investigated. In addition, conditions corresponding to maximum angular acceleration must be investigated. The investigation must include the maximum possible aileron and spoiler deflections commanded by the electronic flight control system, using the most adverse system tolerances. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(2) At V_A, sudden full deflection of the cockpit roll control up to the limit is assumed. The position of the cockpit roll control must be maintained until a steady roll rate is achieved and then must be returned suddenly to the neutral position.

(3) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than that obtained in paragraph (2), above.

(4) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than one third of that obtained in paragraph (2), above.

(5) It must be established that roll maneuver loads induced by the system itself (e.g. abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(c) Yaw maneuver loads

In lieu of compliance with § 25.351(a), the airplane must be designed for loads resulting from the conditions specified in subparagraphs (a) and (b) of this paragraph. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational and conservative manner considering the principal masses furnishing the reacting inertial forces. Physical limitations of the aircraft from the cockpit yaw control device to the control surface deflection, such as control stop position, maximum power and displacement rate of the servo controls, or control law limiters, may be taken into account.

(1) Maneuvering. At speeds from V_{MC} to V_D, the following maneuvers must be considered. In computing the tail loads, the yawing velocity may be assumed to be zero.

(i) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit yaw control device (pedal) is suddenly displaced to the maximum deflection, up to the limit, or by a 300 pound rudder pedal force, whichever is less.

(ii) With the cockpit yaw control device (pedal) deflected as specified in subparagraph (i) of this paragraph, it is assumed that the airplane yaws to the resulting side slip angle (beyond the static side slip angle).

(iii) With the airplane yawed to the static sideslip angle with the cockpit yaw control deflected as in subparagraph (i) of this paragraph, it is assumed that the cockpit yaw control device is returned to neutral.

(iv) It must be established that yaw maneuver loads induced by the system itself (e.g., abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

6. Limit Engine Torque Loads for Sudden Engine Stoppage

In lieu of § 25.361(b) the following special condition is proposed:

(b) For turbine engine installations, the mounts and local supporting structure must be designed to withstand each of the following:

(1) The maximum torque load, considered as limit, imposed by;

(i) sudden deceleration due to a malfunction which could result in a temporary loss of power or thrust capability, and could cause a shut down due to vibrations, and

(ii) the maximum acceleration of the engine.

(2) The maximum torque load, considered as ultimate, imposed by sudden engine stoppage due to a structural failure including fan blade failure.

(3) The load condition defined in paragraph (b)(2) of this section is also assumed to act on adjacent airframe structure, such as the wing and fuselage. This load condition is multiplied by a factor of 1.25 to obtain ultimate loads when the load is applied to the wing and fuselage structure.

7. Flight Characteristics Compliance via Handling Qualities Rating Method

In lieu of compliance with § 25.672(c), a handling qualities rating system will be used for evaluation of electronic flight control system (EFCS) configurations resulting from single and multiple failures not shown to be extremely improbable. The handling qualities ratings are:

Satisfactory: Full performance criteria can be met with routine pilot effort and attention.

Adequate: Adequate for continued safe flight and landing; full or specified reduced performance can be met, but with heightened pilot effort and attention.

Controllable: Inadequate for continued safe flight and landing, but controllable for return to a safe flight condition, safe flight envelope and/or reconfiguration so that the handling qualities are at least Adequate.

Handling qualities will be allowed to progressively degrade with failure state, atmospheric disturbance level, and flight envelope. Specifically within the normal flight envelope, the pilot-rated handling qualities must be satisfactory/adequate in moderate atmospheric disturbance for probable failures, and must not be less than adequate in light atmospheric disturbance for improbable failures.

8. Electronic Flight Control System: Control Surface Awareness

In addition to compliance with §§ 25.143, 25.671, and 25.672, when a flight condition exists where, without being commanded by the crew, control surfaces are coming so close to their limits that return to the normal flight envelope and (or) continuation of safe flight requires a specific crew action, a suitable flight control position annunciation shall be provided to the crew, unless other existing indications are found adequate or sufficient to prompt that action.

Note: The term suitable also indicates an appropriate balance between nuisance and necessary operation.

Issued in Renton, Washington, on February 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-5453 Filed 3-9-93; 8:45 am]

BILLING CODE 4910-13-M

RAILROAD RETIREMENT BOARD

20 CFR Part 266

[RIN 3220-AA83]

Representative Payment

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to revise part 266 in order to provide more detailed guidelines regarding the selection, payment, responsibilities, and monitoring of representative payees. The title of part 266 is also proposed to be changed from "Incompetence" to "Representative Payment" which better describes the contents of part 266. This proposal is being made to improve the administration of the Board's representative payee program.

DATES: Comments must be received by April 9, 1993.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 (312) 751-4513; TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*) provides a system of retirement and disability benefits for railroad employees, their spouses, children, and survivors who meet certain eligibility requirements under that Act. Section 12 of the Act (45 U.S.C. 231k) contains the same provisions as section 19 of the Railroad Retirement Act of 1937, the predecessor of the present Act, regarding the competence of an annuitant and the Board's authority in cases where an annuitant is incompetent. Under these provisions, any claimant or annuitant is presumed to be competent until the Board receives written notice to the contrary. If a claimant or annuitant is incompetent, the Board may make payments to, or conduct transactions with, any legally appointed guardian on behalf of the claimant or annuitant. Furthermore, section 12(a) expressly authorizes the Board to make payments, or conduct transactions, directly with the claimant or annuitant, or with any other person on his or her behalf, even though he or she is an incompetent for whom a guardian is acting. The provisions of section 12 are applicable to benefits claimed or paid under any Act administered in whole or in part by the Board, including any claim for or payment of social security benefits administered by the Board pursuant to section 7(b)(2) of the Railroad Retirement Act (45 U.S.C. 231f(b)(2)).

There has been growing concern in the Congress to assure that surrogate decision making services, including representative payee services, are provided in a uniform, high quality manner which maximizes the potential of every individual for self-reliance and independence.

Since the Board is currently in the process of a comprehensive review, revision, and amendment of its regulations, part 266 is proposed to be revised at this time to address concerns that adequate safeguards be provided where payment of an annuity under the Railroad Retirement Act is made to a representative payee rather than directly to the annuitant. Thus, the proposed new part 266 expands, as well as revises, the present regulation.

A brief summary of the disposition of the various sections of the present part 266 under the proposed regulation is set forth below.

The present § 266.1 simply sets forth the statutory provisions of section 12 of the Railroad Retirement Act (RRA) (45 U.S.C. 231k), and because of this redundancy, is proposed to be removed.

The present § 266.2 has been incorporated into § 266.1(b) of the proposed regulation. The proposed § 266.1 sets forth an introduction, consisting of an explanation of representative payment and the law and policy used to determine whether to make representative payment.

The present § 266.3 has been incorporated into § 266.3(a) of the proposed regulation. The proposed § 266.3 sets forth information which the Board will consider in determining whether to make representative payment.

The present § 266.4 has been redesignated as § 266.12. Proposed § 266.4 sets forth what information the Board will use in selecting a representative payee.

Paragraphs (a) and (b) of the present § 266.5 have been redesignated as § 266.2, and the term "beneficiary" has been removed and the term "annuitant" has been added in its place throughout the proposed part 266. Proposed § 266.5 describes the order of preference the Board will generally use in selecting representative payees.

The present § 266.6 has been incorporated into the proposed § 266.9(a). The proposed § 266.9 sets forth general responsibilities of a representative payee.

The present §§ 266.7, 266.9, 266.10, and 266.11 have been revised and incorporated into a single section, § 266.10, which details how a representative payee is to use benefit payments.

The present § 266.8, "Conservation and investment of benefit payments," has been revised and incorporated into the proposed § 266.11.

Proposed §§ 266.6, 266.7, and 266.8 are new. Section 266.6 provides that a representative payee applicant must provide the Board with the information listed in proposed § 266.4 and will generally be required to undergo a face-to-face interview with a field representative of the Board.

Proposed § 266.7 provides that the representative payee make an accounting to the Board for the use of benefits he or she receives as payee and sets forth what information will satisfy the requirement of an accounting.

Proposed § 266.8 provides that an annuitant may challenge the appointment or selection of a representative payee. However, an individual who requests to be made a representative payee for an annuitant has no standing to challenge the Board's refusal to make the appointment.

The present § 266.12 has been revised and incorporated into the new § 266.7(c) described above. Proposed § 266.12, as noted earlier, is the redesignated § 266.4.

The present § 266.13 has been redesignated as the proposed § 266.15. Proposed §§ 266.13 and 266.14 are new. The former section describes when the Board will terminate an individual's status as a representative payee and appoint a new one. The latter section describes what evidence an annuitant must provide to the Board to terminate representative payments and thereby receive benefits directly.

The Board has determined that this is not a major rule under Executive Order 12291; therefore, no regulatory impact analysis is required. Information collection has been approved by the Office of Management and Budget under control numbers 3220–0151 and 3220–0052.

A distribution table is provided to show the distribution of the old part 266.

Old section	New section
266.1	Removed
266.2	266.1(b)
266.3	266.3(a)
266.4	266.12
266.5	266.2 and 266.5
266.6	266.9(a)
266.7	266.10 (a) and (b)
266.8	266.11
266.9	266.10(b)
266.10	266.10(c)
266.11	266.10(d)
266.12	266.7
266.13	266.15

A derivation table is provided to show the sources of the revised part 266.

New section	Old section
266.1	266.2
266.2	266.5
266.3	266.3
266.4	none
266.5	266.5
266.6	none
266.7	266.12
266.8	none
266.9	266.6
266.10	266.7, 266.9, 266.10, 266.11
266 11	266.8
266.12	266.4
266.13	none
266.14	none
266.15	266.13

List of Subjects in 20 CFR Part 266

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, title 20, chapter II Part 266 of the Code of Federal Regulations is proposed to be revised as follows:

PART 266—REPRESENTATIVE PAYMENT

Authority: 45 U.S.C. 231k and 231f.

§ 266.1 Introduction.

(a) *Explanation of representative payment.* This subpart explains the principles and procedures that the Board follows in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds which he or she receives on behalf of an annuitant. A representative payee may be either a person or an organization selected by the Board to receive benefits on behalf of an annuitant. A representative payee will be selected if the Board believes that the interest of an annuitant will be served by representative payment rather than direct payment of benefits. Generally, the Board will appoint a representative payee if it determines that the annuitant is not able to manage or direct the management of benefit payments in his or her interest.

(b) *Statutory authority.* Section 12 of the Railroad Retirement Act provides that every annuitant and claimant shall be conclusively presumed to have been competent until the date on which the Board receives a notice in writing that a legal guardian or other person legally vested with the care of the person or estate of an incompetent or a minor has been appointed: *Provided, however,* That despite receiving such notice, the Board may, if it finds the interests of such annuitant or claimant to be served thereby, recognize actions by, conduct transactions with, and make payments to such annuitant or claimant.

(c) *Policy used to determine whether to make representative payment.* (1) In accordance with section 12 of the Railroad Retirement Act, the Board's policy is that every annuitant has the right to manage his or her own benefits. However, some annuitants due to mental or physical condition or due to their youth may be unable to do so. If the Board determines that the interests of an annuitant would be better served if benefit payments were certified to another person as representative payee, the Board will appoint a representative payee in accordance with the procedures set forth in this subpart. The Board may appoint a representative payee even if the annuitant is a legally competent individual. If the annuitant is a legally incompetent individual, the Board may appoint the legal guardian or some other person as a representative payee.

(2) If payment is being made directly to an annuitant and a question arises concerning his or her ability to manage or direct the management of benefit payments, the Board may, if the annuitant is 18 years old or older and has not been adjudged legally incompetent, continue to pay the annuitant until the Board makes a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.

§ 266.2 Recognition by the Board of a person to act in behalf of another.

(a) Regardless of the receipt of written notice of the appointment of a guardian or other person legally vested with the care of the person or estate of an incompetent or a minor who is receiving or claiming benefits or to whom any right or privilege is extended under the law, the Board may, in its discretion, validly recognize actions by and conduct transactions with others acting on behalf of the individual found by the

Board to be a minor or to be unable to manage his or her affairs, if the Board finds such actions or transactions to be in the best interest of such individual.

(b) In the absence of a written notice of the appointment of a guardian or other person legally vested with the care of the person or estate of an incompetent or minor, the Board shall, except where special circumstances appear, recognize a person to act on behalf of an individual under the following circumstances:

(1) When the individual has been adjudged mentally incompetent by a court having jurisdiction to do so;

(2) When the individual has been committed to a mental institution by a court having jurisdiction to do so;

(3) When the individual is an inmate of a mental institution;

(4) When the individual is less than 16 years of age; or

(5) When the individual is between 16 and 18 years of age and is in the care of another person and does not have the capacity to act on his or her own behalf.

§ 266.3 Information considered in determining whether to make representative payments.

In determining whether to make representative payment, the Board may consider the following information:

(a) *Evidence of legal guardianship.* Evidence of the appointment of a legal guardian or other person legally vested with the care of the person or estate of an incompetent or a minor shall be a certified copy of the court's determination.

(b) *Medical evidence.* The Board may use medical evidence, when such is available, to help determine whether an annuitant is capable of managing or directing the management of benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the annuitant and his or her knowledge of the annuitant's present condition will be used in the Board's determination, if it includes information concerning the nature of the annuitant's illness, the annuitant's chances for recovery and the opinion of the physician or other medical professional as to whether the annuitant is able to manage or direct the management of benefit payments.

(c) *Other evidence.* The Board may also consider statements of relatives, friends, and other people in a position to know and observe the annuitant, which contain information helpful to the Board in deciding whether the annuitant is able to manage or direct the management of benefit payments.

§ 266.4 Information considered in selecting a representative payee.

In selecting a representative payee, the Board tries to select the person, agency, organization or institution that will best serve the interest of the annuitant. In making this selection, the Board may consider such factors as the following:

(a) The relationship of the person to the annuitant, including the type of relationship, e.g., family or legal guardianship; degree of relationship, if the person is a family member; and the length of association, if a non-family member;

(b) The amount of interest that the person shows in the annuitant, including the contributions the person makes to the welfare of the annuitant and the contacts and frequency of such contacts with the annuitant;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the annuitant;

(d) Whether the potential payee has custody of the annuitant;

(e) Whether the potential payee is in a position to know of and look after the needs of the annuitant;

(f) Verification of the social security account number, name, address, telephone number, place of employment, and main source of income if applicable, accepted as part of any person's application for designation as a representative payee, unless such person's identification has already been established to the satisfaction of the Board;

(g) Whether an applicant for designation as a representative payee has ever been convicted of a felony or misdemeanor under the statutes administered by the Board or the Social Security Act, or convicted of a felony under any other Federal or State law; and

(h) Whether the services of such person as representative payee have previously been terminated, suspended, or declined by the Board or the Social Security Administration for:

(1) Misuse of the benefits of the annuitant for whom they were intended;

(2) Failure to comply with any provision of or regulation under the Railroad Retirement Act or the Social Security Act; or

(3) Failure to meet the requirements of this part.

§ 266.5 Order of preference in selecting a representative payee.

As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. The primary concern of the Board is to select the payee who will best serve the annuitant's interest. The preferences are:

(a) For annuitants 18 years old or older, the preference is:

(1) A legal guardian, spouse, or other relative who has custody of the annuitant or who demonstrates strong concern for the personal welfare of the annuitant;

(2) A friend who has custody of the annuitant or demonstrates strong concern for the personal welfare of the annuitant;

(3) A public or nonprofit agency or institution having custody of the annuitant;

(4) A private institution operated for profit and licensed under State law, which has custody of the annuitant; and

(5) Persons other than those listed above who are qualified to carry out the responsibilities of a representative payee and who are able and willing to serve as a payee for an annuitant; *e.g.*, members of community groups or organizations who volunteer to serve as representative payee for an annuitant.

(b) For annuitants under age 18, the preference is:

(1) A natural or adoptive parent who has custody of the annuitant, or a legal guardian;

(2) A natural or adoptive parent who does not have custody of the annuitant, but is contributing toward the annuitant's support and is demonstrating strong concern for the annuitant's well-being;

(3) A relative or stepparent who has custody of the annuitant;

(4) A natural or adoptive parent who does not have custody of the annuitant and is not contributing toward his or her support but is demonstrating strong concern for the annuitant's well-being;

(5) A relative who does not have custody of the annuitant but is contributing toward the annuitant's support and is demonstrating concern for the annuitant's well-being;

(6) A relative or close friend who does not have custody of the annuitant but is demonstrating concern for the annuitant's well-being; and

(7) An authorized social agency or custodial institution.

§ 266.6 Information to be submitted by a representative payee applicant; face-to-face interview.

Before the Board selects a representative payee, the Board may request the payee applicant to provide information concerning the factors listed in § 266.4 of this part. An employee of the Board may also conduct a face-to-face interview with the payee applicant.

(Approved by the Office of Management and Budget under control number 3220–0052.)

§ 266.7 Accountability of a representative payee.

(a) A representative payee is accountable for the use of benefits. The Board will require periodic written reports from representative payees. The Board may also, at the Board's option, verify how a representative payee used benefit payments. A representative payee must keep records of what was done with all benefit payments in order to make accounting reports. The Board may ask the following questions:

(1) The amount of benefit payments on hand at the beginning of the accounting period;

(2) How the benefit payments were used;

(3) How much of the benefit payments were saved and how the savings were invested;

(4) Where the annuitant lived during the accounting period;

(5) The amount of the annuitant's income from other sources during the accounting period. The Board may ask for information about other funds to enable the Board to evaluate the use of benefit payments; and

(6) Whether the representative payee has been convicted of a felony or misdemeanor offense under the statutes administered by the Board or by the Social Security Administration within the past 15 years or whether any such charges are pending.

(b) An individual to whom payments are certified as representative payee on behalf of an annuitant shall submit a written report in such form and at such times as the Board may require, accounting for the payments certified to him or her on behalf of the annuitant. If, however, such payee is a court-appointed fiduciary and, as such, is required to make an annual accounting to the court, a true copy of each such account filed with the court may be submitted in lieu of the accounting form prescribed by the Board. If any representative payee fails to submit the required accounting within a reasonable period of time after it is requested, no further payments shall be made to him or her on behalf of the annuitant unless for good cause shown, the default of the representative payee is excused by the Board, and the required accounting is thereafter submitted.

(c) At any time after the Board has selected a representative payee, the Board may ask such payee to submit information showing a continuing relationship to the annuitant and a continuing responsibility for the care of the annuitant. If the representative payee does not give the Board the requested information within a reasonable period of time, the Board may stop paying such payee unless the Board determines that the payee had a good reason for not complying with the Board's request, and the Board receives the information requested.

(Approved by the Office of Management and Budget under control numbers 3220–0052 and 3220–0151.)

§ 266.8 Advance notice of the determination to make representative payment.

(a) As a general rule, whenever the Board intends to make representative payment and to name a representative payee, the Board will notify the annuitant or, in the case of an unemancipated minor under age 18, or an individual who is legally incompetent, the individual acting on his or her behalf of the Board's proposed actions. Such notice will tell the person that the Board plans to name a representative payee and who that payee will be. The notice will also ask the person to contact the Board within 15 days of the date of the notice if he or she objects to either proposed action. If he or she objects to either proposed action, the objecting party may—

(1) Review the evidence upon which the proposed actions will be based; and

(2) Submit any additional evidence regarding the proposed actions.

(b) If the objecting party objects to the proposed actions, the Board will review its proposed determinations and consider any additional information provided. The Board will then issue a decision on whether to appoint a representative payee and who that payee will be. If the objecting party is dissatisfied with either determination, he or she may request a reconsideration under part 260 of this chapter.

(c) If the objecting party does not file a timely objection to the proposed actions, the Board will issue a decision on whether to appoint a representative payee and who that payee will be. If the objecting party is dissatisfied with either determination, he or she may request a reconsideration as authorized by § 260.3 of this chapter.

(d) A request for reconsideration or an appeal from a determination under this section under part 260 of this chapter shall not prevent the Board from making payments to a representative payee during the pendency of such reconsideration or appeal.

(e) The Board's failure or refusal to select an individual as representative payee or the Board's termination of representative payee status with respect to an individual is not subject to a request for reconsideration or an appeal under part 260 of this chapter by such individual.

§ 266.9 Responsibilities of a representative payee.

(a) A representative payee shall, subject to review by the Board and to such requirements as it may from time to time prescribe, apply the payments made to him or her on behalf of the annuitant only for the use and benefit of such annuitant, and in a manner and for purposes which are in the annuitant's best interests.

(b) A representative payee shall notify the Board of any event that will affect the amount of benefits the annuitant receives or the right of the annuitant to receive benefits.

(c) A representative payee shall notify the Board of any change in his or her circumstances that would affect performance of the payee responsibilities.

§ 266.10 Use of benefit payments.

(a) *Current maintenance.* Payments made to an individual as representative payee on behalf of an annuitant shall be considered as having been applied for the use and benefit of the annuitant when they are used for the annuitant's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

Example: An aged annuitant is entitled to a monthly railroad retirement benefit of $800. His son, who is his representative payee, disburses his benefits in the following manner:

Rent and utilities	$500
Medical	50
Food	80
Clothing (coat)	90
Savings	60
Miscellaneous	20

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institutional care.* If an annuitant is receiving care in a Federal, state, or private institution because of mental or physical incapacity, current maintenance includes the customary charges made by the institution in providing care and maintenance, as well as expenditures for those items which will aid in the annuitant's recovery or release from the institution or expenses for personal needs which will improve the annuitant's conditions while in the institution.

(c) *Support of legal dependents.* If the current maintenance needs of the annuitant are met, the representative payee may use part of the payments for the support of the annuitant's legally dependent spouse, child, and/or parent.

(d) *Claims of creditors.* Where a debt arose prior to the first month for which benefits are certified to a representative payee, the representative payee may satisfy such debt out of present benefit payments only if the current and reasonably foreseeable needs of the annuitant are met.

Example: A retroactive railroad retirement annuity check in the amount of $2,100, representing benefits due for November 1989 through January 1990, was issued on behalf of the annuitant to the annuitant's daughter, who is the representative payee. The check was certified in February 1990. The nursing home, where the annuitant resides, is owed money for maintenance expenses the annuitant incurred prior to February 1990.

If the accrual is not required for the annuitant's current maintenance and the annuitant had no foreseeable needs which would require large disbursements, the expenditure of the accrual or part thereof for the past due maintenance charges would be consistent with the Board's guidelines.

§ 266.11 Conservation and investment of benefit payments.

(a) *General.* If benefit payments made to a representative payee are not needed for the annuitant's current maintenance or reasonably foreseeable needs or the support of legal dependents or to pay creditors in accordance with § 266.10, they shall be conserved or invested on behalf of the annuitant. Such funds must be invested in accordance with the rules applicable to investment of trust estates by trustees. Any investment must show clearly that the representative payee holds the property in trust for the annuitant.

(b) *Preferred investments.* Preferred investments for excess funds are deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law, direct obligations of the United States Government or obligations for which both principal and interest are guaranteed unconditionally by the United States Government. The account must be in a form which shows clearly that the representative payee has only a fiduciary, and not a personal, interest in the funds. If the payee is the legally appointed guardian or fiduciary of the annuitant, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

(1) For U.S. Savings Bonds—

____________(Name of annuitant)
____________(Social Security Number), for whom ____________(Name of payee) is representative payee for Railroad Retirement benefits;

(2) For interest or dividend paying accounts—

____________(Name of annuitant) by
____________(Name of payee), representative payee.

(c) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the annuitant and may not be considered to be the property of the representative payee.

(d) *Prohibition against commingling.* The representative payee shall not commingle his or her personal funds with the representative payments. A representative payee may consolidate and maintain an annuitant's funds in an account with other annuitants if he or she maintains a separate, accurate and complete accounting of each annuitant's funds under his or her control.

§ 266.12 Effect of matters or actions submitted or taken by legal guardian, etc.

All matters and actions in connection with an annuity submitted or taken by the guardian or other person legally vested with the care of the person or estate of an incompetent or a minor shall be considered by the Board in the same manner and with the same effect as though such matters or actions had been submitted or taken by the ward, if the ward had capacity to act in his or her own behalf; *Provided, however,* That the Board may, if it deems it necessary, require the guardian or other person legally vested with the care of the person or estate of an incompetent or a minor to submit a certified copy of an order from the court of appointment authorizing some particular action which the guardian or other person legally vested with the care of the person or estate desires to take in connection with the application.

§ 266.13 When a new representative payee will be selected.

When the Board learns that the interests of the annuitant are not served by continuing payment to the present representative payee or that the present representative payee is no longer able to carry out the payee responsibilities, the Board will undertake to find a new representative payee. The Board will select a new representative payee if the Board finds a preferred payee or if the present payee—

(a) Has not used the benefit payments on the annuitant's behalf in accordance with the guidelines in this subpart;

(b) Has not carried out the other responsibilities described in this part;

(c) Dies;

(d) No longer wishes to be representative payee;

(e) Is unable to manage the benefit payments; or

(f) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information which the Board requests.

§ 266.14 When representative payment will be stopped.

If an annuitant receiving representative payment shows the Board that he or she is mentally and physically able to manage or direct the management of benefit payments, the Board will make direct payment to the annuitant. Information which the annuitant may give to the Board to support his or her request for direct payment include the following:

(a) A physician's statement regarding the annuitant's condition, or a statement by a medical officer of the institution where the annuitant is or was confined, showing that the annuitant is able to manage or direct the management of his or her funds;

(b) A certified copy of a court order restoring the annuitant's rights in a case where an annuitant was adjudged legally incompetent; or

(c) Other evidence which establishes the annuitant's ability to manage or direct the management of benefits.

§ 266.15 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested funds from railroad retirement payments made to him or her on behalf of an annuitant shall, upon direction of the Board, transfer any such funds (including interest or dividends earned from investment of such funds) to a successor representative payee appointed by the Board, or, at the option of the Board, shall transfer such funds, including interest, to the Board for payment to a successor payee or to the annuitant.

Dated: March 2, 1993.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93-5414 Filed 3-9-93; 8:45 am]

BILLING CODE 7905-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. 91N-0281]

General and Plastic Surgery Devices; Effective Date of Requirement for Premarket Approval of Silicone Inflatable Breast Prosthesis; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to April 8, 1993, the comment period on the proposed rule to amend its regulations to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the silicone inflatable breast prosthesis, a medical device. The proposed rule was published in the **Federal Register** of January 8, 1993 (58 FR 3436). FDA is taking this action in response to a request for an extension of the comment period.

DATES: Written comments by April 8, 1993.

ADDRESSES: Submit written comments to the Docket Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 8, 1993 (58 FR 3436), FDA issued a proposed rule to amend its regulations to require the filing of a PMA or a notice of completion of a PDP for the silicone inflatable breast prosthesis, a medical device. Interested persons were given until March 9, 1993, to respond to the proposed rule. FDA received one request for an extension of the comment period for 120 days. The request stated that additional time was needed to review all of the clinical issues, medical literature, clinical endpoint, and safety criteria in order to adequately address them.

FDA agrees with the request in part and is granting a 30-day extension. Accordingly, the comment period is extended to April 8, 1993.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 4, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-5437 Filed 3-9-93; 8:45 am]

BILLING CODE 4160-01-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR12-1-5464; AD-FRL-4603-1]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the state implementation plan (SIP) submitted by the State of Oregon for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). The implementation plan was submitted by the State to satisfy certain Federal Clean Air Act requirements for an approvable moderate PM-10 nonattainment area SIP for Grants Pass, Oregon. The rationale for the approval is set out both in this notice and in supporting technical information which is available at the address indicated below. The final action to approve this plan would have the effect of making requirements adopted by the State of Oregon, federally enforceable by EPA.

DATES: Comments on this proposed action must be received in writing by April 9, 1993.

ADDRESSES: Comments should be addressed to: Rindy Ramos, Environmental Protection Agency, Air and Radiation Branch, Docket No. OR12-1-5464, 1200 Sixth Avenue, AT-082 Seattle, Washington, 98101.

Copies of the State's submittal and other information are available for inspection during the following business hours at the following location:

Environmental Protection Agency, Air and Radiation Branch (OR12-1-5464), 1200 Sixth Avenue, AT-082, Seattle, Washington, 98101.

State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon, 97204.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington, 98101. Telephone (206) 553-6510.

SUPPLEMENTARY INFORMATION:

I. Background

The Grants Pass, Oregon, area was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.[2] The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM-10 nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the State of Oregon's moderate PM-10 SIP for the Grants Pass nonattainment area, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the address indicated above. EPA will consider any timely submitted comments before taking final action on today's proposal.

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[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM-10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Additional provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–44).

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565–66). In today's action, EPA is proposing to approve the plan submitted to EPA on November 21, 1990, as revised by addenda submitted on November 15, 1991 (examined together herein as a comprehensive submittal for the area). EPA has determined that the submittal meets all of the applicable requirements of the Act.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

The State of Oregon Department of Environmental Quality (ODEQ) adopted a Grants Pass PM–10 plan at a public hearing held on November 2, 1990, and submitted the plan to EPA for approval on November 21, 1990. ODEQ subsequently adopted an addendum to the plan on November 8, 1991, and submitted the addendum to EPA for approval on November 15, 1991. ODEQ held a public hearing on September 27, 1991, to entertain public comment on the plan.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness the criteria set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). A letter dated February 24, 1991, was forwarded to the Director of the ODEQ indicating the completeness of the submittal and the next steps to be taken in the review process. In today's action EPA proposes to approve the State of Oregon Department of Environmental Quality's PM–10 SIP submittal for the Grants Pass PM–10 nonattainment area and invites public comment on the action.

[3] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of the emissions inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received with the demonstration submission (see 57 FR 13539).

The emission inventory developed for the Grants Pass Urban Growth Boundary (UGB) identified that the sources of PM–10 concentrations during 24-hour worst case winter periods are the following: residential wood combustion (54%), industrial emissions (25%), fugitive dust (13%), and transportation (7%). The emission inventory was qualitatively confirmed through receptor modeling techniques apportioning source contributions on the basis of their chemical "fingerprints."

ODEQ made an assumption in determining residential wood combustion emissions in Grants Pass. ODEQ assumed that wood heating characteristics in the Medford-Ashland nonattainment area were representative of Grants Pass and therefore could be substituted for an actual residential wood combustion emissions inventory for the Grants Pass nonattainment area. Data from a 1987 wood users survey conducted in Medford-Ashland was used to estimate wood smoke emissions. This assumption was used because: (1) A wood users survey for Grants Pass did not exist, (2) Grants Pass is located only twenty-nine miles to the west of Medford and (3) Oregon Department of Environment Quality (ODEQ) believed that the woodstove mix, percent of homes that burned wood, number of cords of wood burned per year, and percent of homes that used wood as their main source of heat would be very similar between the two areas.

To assess this assumption, ODEQ received funding from EPA to conduct a survey specific to Grants Pass during the 1991/1992 wood heating season. This study has been conducted. Preliminary results from the study indicate that the wood user characteristics, wood consumption, and stove mix are very similar between the two areas once the change in wood heating habits (due to public education and awareness) between 1987 and 1992 are taken into consideration.

EPA is proposing to approve the emissions inventory because it appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area.[4] For further details the reader is referred to the Technical Support Document (TSD) corresponding with this action, which is available at the address indicated above.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61). Attainment of the PM–10 standard in Grants Pass, Oregon is based on three control strategies: industrial controls, woodstove certification, and a voluntary wood-burning curtailment program. The available control measures to be implemented in the Grants Pass nonattainment area will include the following:

a. Industrial Controls

On September 7, 1989, the Environmental Quality Commission adopted changes to the Industrial Rules (OAR 340–30–005 through 111), for, among other areas, Grants Pass. These rules became effective upon adoption and were submitted to EPA for approval on October 13, 1989. On November 13, 1989, EPA determined that the SIP revision was not approvable due to enforceability issues. In response to EPA's concerns, ODEQ corrected the deficiencies, added new provisions and the EQC adopted the revised rules on November 8, 1991. The corrected rules were submitted to EPA on November 15, 1991. Among other limits, these rules impose new emission limits for existing veneer dryers and existing large, wood-fired boilers (heat-input capacity of greater than 35 million BTU/Hr). EPA proposed to approve these rules in a separate notice published on November 9, 1992 (57 FR 53394) and plans to take final action in the near future.

ODEQ projects a 55 percent reduction in PM–10 emissions between 1986 and 1992 due to implementation of its industrial control limitations. However, since the state's rules became effective, one of the two large wood-fired boilers in the area permanently shut down and did not bank its emissions (July 28, 1989). In addition, another source has switched from hog fuel for its boiler and veneer drier to natural gas. The operating permit for this source will be modified to reflect the usage of natural gas. These additional reductions will further reduce PM–10 emissions in the nonattainment area to a projected 64 percent reduction in total point source emissions between 1986 and 1992.

EPA believes that the emission limits imposed on the board products industries, supported by their enforceability, will achieve the estimated emission reductions of 1,147 lbs/day. Therefore, EPA proposes to accept the 55 percent credit requested by the ODEQ.

b. Woodstove Certification

In 1983, the Oregon Legislature directed ODEQ to require that all new woodstoves sold in the state be certified through laboratory testing. As a result, stoves sold after July 1986, were required to emit particles at a rate of 50 percent less than conventional woodstoves. After July 1988, new woodstoves were required to emit 70 percent less.

The EQC adopted on March 2, 1990, and submitted to EPA on March 15, 1990, revisions to Oregon's Woodstove Certification Program making it consistent with EPA's New Source Performance Standard 40 CFR part 60, subpart AAA. Currently, all woodstoves sold in the State of Oregon must be both ODEQ and EPA certified. This SIP revision was approved by EPA as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

ODEQ estimates that the woodstove certification program provides a 10.2 percent credit against baseline 1986 woodstove emissions by 1992.[5] The 10.2 percent emission reduction credit requested equals 506 pounds per day by 1994. The projected emission reductions, in conjunction with a statewide ban (OAR 340–20–010(2)) on the sale of used uncertified stoves, and a ban on the installation of used uncertified stoves, supports EPA's proposed acceptance of Oregon's woodstove certification credit claim.

c. Voluntary Woodburning Curtailment Program

The Grants Pass voluntary curtailment program includes a public education program that describes the need for the public's cooperation, the health, safety, energy, economic benefits to individuals and the community, and steps individuals can take to help reduce emissions.

Key elements of the voluntary program and public information program include: home weatherization, firewood seasoning, cleaner burning practices, proper stove installation and sizing, maintenance of woodburning systems, and curtailment of woodburning during poor ventilation episodes.

Woodburning forecasts are made after 9 a.m. but before 11 a.m. The forecasts are made before 11 a.m. so that a curtailment announcement can appear in the local daily newspaper. The advisory level is based upon expected meteorological conditions and the prior 24-hour ambient levels.

Woodburning curtailment advisories are issued at three levels: (1) a green advisory is made when the ambient concentration is expected to be 80 $\mu g/m^3$ or less, (2) a yellow advisory is made when the concentration is expected to be between 80 $\mu g/m^3$ and 120 $\mu g/m^3$, (3) a red advisory is made when the ambient concentration is expected to be greater than 120 $\mu g/m^3$.

Compliance with the advisories will be determined through surveys of woodburning activity. Data from the surveys are used to direct the public education program, evaluate progress toward achieving program goals, and in evaluating trends in PM–10 concentrations.

ODEQ requests a 25 percent emission reduction credit for its voluntary woodburning curtailment program. The 25 percent credit is greater than the 10 percent generally suggested by EPA. The recommended 10 percent credit is viewed by EPA as a "starting point in assessing the effectiveness of residential wood combustion control programs". However, final judgment of the amount of credit to be granted, is determined by EPA's regional offices, based on the program elements outlined in EPA's *Guidance Document for Residential Wood Combustion Emission Control Measures*. EPA has reviewed the ODEQ curtailment program elements, considering public education and participation, and ODEQ's experience in developing and managing curtailment programs. EPA proposes to accept the

[4] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act.

[5] This estimate uses a 1986 baseline inventory and assumes or relies on: (1) a 1% annual growth in firewood consumed by woodstoves, (2) a 2% annual decline in firewood consumed by fireplaces, (3) a useful stove life of 20 years, (4) a building permit survey conducted in Klamath Falls, Oregon indicating that 90% of permitted installations are certified stoves, (5) an annual growth in population of 1.7%, and (6) the fact that the typical certified woodstove emits 50% less than a conventional stove.

25 percent credit claimed for this control measure. Further description of this program and justification for EPA's proposed action is set out in the TSD.

d. Other Sources

Where sources of PM–10 contribute insignificantly to the PM–10 problem in the area, EPA's policy is that it would be unreasonable (and would not constitute RACM) to require the sources to implement potentially available control measures. (57 FR 13540)

ODEQ has determined that fugitive dust is not a significant source of PM–10 emissions in the area. Nevertheless, various control measures addressing sources of fugitive dust are currently required by ODEQ. While the implementation of all available fugitive dust measures would not expedite attainment in the area, these measures currently required by ODEQ should help to ensure on-going maintenance of the PM–10 NAAQS in the area. These rules are enforced under OAR 340–21–060 and are currently a part of Oregon's state adopted, federally approved SIP. EPA views these rules as strengthening the PM–10 SIP.

A similar situation exists for sources of prescribed burning. Therefore, EPA is proposing to approve a year-round ban on open burning within the city limits of Grants Pass as strengthening the SIP. A ban on open burning within the Rogue Basin Open Burning Special Control Area when the ventilation index is less than 400, was approved by EPA on June 6, 1992 (57 FR 24373) as a SIP strengthening measure.

A more detailed discussion of the control measures (including available control technology) contained in the SIP and an explanation as to why certain available control measures were not implemented, can be found in ODEQ's submittals and in the TSD. EPA has reviewed ODEQ's submittals and associated documentation and concluded that they adequately justify the control measures to be implemented. The implementation of Grants Pass, Oregon's PM–10 nonattainment plan control strategy will result in the attainment of the PM–10 NAAQS as expeditiously as practicable—by December 31, 1994. By this notice, EPA is proposing to approve ODEQ's control strategy as satisfying the RACM (including RACT) requirement.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, the state must show that attainment by December 31, 1994, is impracticable.

ODEQ conducted an attainment demonstration based upon a roll-forward and roll-back modeling analysis in the Grants Pass nonattainment area. In addition, a roll-back approach was applied to the results of a receptor modeling analysis (Chemical Mass Balance version 7.0). Both approaches were in very close agreement as to the amount of reductions needed to attain the standard (e.g. 17 percent vs 20 percent).

This demonstration indicates that the NAAQS for PM–10 will be attained by December 31, 1994, in Grants Pass, with an ambient concentration of 150 micrograms/cubic meter ($\mu g/m^3$), and will be maintained in future years. The 24-hour PM–10 NAAQS is 150 $\mu g/m^3$, and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR section 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$(id.).

The demonstration predicted that the 24-hour design concentration in the attainment year of 1994 will be 150 $\mu g/m^3$, thus demonstrating attainment of the 24-hour PM–10 NAAQS.[6] The demonstration also showed that the PM–10 NAAQS will be maintained in future years by predicting a 24-hour "worst day" design concentration of 135 $\mu g/m^3$ for the year 2000. The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)." More detailed description of the attainment demonstration is contained in the TSD accompanying this notice.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539–40 and 13541–42).

The filter analyses (chemical mass balance) indicated that on average, only 3 percent of the mass was comprised of secondary particulate. EPA believes that this is an insignificant portion and is therefore proposing to grant the exclusion from control requirements authorized under section 189(e) for major stationary sources of PM–10 precursors.

6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by ODEQ and EPA (see sections 172(c)(6) and 110(a)(2)(A), and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, for example, veneer dryers; existing large, wood-fired boilers with a heat input capacity of greater than 35 million BTU/Hr; and woodstoves and other woodburning activities. The SIP provides that the control measures for the affected activities apply throughout the entire nonattainment area.

Consistent with the attainment demonstration described above, the SIP requires that all affected activities must be in full compliance with the applicable SIP provisions by December 10, 1993. In addition to the applicable control measures, this includes the applicable recordkeeping requirements which are addressed in supporting technical information.

ODEQ's submittals and TSD contain further information on enforceability requirements including enforceable emission limitations; a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules; averaging times for compliance test methods; correctly cited references of

[6] EPA believes that an attainment demonstration for the annual PM–10 NAAQS is unnecessary. Ambient data for the four years between December 1985 and November 1989 yields an annual average of 42 $\mu g/m^3$, which is below the 50 $\mu g/m^3$ annual standard. Note also that because the implementation of RACM (including RACT) will reduce the worst case 24-hour design value below the 24-hour NAAQS, this should also serve to further maintain air quality below the annual NAAQS.

incorporated methods/rules; and reporting and recordkeeping requirements.

ODEQ also has a program that will ensure that the control measures contained in the Grants Pass PM–10 SIP are adequately enforced. The TSD contains a discussion of the personnel and funding intended to support effective implementation of the control measures.

7. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–13544). These measures must be submitted by November 15, 1993, for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve reasonable further progress (RFP) or attain the PM–10 NAAQS by the applicable statutory deadline. The Grants Pass nonattainment area SIP contains the following contingency measures:

a. A mandatory woodsmoke curtailment program that is to take effect if the EPA determines that the area fails to achieve RFP or to attain the NAAQS by December 31, 1994. ODEQ has the authority to implement and enforce a mandatory curtailment program, upon notification by EPA that the area has failed to attain the NAAQS, should the City of Grants Pass or the County of Josephine fail to implement one. EPA approved these rules (OAR 340–34–150 through 175) as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

b. Removal of uncertified woodstoves upon home sale for any area that fails to meet the PM–10 attainment date of December 31, 1994. These stoves would have to be removed and destroyed prior to sale of the home. EPA approved these rules (OAR 340–34–200 through 215) as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

c. Reduction in industrial emissions (including source-specific emission limits) should the area fail to attain by December 31, 1994. EPA approved these rules (OAR 340–21–200 through 245) as part of the SIP on August 19, 1992 (57 FR 37468).

d. The banning of all open burning in the Rogue Basin Open Burning Control Area during November, December, January, and February of each year, should the area fail to attain by December 31, 1994. EPA approved this rule (OAR 340–23–090) as part of the SIP on June 9, 1992 (57 FR 24373).

The expected emission reductions to be achieved by implementation of the contingency measures is estimated at more than 82 tons per year. This represents at least a 30 percent reduction when compared with the 275 tons per year emission reduction in the attainment plan.

The SIP provides that each of these measures can take affect without further action by the state or EPA, should EPA determine that the Grants Pass nonattainment area has failed to achieve RFP or to attain the PM–10 standard by the statutory attainment date of December 31, 1994.

EPA is proposing to approve the Grants Pass nonattainment area contingency measures.

III. Implications of Today's Action

EPA is proposing to approve the plan revision submitted to EPA for the Grants Pass, Oregon nonattainment area on November 21, 1990, as revised by addenda submitted on November 15, 1991. Among other things, ODEQ has demonstrated that the Grants Pass moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 1994. Note that EPA's proposed action includes proposed approval of the contingency measures for the Grants Pass nonattainment area.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments received by April 9, 1993.

V. Administrative Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, hydrocarbons, intergovernmental relations, nitrogen dioxide, particulate matter, reporting and recordkeeping requirements, sulfur dioxide, and volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 9, 1993.

Dana A. Rasmussen,

Regional Administrator.

[FR Doc. 93–5468 Filed 3–9–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 180

[PP 2E4056/P554; FRL–4188–3]
RIN No. 2070–AB78

Pesticide Tolerance for Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the pesticide paraquat in or on the raw agricultural commodity cacao beans. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 2E4056/P554], must be received on or before April 9, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resource Branch, Field Operations Division (H7506C), Office of