

Example 8. G creates and funds a trust, T1, for the benefit of G's children and grandchildren. After G's death, under authority granted to the trustees in the trust instrument, the trustees of T1 transfer a portion of the assets of T1 to another trust, T2, and retain a power to revoke T2 and revest the assets of T2 in T1. Under paragraphs (e)(1) and (5) of this section, G is the grantor of T1 and T2. In addition, because the trustees of T1 have retained a power to revest the assets of T2 in T1, T1 is treated as the owner of T2 under section 678(a).

Example 9. G creates and funds a trust, T1, for the benefit of B. G retains a power to revest the assets of T1 in G within the meaning of section 676. Under the trust agreement, B is given a general power of appointment over the assets of T1. B exercises the general power of appointment with respect to one-half of the corpus of T1 in favor of a trust, T2, that is for the benefit of C, B's child. Under paragraph (e)(1) of this section, G is the grantor of T1, and under paragraphs (e)(1) and (5) of this section, B is the grantor of T2.

(7) The rules of this section are applicable to any transfer to a trust, or transfer of an interest in a trust, on or after August 10, 1999.

§ 1.671-2T [Removed]

Par. 4. Section 1.671-2T is removed.

§ 1.672(f)-2 [Amended]

Par. 5. Section 1.672(f)-2 is amended as follows:

1. In paragraph (b)(1) the language “§ 1.671-2T(e)(2)” is removed, and “§ 1.671-2(e)(2)” is added in its place.

2. In paragraph (d) *Example 1* the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

§ 1.672(f)-3 [Amended]

Par. 6. Section 1.672(f)-3 is amended as follows:

1. In paragraph (a)(1) the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

2. In paragraph (a)(4) *Example 2* the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

3. In paragraph (b)(1) the language “§ 1.671-2T(e)(2)” is removed, and “§ 1.671-2(e)(2)” is added in its place.

4. In paragraph (b)(1) the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

5. In paragraph (b)(4) *Example 1* the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

6. In paragraph (b)(4) *Example 2* the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

§ 1.672(f)-4 [Amended]

Par. 7. Section 1.672(f)-4 is amended as follows:

1. In paragraph (c)(1) the language “§ 1.671-2T(e)(2)” is removed, and “§ 1.671-2(e)(2)” is added in its place.

2. In paragraph (c)(1) the language “§ 1.671-2T(e)(4)” is removed, and “§ 1.671-2(e)(4)” is added in its place.

3. In paragraph (d)(1) the language “§ 1.671-2T(e)(2)(ii)” is removed, and “§ 1.671-2(e)(2)(ii)” is added in its place.

4. In paragraph (g) *Example 4* the language “§ 1.671-2T(e)” is removed, and “§ 1.671-2(e)” is added in its place.

§ 1.672(f)-5 [Amended]

Par. 8. In § 1.672(f)-5, paragraph (a)(1) is amended by removing the language “§ 1.671-2T(e)(2)” and adding “§ 1.671-2(e)(2)” in its place.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 28, 2000.

Jonathan Talisman,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501 and 598

Reporting and Procedures Regulations; Foreign Narcotics Kingpin Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending its Reporting and Procedures Regulations, and issuing the Foreign Narcotics Kingpin Sanctions Regulations, in implementation of the Foreign Narcotics Kingpin Designation Act.

EFFECTIVE DATE: July 5, 2000.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs, tel.: 202/622-2420, or Barbara C. Hammerle, Deputy Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

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Background

On December 3, 1999, President Clinton signed into law the Foreign Narcotics Kingpin Designation Act, Pub. L. No. 106-120, title VIII, 113 Stat. 1606, 1626-1636 (1999) (to be codified at 21 U.S.C. 1901-1908, 8 U.S.C. 1182(a)(2)(C)) (the “Act”), which provides authority for the application of sanctions to significant foreign narcotics traffickers and their organizations operating worldwide. Section 805(b) of the Act blocks all property and interests in property within the United States or within the possession or control of any United States person, which are owned or controlled by significant foreign narcotics traffickers, as identified by the President, or foreign persons designated by the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, because they are found to be:

(1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a significant foreign narcotics trafficker or foreign persons designated by the Secretary of the Treasury pursuant to section 805(b) of the Act;

(2) Owned, controlled, or directed by, or acting for or on behalf of, a significant foreign narcotics trafficker or foreign persons designated by the Secretary of the Treasury pursuant to section 805(b) of the Act; or

(3) Playing a significant role in international narcotics trafficking.

Significant foreign narcotics traffickers and persons coming within any of the above three categories are referred to as specially designated narcotics traffickers.

Section 805(e)(1) of the Act authorizes the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the

Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, to take such actions as may be necessary to carry out the Act, including the promulgation of rules and regulations permitted under the Act. Section 806 of the Act authorizes the Secretary of the Treasury to issue regulations and orders as may be necessary for the exercise of authorities granted by the Act.

In implementation of the Act, the Office of Foreign Assets Control of the Department of the Treasury is issuing the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR Part 598 (the "Regulations"). These Regulations are separate from, and independent of, the Narcotics Trafficking Sanctions Regulations, 31 CFR Part 536, which implement the national emergency declared in Executive Order 12978 of October 21, 1995, with respect to significant foreign narcotics traffickers centered in Colombia. See § 598.101. Sanctions imposed and persons named as specially designated narcotics traffickers pursuant to 31 CFR part 536 are not affected by this part 598. Section 809 of the Act, which amends section 212(a)(2)(C) of the Immigration and Nationality Act, is not implemented by these Regulations.

Subpart B of the Regulations implements section 805 of the Act. Specifically, section 598.201 implements section 805(a) of the Act by providing that specially designated narcotics traffickers are subject to any and all sanctions authorized by the Act until revoked or waived. Section 598.202 implements section 805(b) of the Act by providing that property and interests in property owned or controlled by specially designated narcotics traffickers and within the United States or within the possession or control of a United States person are blocked. Section 598.203 of the Regulations implements section 805(c)(1) of the Act by prohibiting transactions and dealings by U.S. persons or within the United States in property or interests in property of specially designated narcotics traffickers. Section 598.204 implements section 805(c)(2) of the Act by prohibiting transactions that have the effect of evading or avoiding, and attempts or conspiracies to violate, the prohibitions set forth in this part. Sections 598.205 and 598.206 of the Regulations detail the effect of transfers of blocked property in violation of the Regulations and the required holding of blocked property in interest-bearing accounts.

Subpart C of the Regulations implements section 808 of the Act and

defines key terms used throughout the Regulations. Subpart D of the Regulations sets forth interpretive sections regarding the general prohibitions of subpart B.

Transactions otherwise prohibited under this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures set forth in subpart D of part 501 of chapter V. The general licenses contained in subpart E include an authorization for U.S. financial institutions to debit blocked accounts for normal service charges. See § 598.506. Section 598.507 authorizes the provision of certain legal services, provided that receipt of payment for such services is specifically licensed.

Subpart F of the Regulations implements sections 806(a)–(b) of the Act by reference to the Reporting and Procedures Regulations in subpart C of 31 CFR part 501, which set forth provisions relating to required records and reports. Subpart G implements section 807 of the Act by describing the civil and criminal penalties applicable to violations of the Regulations. Specifically, section 598.701 sets forth the civil and criminal penalties prescribed in sections 807(a)–(b) of the Act, and section 598.706 implements section 807(c) of the Act by providing that civil penalties shall be subject to judicial review only to the extent provided in 5 U.S.C. 702.

Subpart H provides certain administrative procedures applicable to this part and implements others by reference to the Reporting and Procedures Regulations in subpart D of 31 CFR part 501, which contain provisions relating to administrative procedures. Section 598.802 implements section 805(e)(3) of the Act by clarifying that records or information obtained or created in the implementation of the Regulations are not subject to disclosure under section 552(a)(3) of the Freedom of Information Act (5 U.S.C. 552(a)(3)). Section 598.803 delegates to the Office of Foreign Assets Control those actions that the Secretary of the Treasury is authorized to take pursuant to the Act. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

In addition to adding a new part 598, the Office of Foreign Assets Control is revising its Reporting and Procedures Regulations contained in 31 CFR part 501 in implementation of certain provisions of the Act. Pursuant to section 805(e)(3) of the Act, section 501.805(a) is amended to add a note clarifying the inapplicability of section

552(a)(3) of the Freedom of Information Act.

In implementing the Regulations, the Office of Foreign Assets Control will seek to consult with foreign governments where appropriate. Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

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

List of Subjects in 31 CFR Part 598

Administrative practice and procedure, Banks, banking, Blocking of assets, Drug traffic control, Narcotics trafficking, Penalties, Reporting and recordkeeping requirements, Significant foreign narcotics traffickers, Specially designated narcotics traffickers, Transfer of assets.

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

PART 501—REPORTING AND PROCEDURES REGULATIONS

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

Authority: 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. App. 1–44.

Subpart D—Procedures

2. A note is added to paragraph (a) of § 501.805 to read as follows:

§ 501.805 Rules governing availability of information.

(a) * * *

Note to paragraph (a) of § 501.805: Records or information obtained or created in the implementation of part 598 of this chapter are not subject to disclosure under section

552(a)(3) of the Freedom of Information Act. See § 598.802 of this chapter.

* * * * *

3. Part 598 is added to read as follows:

PART 598—FOREIGN NARCOTICS KINGPIN SANCTIONS REGULATIONS

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

Sec.

598.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

598.201 Applicability of sanctions.
598.202 Blocking of assets.
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598.204 Evasions; attempts; conspiracies.
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598.206 Holding of funds in interest-bearing accounts; investment and reinvestment.

Subpart C—General Definitions

598.301 Blocked account; blocked property.
598.302 Effective date.
598.303 Entity.
598.304 Foreign Narcotics Kingpin Designation Act.
598.305 Foreign person.
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598.310 Narcotics trafficking.
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598.313 Significant foreign narcotics trafficker.
598.314 Specially designated narcotics trafficker.
598.315 Specific license.
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598.317 United States.
598.318 United States person; U.S. person.
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598.401 Reference to amended sections.
598.402 Effect of amendment.
598.403 Termination and acquisition of an interest in blocked property.
598.404 Setoffs prohibited.
598.405 Transactions incidental to a licensed transaction.
598.406 Provision of services.
598.407 Offshore transactions.
598.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.
598.409 Credit extended and cards issued by U.S. financial institutions.
598.410 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

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

598.501 General and specific licensing procedures.
598.502 Effect of license.
598.503 Exclusion from licenses.

598.504 Payments and transfers to blocked accounts in U.S. financial institutions.
598.505 Investment and reinvestment of certain funds.
598.506 Entries in certain accounts for normal service charges authorized.
598.507 Provision of certain legal services authorized.

Subpart F—Reports

598.601 Records and reports.

Subpart G—Penalties

598.701 Penalties.
598.702 Prepenalty notice.
598.703 Response to prepenalty notice; informal settlement.
598.704 Penalty imposition or withdrawal.
598.705 Administrative collection; referral to United States Department of Justice.
598.706 Judicial review of civil penalty.

Subpart H—Procedures

598.801 Procedures.
598.802 Availability of information pursuant to the Freedom of Information Act.
598.803 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

598.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 21 U.S.C. 1901–1908; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note).

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

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

(a) This part is separate from, and independent of, the other parts of this chapter, including part 536 of this chapter, “Narcotics Trafficking Sanctions Regulations,” with the exception of part 501 of this chapter, the provisions of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. 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 contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 598.201 Applicability of sanctions.

A specially designated narcotics trafficker is subject to any and all sanctions authorized by the Foreign Narcotics Kingpin Designation Act and implemented in this part. The application of sanctions on any specially designated narcotics trafficker will remain in effect until revoked by the President pursuant to section 804(h)(2) of the Foreign Narcotics Kingpin Designation Act, waived by the President pursuant to section 804(g)(1) of that Act, or revoked by the Secretary of the Treasury pursuant to section 805(e)(1)(A) of that Act.

§ 598.202 Blocking of assets.

Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, there are blocked as of the effective date, and any date thereafter, all such property and interests in property within the United States, or within the possession or control of any United States person, which are owned or controlled by a specially designated narcotics trafficker.

§ 598.203 Prohibited transactions involving blocked property.

(a) Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction or dealing by a United States person, or within the United States, in property or interests in property of a specially designated narcotics trafficker is prohibited.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any specially designated narcotics trafficker is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security.

(c) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the

funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

§ 598.204 Evasions; attempts; conspiracies.

Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction or dealing by any United States person, or within the United States, that evades or avoids, or has the effect of evading or avoiding, and any endeavor, attempt, or conspiracy to violate any of the prohibitions set forth in this part is prohibited.

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

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property of a specially designated narcotics trafficker 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 or property interests.

(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 any interest in, any property or interest in property of a specially designated narcotics trafficker, unless the person with whom such property is held or maintained, prior to that 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 make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the Foreign Narcotics Kingpin Designation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Property transfers that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with

whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

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

(2) The person 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 issued pursuant to this part and was not so licensed, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) 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 promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, direction, or license issued pursuant to this part;

(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 withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 598.205: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) 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 a specially designated narcotics trafficker.

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

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 598.202 shall hold or place such funds in a blocked interest-bearing account located in the United States.

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

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

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

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 598.202 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 598.202 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 598.202. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to specially designated narcotics traffickers, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Note to § 598.206: Please refer to § 598.505 for authorized investment and reinvestment of certain funds held in blocked accounts.

Subpart C—General Definitions**§ 598.301 Blocked account; blocked property.**

The terms *blocked account* and *blocked property* mean any account or property subject to § 598.202 held in the name of a specially designated narcotics trafficker, or in which a specially designated narcotics trafficker has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 598.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives of this part, which is December 3, 1999, or, in the case of specially designated narcotics traffickers designated after that date, the earlier of the date on which actual or constructive notice of such designation is received.

§ 598.303 Entity.

The term *entity* means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

§ 598.304 Foreign Narcotics Kingpin Designation Act.

The term *Foreign Narcotics Kingpin Designation Act* means the Foreign Narcotics Kingpin Designation Act, Pub. L. 106–120, title 8, 113 Stat. 1606, 1626–1636 (codified at 21 U.S.C. 1901–1908, 8 U.S.C. 1182(a)(2)(C)).

§ 598.305 Foreign person.

The term *foreign person* means any citizen or national of a foreign state or any entity not organized under the laws of the United States, but does not include a foreign state.

§ 598.306 General license.

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

§ 598.307 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.

§ 598.308 License.

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

§ 598.309 Narcotic drug; controlled substance; listed chemical.

The terms *narcotic drug*, *controlled substance*, and *listed chemical* have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

§ 598.310 Narcotics trafficking.

The term *narcotics trafficking* means any illicit activity to cultivate, produce, manufacture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt to do so, or to assist, abet, conspire, or collude with others to do so.

§ 598.311 Person.

The term *person* means an individual or entity.

§ 598.312 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, whether present, future, or contingent.

§ 598.313 Significant foreign narcotics trafficker.

The term *significant foreign narcotics trafficker* means any foreign person that plays a significant role in international narcotics trafficking that the President has determined to be appropriate for sanctions and has publicly identified under section 804(b) or section 804(h)(1) of the Foreign Narcotics Kingpin Designation Act.

§ 598.314 Specially designated narcotics trafficker.

The term *specially designated narcotics trafficker* means:

- (a) Significant foreign narcotics traffickers; and
- (b) Foreign persons designated by the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, because they are found to be:
 - (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a specially designated narcotics trafficker;
 - (2) Owned, controlled, or directed by, or acting for or on behalf of, a specially designated narcotics trafficker; or
 - (3) Playing a significant role in international narcotics trafficking.

Note to § 598.314: Please refer to the appendices at the end of this chapter V for listings of persons determined to fall within this definition who have been designated pursuant to this part. Section 501.807 of this chapter V sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or who wish to assert that the circumstances resulting in designation no longer apply.

§ 598.315 Specific license.

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

§ 598.316 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation upon the foregoing, the term *transfer* includes the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process.

or order; 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.

§ 598.317 United States.

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

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

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

§ 598.319 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including a foreign branch) 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, as principal or agent. This term includes but is 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.

Subpart D—Interpretations

§ 598.401 Reference to amended sections.

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

§ 598.402 Effect of amendment.

Unless otherwise specifically provided, any amendment,

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

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

(a) Whenever a transaction licensed pursuant to this part results in the transfer of property (including any property interest) away from a specially designated narcotics trafficker, the transferred property will no longer be considered property in which that person has or has had an interest. Provided no other specially designated narcotics trafficker has any interest in the transferred property following the transfer, the transferred property will no longer be considered property blocked pursuant to § 598.202.

(b) Unless otherwise specifically provided in a license issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated narcotics trafficker, such property shall be deemed to be property in which that person has an interest, and such property is therefore blocked pursuant to § 598.202.

§ 598.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. financial institution or other U.S. person, is a prohibited transfer under § 598.203 if effected after the effective date.

§ 598.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect to the licensed transaction is also authorized by the license. Except as specifically authorized by the terms of a license, prohibited transactions by specially designated narcotics traffickers and debits to accounts blocked pursuant to § 598.202 are not considered incidental to a licensed transaction and therefore remain prohibited.

§ 598.406 Provision of services.

(a) The prohibitions contained in § 598.203 apply to services performed by U.S. persons, wherever located:

(1) On behalf of or for the benefit of a specially designated narcotics trafficker; or

(2) With respect to property interests of a specially designated narcotics trafficker.

(b) Example: U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a specially designated narcotics trafficker. See § 598.507 on licensing policy with regard to the provision of certain legal services.

§ 598.407 Offshore transactions.

The prohibitions contained in § 598.203 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, that a specially designated narcotics trafficker has or has had an interest since the effective date.

§ 598.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.

(a) A change or alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker shall not be the basis for removal of that entity from the list of specially designated narcotics traffickers unless, upon investigation by the Office of Foreign Control and submission of evidence by the entity, it is demonstrated to the satisfaction of the Director of the Office of Foreign Assets Control that the transfer to a bona fide purchaser at arm's length, or other means of changing ownership or control, is legitimate and that the entity no longer meets the criteria for designation under § 598.314. Evidence submitted must conclusively demonstrate that all ties with other specially designated narcotics traffickers have been completely severed, and may include, but is not limited to, articles of incorporation; identification of new directors, officers, shareholders, and sources of capital; and contracts evidencing the sale of the entity to its new owners.

(b) Any continuing substantial financial obligations on the part of the new owners to any specially designated narcotics traffickers, including long-term payment plans, leases, or rents, will be considered as evidence of continuing control of the entity by the specially designated narcotics trafficker. Purchase of a designated entity without ongoing substantial financial obligations to a specially designated narcotics trafficker may nonetheless be a basis for

subsequent designation of the purchaser, if the transaction is determined materially to assist in or provide financial support for the international narcotics trafficking activities of specially designated narcotics traffickers for purposes of § 598.314(b)(1). For example, any acquisition transaction resulting in a direct cash transfer to or other enrichment of a specially designated narcotics trafficker could lead to designation of the purchaser. Mere change in name of an entity will not be considered as constituting a change of the entity's status.

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

The prohibition in § 598.203 on dealing in property in which a specially designated narcotics trafficker has an interest prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a specially designated narcotics trafficker.

§ 598.410 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 or services exported prior to the effective date of the blocking, except as authorized pursuant to this part.

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

§ 598.501 General and specific licensing procedures.

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

§ 598.502 Effect of license.

(a) No license contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control pursuant to this part, authorizes or validates any transaction effected prior to the issuance of the license, unless the prior transaction is specifically authorized in such license.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited by 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 authorizes 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 by this part has the effect of removing from the transaction a prohibition or prohibitions contained in this part, 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 that would not otherwise exist under ordinary principles of law in or with respect to any property.

§ 598.503 Exclusion from licenses.

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

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

Any payment of funds or transfer of credit in which a specially designated narcotics trafficker has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note to § 598.504: Please refer to part 501, subpart C of this chapter for mandatory reporting requirements regarding financial transfers. See also § 598.206 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 598.505 Investment and reinvestment of certain funds.

Subject to the requirements of § 598.206, U.S. financial institutions are authorized to invest and reinvest assets

held in blocked accounts in the name of a specially designated narcotics trafficker, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that 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;

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

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to the specially designated narcotics trafficker.

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

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

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

§ 598.507 Provision of certain legal services authorized.

(a) The provision to or on behalf of a specially designated narcotics trafficker of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment for such services must be specifically licensed.

(b) Specific licenses may be 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 a specially designated narcotics trafficker:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States,

provided that such advice and counseling is not provided to facilitate transactions that would violate any prohibition contained in this chapter;

(2) Representation of a specially designated narcotics trafficker when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of a specially designated narcotics trafficker;

(4) Representation of a specially designated narcotics trafficker before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such person; 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) The provision of any other legal services to a specially designated narcotics trafficker, not otherwise authorized in this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property of a specially designated narcotics trafficker or the 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 property or interests in property of a specially designated narcotics trafficker is prohibited unless specifically licensed in accordance with § 598.205(e).

Subpart F—Reports

§ 598.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 598.701 Penalties.

(a) Attention is directed to section 807 of the Foreign Narcotics Kingpin Designation Act, which is applicable to violations of the provisions of any license, rule, or regulation issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under that Act. Section 807 of Foreign Narcotics Kingpin Designation Act provides that:

(1) Whoever willfully violates the provisions of the Foreign Narcotics Kingpin Designation Act, or any license, rule, or regulation issued pursuant to that Act, or willfully neglects or refuses to comply with any order of the President issued under that Act, shall be imprisoned for not more than 10 years, fined in the amount provided in title 18, United States Code, or both, or, in the case of an entity, fined not more than \$10,000,000;

(2) Any officer, director, or agent of any entity who knowingly participates in a violation of the provisions of the Foreign Narcotics Kingpin Designation Act, shall be imprisoned for not more than 30 years, fined not more than \$5,000,000, or both;

(3) A civil penalty not to exceed \$1,000,000 per violation may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of the Foreign Narcotics Kingpin Designation Act.

(b) The criminal penalties provided in this part are subject to increase pursuant to 18 U.S.C. 3571.

(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 materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

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

§ 598.702 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 Foreign Narcotics Kingpin Designation Act, and the Director determines that further proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. This prepenalty notice shall be issued whether or not another agency

has taken any action with respect to this matter.

(b) *Contents—(1) Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of the date of mailing of the notice as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

§ 598.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response.* The written response need not be in any particular form, but must 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 respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

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

§ 598.704 Penalty imposition or withdrawal.

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

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

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

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

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

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

§ 598.706 Judicial review of civil penalty.

A civil penalty imposed pursuant to this subpart G is subject to judicial review only to the extent provided in 5 U.S.C. 702.

Subpart H—Procedures**§ 598.801 Procedures.**

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Privacy Act (5 U.S.C.

552a), see part 501, subpart D of this chapter.

§ 598.802 Availability of information pursuant to the Freedom of Information Act.

Any record or information obtained or created in the implementation of this part is not subject to disclosure under section 552(a)(3) of the Freedom of Information Act. Information required to be made available to the public under other provisions of the Freedom of Information Act (5 U.S.C. 552) will be made available in accordance with § 501.805(a) of this chapter.

§ 598.803 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to the Foreign Narcotics Kingpin Designation Act may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act**§ 598.901 Paperwork Reduction Act notice.**

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: June 6, 2000.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 13, 2000.

Elisabeth A. Bresee,

*Assistant Secretary (Enforcement),
Department of the Treasury.*

[FR Doc. 00-16844 Filed 6-29-00; 3:39 pm]

BILLING CODE 4810-25-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD01-00-160]

RIN 2115-AA97

Safety Zone: Hudson Valley Triathlon, Hudson River, Ulster Landing, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the annual Hudson Valley Triathlon swim located on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This rule is effective from 6:30 a.m. (e.s.t.) until 8:30 a.m. (e.s.t.) on July 9, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-00-160) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354-4012.

FOR FURTHER INFORMATION CONTACT:

Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Special Local Regulations have been published for this event in 33 CFR 100.121 for the same date. The location of this year's event has been moved 3.5 nautical miles north in the vicinity of Barrytown Reach, north of the Kingston-Rhinecliff Bridge. The safety zone encompasses about 800 yards of Barrytown Reach and is about 1,000 yards smaller than the permanent area, and it is also scheduled to start and finish 30 minutes earlier as compared to the current regulations. Further, it is a annual, local event, recreational vessels may still transit to the east of the zone during the event, the zone is only in affect for 2 hours, and commercial traffic is not heavy in this area of the Hudson River. It is expected that no more than 1 or 2 commercial vessels may be affected by this event. Due to the publication of this annual event in the Local Notice to Mariners, commercial traffic will be able to adjust their transit time to arrive before or after the event. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public