

■ **Par. 12.** Section 54.6061–1 is added to read as follows:

**§ 54.6061–1 Signing of returns and other documents.**

Effective for any Form 8928 that is due on or after January 1, 2010, any return, statement, or other document required to be made with respect to a tax imposed by section 4980B, 4980D, 4980E, or 4980G of the Code or the regulations under section 4980B, 4980D, 4980E, or 4980G must be signed by the person required to file the return, statement, or other document, or by the persons required or duly authorized to sign in accordance with the regulations, forms, or instructions prescribed with respect to such return, statement, or document. An individual's signature on such return, statement, or other document shall be prima facie evidence that the individual is authorized to sign the return, statement, or other document.

■ **Par. 13.** Section 54.6071–1 is added to read as follows:

**§ 54.6071–1 Time for filing returns.**

(a) *Returns under section 4980B.* (1) *Due date for filing of return by employers or other persons responsible for benefits under a group health plan.* If the person liable for the excise tax is an employer or other person responsible for providing or administering benefits under a group health plan (such as an insurer or a third party administrator), the return required by § 54.6011–2 must be filed on or before the due date for filing the person's income tax return and must reflect the portion of the noncompliance period for each failure under section 4980B that falls during the person's taxable year. An extension to file the person's income tax return does not extend the date for filing Form 8928.

(2) *Due date for filing of return by multiemployer plans.* If the person liable for the excise tax is a multiemployer plan, the return required by § 54.6011–2 must be filed on or before the last day of the seventh month following the end of the plan's plan year. The filing of Form 8928 by a plan must reflect the portion of the noncompliance period for each failure under section 4980B that falls during the plan's plan year.

(b) *Returns under section 4980D.* (1) *Due date for filing of return by employers.* If the person liable for the excise tax is an employer, the return required by § 54.6011–2 must be filed on or before the due date for filing the employer's income tax return and must reflect the portion of the noncompliance period for each failure under chapter

100 that falls during the employer's taxable year. An extension to file the employer's income tax return does not extend the date for filing Form 8928.

(2) *Due date for filing of return by multiemployer plans or multiple employer health plans.* If the person liable for the excise tax is a multiemployer plan or a specified multiple employer health plan, the return required by § 54.6011–2 must be filed on or before the last day of the seventh month following the end of the plan's plan year. The filing of Form 8928 by a plan must reflect the portion of the noncompliance period for each failure under chapter 100 that falls during the plan's plan year.

(c) *Returns under section 4980E.* Any employer who is liable for the excise tax under section 4980E must report this tax by filing the return required by § 54.6011–2 on or before the 15th day of the fourth month following the calendar year in which the noncomparable contributions were made.

(d) *Returns under section 4980G.* Any employer who is liable for the excise tax under section 4980E must report this tax by filing the return required by § 54.6011–2 on or before the 15th day of the fourth month following the calendar year in which the noncomparable contributions were made. See Q & A–4 of § 54.4980G–1 for the rules on computation of the excise tax under section 4980G.

(e) *Effective/applicability date:* The rules in this section are effective for any Form 8928 that is due on or after January 1, 2010.

■ **Par. 14.** Section 54.6091–1 is added to read as follows:

**§ 54.6091–1 Place for filing excise tax returns under section 4980B, 4980D, 4980E, or 4980G.**

Effective for any Form 8928 that is due on or after January 1, 2010, the return required by § 54.6011–2 must be filed at the place specified in the forms and instructions provided by the Internal Revenue Service.

■ **Par. 15.** Section 54.6151–1 is added to read as follows:

**§ 54.6151–1 Time and place for paying of tax shown on returns.**

Effective for any Form 8928 that is due on or after January 1, 2010, the tax shown on any return which is imposed under section 4980B, 4980D, 4980E or 4980G shall, without assessment or notice and demand, be paid to the internal revenue officer with whom the return is filed at the time and place for filing such return (determined without regard to any extension of time for filing the return). For provisions relating to

the time and place for filing such return, see §§ 54.6071–1 and 54.6091–1.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: August 20, 2009.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E9–21225 Filed 9–4–09; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Part 515

#### Cuban Assets Control Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is amending the Cuban Assets Control Regulations to implement the President's initiative of April 13, 2009, to promote greater contact between separated family members in the United States and Cuba and to increase the flow of remittances and information to the Cuban people. These amendments also implement provisions of the Omnibus Appropriations Act, 2009.

**DATES:** *Effective Date:* September 3, 2009.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director for Compliance, Outreach & Implementation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Policy, tel.: 202–622–4855, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410 (not toll free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site ([www.treas.gov/ofac](http://www.treas.gov/ofac)) or via facsimile through a 24-hour fax-on demand service, tel.: 202–622–0077.

##### Background

The Cuban Assets Control Regulations, 31 CFR part 515 ("CACR"), were issued by the U.S. Government on July 8, 1963, under the Trading With the Enemy Act (50 U.S.C. App. 5 *et seq.*). Today, OFAC is amending the CACR to implement measures announced by the President on April 13, 2009, to promote

greater contact between separated family members in the United States and Cuba and to increase the flow of remittances and information to the Cuban people. OFAC also is amending the CACR to implement certain provisions of the Omnibus Appropriations Act, 2009 (Pub. L. 111-8, 123 Stat. 524) ("Appropriations Act"), as well as to make certain technical and conforming changes.

*Travel to visit close relatives in Cuba.* Sections 515.560 and 515.561 are amended to make a number of changes to the rules regarding travel-related transactions incident to visiting relatives in Cuba. Pursuant to July 2004 amendments to the CACR, and prior to March 11, 2009, OFAC issued specific licenses on a case-by-case basis to persons subject to the jurisdiction of the United States for visits, no more than once every three years and for a period not to exceed 14 days, to a member of the person's "immediate family" (defined as any spouse, child, grandchild, parent, grandparent, or sibling of the traveler or the traveler's spouse, as well as any spouse, widow, or widower of any of the foregoing) who was a national of Cuba. A licensed traveler was authorized to spend up to \$50 a day for living expenses in Cuba and an additional \$50 per trip to cover transportation-related expenses within Cuba as necessary. Any individual accompanying a licensed family traveler had to separately qualify for a family travel specific license. Also pursuant to the July 2004 amendments to the CACR, and prior to March 11, 2009, persons subject to the jurisdiction of the United States who wished to visit a family member who was not a national of Cuba (e.g., a U.S. national traveling in Cuba pursuant to an OFAC license) had to obtain a specific license that would only be issued in certain exigent circumstances.

In response to Section 621 of the Appropriations Act, which prohibited the expenditure of Fiscal Year 2009 appropriated funds to administer, implement, or enforce the July 2004 CACR amendments related to family travel, OFAC issued a general license and a new statement of specific licensing policy on its Web site. These new provisions, which were issued on March 11, 2009, reverted to the family travel policy that had been in place immediately prior to the July 2004 amendments. This March 11 general license authorized one trip per year to visit a broader category of "close relatives" (including, for example, aunts, uncles, cousins, and second cousins) who were nationals of Cuba. The March 11 general license contained

no limit on the duration of such a visit and increased the authorized expenditures in Cuba to match the expenditures allowed for all other authorized categories of travel—the current State Department per diem for Havana (for use anywhere in Cuba) plus amounts for additional transactions directly incident to visiting close relatives in Cuba. The general license also authorized family travelers to be accompanied by persons who share a common dwelling as a family with them. For visits to family who were not nationals of Cuba, the March 11 statement of specific licensing policy provided for case-by-case authorization of visits to the broader category of "close relatives" without the former exigent circumstances limitation.

OFAC is amending section 515.561 to reflect the March 11 general license issued on OFAC's Web site and to further expand this authorization by removing the once per year frequency limitation, so that family travelers can now visit their close relatives as often as they wish. OFAC also is extending this authorization to close relatives of U.S. Government employees assigned to the U.S. Interests Section in Havana. Accordingly, prior paragraph (a) of section 515.561 is replaced by two new general licenses. New paragraph (a)(1) of section 515.561 contains a general license authorizing the travel-related transactions set forth in section 515.560(c) and additional transactions that are directly incident to visiting a close relative who is a national of Cuba, as that term is defined in section 515.302. New paragraph (a)(2) of section 515.561 provides this same authorization for visits to a close relative who is a U.S. Government employee assigned to the U.S. Interests Section in Havana.

The term "close relative" is defined in new section 515.339 as any individual related to a person by blood, marriage, or adoption who is no more than three generations removed from that person or from a common ancestor with that person. Both new general licenses contained in paragraphs (a)(1) and (a)(2) of section 515.561 authorize persons who share a common dwelling as a family with a licensed family traveler to accompany the licensed traveler on a family visit.

OFAC also is amending section 515.561 to reflect the March 11 statement of specific licensing policy published on OFAC's Web site with respect to visits to family members who are not nationals of Cuba. Accordingly, the specific licensing policy in paragraph (b) of section 515.561 is amended to apply to visits to "close

relatives" (as defined in new section 515.339) and to remove the requirement that certain exigent circumstances must exist for a license to be issued.

OFAC is amending section 515.560(c)(2) by removing the \$50 per day limit on living expenses in Cuba, as well as the \$50 per trip limit on transportation-related expenses within Cuba, that formerly applied to licensed family visits. New section 515.560(c)(2) authorizes all transactions ordinarily incident to travel anywhere in Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there, that do not exceed the "maximum per diem rate," as established by the Department of State for Havana, Cuba, in effect at the time travel to Cuba takes place. The current "maximum per diem rate" may be found on the Department of State's Office of Allowances Web site (<http://aoprals.state.gov>). Nothing in these amendments authorizes the importation into the United States of any merchandise purchased or otherwise acquired in Cuba. The Commerce Department's Bureau of Industry and Security is separately amending its regulations to remove the weight restriction on authorized baggage carried by travelers to Cuba.

*Remittances to nationals of Cuba.* Prior to these amendments, remittances from persons subject to the jurisdiction of the United States to nationals of Cuba were limited to "immediate family" of the remitter and capped at \$300 per recipient household in any consecutive three-month period. OFAC is amending paragraph (a) of section 515.570 to remove all limitations on the amount and frequency with which persons subject to the jurisdiction of the United States may make authorized remittances to nationals of Cuba and to expand the category of permitted recipients to "close relatives," as defined in new section 515.339. These amendments do not affect the prohibition on remittances to a "prohibited official of the Government of Cuba" or a "prohibited member of the Cuban Communist Party." The definitions of those terms have been moved to new sections 515.337 and 515.338, respectively. The general license that existed in paragraph (a) prior to these amendments authorizing periodic \$300 remittances from a blocked account to a recipient in a third country in whose name, or for whose beneficial interest, the account is held has been moved to paragraph (c).

OFAC is amending paragraph (b) of section 515.570, which authorizes two separate one-time emigration-related remittances, to increase the value limit of each of these remittances from \$500

to \$1,000. This change is being made to reflect increases in emigration-related expenses since the original \$500 caps were set in 1991.

To track the amendments to paragraphs (a) and (b) of section 515.570, and subject to certain conditions, OFAC is amending paragraph (c) of section 515.570 to authorize unlimited remittances from an inherited blocked account in a banking institution in the United States to the account holder if s/he is a close relative of the decedent, as defined in new section 515.339, as well as limited emigration-related remittances from inherited blocked accounts. As noted above, amended paragraph (c) also authorizes remittances of up to \$300 in any consecutive three-month period from any blocked account (including an account with funds other than inherited funds) to a Cuban national in a third country who is an individual in whose name, or for whose beneficial interest, the account is held.

OFAC also is amending paragraph (c)(4)(i) and paragraph (d)(2) of section 515.560. The changes to paragraph (c)(4)(i) of section 515.560 increase from \$300 to \$3,000 the total amount of family remittances an authorized traveler may carry to Cuba. The changes to paragraph (d)(2) of section 515.560 increase from \$300 to \$3,000 the amount of funds received as remittances that a national of Cuba departing the United States may carry.

*Remittance-related transactions by banks and other depository institutions.* A new general license in amended paragraph (a)(3) of section 515.572 authorizes depository institutions to act as forwarders for remittances. A depository institution, as defined in section 515.333, no longer needs specific authorization from OFAC to provide services as a remittance forwarder. However, depository institutions and licensed remittance forwarders are required to collect from persons who use their services information showing compliance with the remittance provisions in this part. Depository institutions are permitted to set up testing arrangements and exchange authenticator keys with Cuban financial institutions to forward remittances authorized by or pursuant to section 515.570 but may not open or use direct correspondent accounts of their own with Cuban financial institutions.

*Certain telecommunications services, contracts, related payments, and travel-related transactions authorized.* OFAC is making substantial revisions to section 515.542 to implement the President's directive related to

increasing the flow of information to the Cuban people. Paragraph (b) is amended to authorize all transactions, including but not limited to payments, incident to the provision of telecommunications services between the United States and Cuba, the provision of satellite radio or satellite television services to Cuba, or the entry into and performance under roaming service agreements with telecommunications services providers in Cuba, by a telecommunications services provider that is a person subject to U.S. jurisdiction. Former paragraph (c), which set forth a case-by-case licensing policy for payments to Cuba for authorized telecommunications services, is removed in light of paragraph (b)'s new general license authorizing such payments. Paragraph (b) does not authorize the entry into or performance of a contract with or for the benefit of any particular individual in Cuba or any transactions incident to the establishment of facilities to provide telecommunications services linking the United States and Cuba or third countries and Cuba. These activities are covered instead by new paragraphs (c), (d)(1), and (d)(2).

New paragraph (c) of section 515.542 authorizes all persons subject to U.S. jurisdiction to enter into, and make payments under, contracts with non-Cuban telecommunications services providers, or particular individuals in Cuba, for services provided to particular individuals in Cuba, such as a contract for cellular telephone service for a phone owned and used by a particular individual in Cuba, provided that the individual is not a prohibited official of the Government of Cuba or a prohibited member of the Cuban Communist Party, as defined in sections 515.337 and 515.338, respectively. The authorization in new paragraph (c) includes, but is not limited to, payment for activation, installation, usage (monthly, pre-paid, intermittent, or other), roaming, maintenance, and termination fees.

Newly added paragraph (d)(1) of section 515.542 contains a general license authorizing transactions incident to the establishment of facilities to provide telecommunications services linking the United States and Cuba, including but not limited to fiber-optic cable and satellite telecommunications facilities. Newly added paragraph (d)(2) provides a statement of specific licensing policy with respect to transactions incident to the establishment of facilities to provide telecommunications services linking third countries and Cuba, including but not limited to fiber-optic cable and satellite facilities, provided that such facilities are necessary to provide

efficient and adequate telecommunications services between the United States and Cuba. Additional newly added paragraphs set out certain reporting requirements and clarifications.

Travel-related transactions incident to these new authorizations in section 515.542 are addressed by amendments to sections 515.564 and 515.533. New paragraph (a)(3) of section 515.564 provides a general license authorizing, with certain conditions, the travel-related transactions set forth in section 515.560(c) and additional transactions that are directly incident to participation in professional meetings for the commercial marketing of, sales negotiation for, or performance under contracts for the provision of the telecommunications services, or the establishment of facilities to provide telecommunications services, authorized by the general licenses in section 515.542. With respect to those commercial telecommunications transactions that will require Commerce-authorized exports of telecommunications-related items, new paragraph (f) of section 515.533 provides a general license authorizing, with certain conditions, the travel-related transactions set forth in section 515.560(c) and additional transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of telecommunications-related items that have been authorized for commercial export or re-export to Cuba by the Department of Commerce.

*Travel-related transactions incident to agricultural and medical sales authorized.* OFAC is amending section 515.533 of the CACR to add new paragraph (e) authorizing certain travel-related transactions (former paragraph (e) has been redesignated as paragraph (g)). Pursuant to Section 620 of the Appropriations Act, which amended section 910(a) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7209(a)), new paragraph (e) contains a general license authorizing, with certain conditions, the travel-related transactions set forth in section 515.560(c) and additional transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of agricultural commodities, medicine, or medical devices that appear consistent with the export or re-export licensing policy of the Department of Commerce.

*Authorization of most transactions of Cuban nationals lawfully present in the United States in a non-visitor status.*

Amendments to the CACR published March 24, 2003 (68 FR 14141), added a new general license at paragraph (c) of section 515.505 authorizing most transactions with Cuban national individuals who are granted humanitarian or other parole into the United States and remain in the United States pursuant to that grant of parole. This general license was intended to apply to all Cuban nationals who are lawfully present in the United States other than those who are in the United States on a temporary basis (e.g., an individual on a non-immigrant visa valid only for a specified period). The requirement that a Cuban national individual be paroled into the United States in order to be covered by the general license resulted in the unintended exclusion of Cuban national individuals who are lawfully present in the United States in a non-visitor status but who are not in a paroled status (e.g., those granted refugee status).

OFAC is amending paragraph (c) of section 515.505 to eliminate this unintended limitation by replacing the requirement that the individual be a national of Cuba "who has been paroled into the United States" with a requirement that the individual be a national of Cuba "who is lawfully present in the United States in a non-visitor status." A sentence is added to paragraph (c) explaining that the term *non-visitor status* does not apply to an individual who is present in the United States on a non-immigrant visa valid only for a specified period of time. Conforming amendments are made to paragraph (e)(2), which contains an example of the application of the paragraph (c) general license.

*Additional forms of evidence accepted with applications for specific licenses unblocking Cuban nationals permanently resident outside of Cuba.* Former paragraph (b) of section 515.505 contained a statement of licensing policy pursuant to which OFAC would issue a specific license unblocking a Cuban national who had taken up permanent residence in a third country. Historically, OFAC required that a Cuban national obtain a permanent residence status recognized by the government of the relevant third country in documents issued by that government. Accordingly, former paragraph (b) required the submission of at least two documents from a list of qualifying documents issued by that third-country government showing permanent resident status.

In recent years, OFAC increasingly has had to address situations where Cuban nationals have permanently left Cuba, and in some cases have lived

outside of Cuba for many years, but are unable to provide the type or quantity of evidence required by paragraph (b) of section 515.505. In some of these cases, the relevant foreign government maintains a policy that allows the Cuban national to reside there permanently, but that government does not issue documentation officially recognizing the Cuban national as a "permanent resident." In other cases, the Cuban national may have left Cuba too recently to establish permanent residence in a third country, but other evidence, such as the circumstances under which the Cuban national left Cuba, clearly demonstrates that s/he either does not intend to, or would not be welcome to, return to Cuba. To address the cases that may warrant the issuance of a license but where the applicant cannot meet the evidentiary burden required by former paragraph (b), OFAC is revising that paragraph to allow for increased consideration of, and favorable licensing actions based upon, other evidence.

#### Public Participation

Because the amendments of 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 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget 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 515

Administrative practice and procedure, Banks, Banking, Blocking of Assets, Cuba, Currency, Foreign trade, Imports, Reporting and recordkeeping requirements, Securities, Travel restrictions.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets

Control amends 31 CFR part 515 as set forth below:

### PART 515—CUBAN ASSETS CONTROL REGULATIONS

■ 1. The authority citation for part 515 is revised to read as follows:

**Authority:** 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010; 31 U.S.C. 321(b); 50 U.S.C. App 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–114, 110 Stat. 785 (22 U.S.C. 6082); Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–387, 114 Stat. 1549; Pub. L. 111–8, 123 Stat. 524; 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; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

#### Subpart C—General Definitions

■ 2. Add § 515.337 to subpart C to read as follows:

##### § 515.337 Prohibited officials of the Government of Cuba.

For purposes of this part, the term *prohibited officials of the Government of Cuba* means Ministers and Vice-ministers, members of the Council of State and the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors, and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; and members and employees of the Supreme Court (Tribuno Supremo Nacional).

■ 3. Add § 515.338 to read as follows:

##### § 515.338 Prohibited members of the Cuban Communist Party.

For purposes of this part, the term *prohibited members of the Cuban Communist Party* means members of the Politburo, the Central Committee, Department Heads of the Central Committee, employees of the Central Committee, and secretaries and first secretaries of the provincial Party central committees.

■ 4. Add § 515.339 to read as follows:

##### § 515.339 Close relative.

(a) For purposes of this part, the term *close relative* used with respect to any person means any individual related to that person by blood, marriage, or

adoption who is no more than three generations removed from that person or from a common ancestor with that person.

(b) *Example:* Your mother's first cousin is your close relative for purposes of this part, because you are both no more than three generations removed from your great-grandparents, who are the ancestors you have in common. Similarly, your husband's great-grandson is your close relative for purposes of this part, because he is no more than three generations removed from your husband. Your daughter's father-in-law is not your close relative for purposes of this part, because you have no common ancestor.

**Subpart D—Interpretations**

**§ 515.411 [Removed and reserved]**

■ 5. Remove and reserve § 515.411.

**§ 515.418 [Removed and reserved]**

■ 6. Remove and reserve § 515.418.

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

■ 7. Amend § 515.505 by italicizing the first sentence of paragraph (a) and by revising the section heading, paragraphs (b), (c), and (e)(2), and the notes to paragraphs (a) and (b) to read as follows:

**§ 515.505 Certain Cuban nationals unblocked; transactions of certain other Cuban nationals lawfully present in the United States.**

(a) \* \* \*

**Note to paragraph (a):** An individual unblocked pursuant to this paragraph does not become blocked again merely by leaving the United States. An individual unblocked national remains unblocked unless and until the individual thereafter becomes domiciled in or a permanent resident of Cuba, meets any of the criteria in § 515.302(a)(2) through (5), or is a "specially designated national" of Cuba, as that term is defined in § 515.306 of this part.

(b) *Specific licenses unblocking certain individuals who have taken up permanent residence outside of Cuba.* Individual nationals of Cuba who have taken up permanent residence outside of Cuba may apply to the Office of Foreign Assets Control to be specifically licensed as unblocked nationals. Applications for specific licenses under this paragraph should include copies of at least two documents issued by the government authorities of the new country of permanent residence, such as a passport, voter registration card, permanent resident alien card, or national identity card. In cases where two of such documents are not available, other information will be

considered, such as evidence that the individual has been resident for the past two years without interruption in a single country outside of Cuba or evidence that the individual does not intend to, or would not be welcome to, return to Cuba.

**Note to paragraph (b):** An individual unblocked pursuant to this paragraph remains unblocked unless and until the individual thereafter becomes domiciled in or a permanent resident of Cuba, meets any of the criteria in § 515.302(a)(2) through (5), or is a "specially designated national" of Cuba, as that term is defined in § 515.306 of this part.

(c) *General license authorizing certain transactions of individuals who are lawfully present in the United States in a non-visitor status.* An individual national of Cuba who is lawfully present in the United States in a non-visitor status is authorized to engage in all transactions available to an unblocked national, as that term is defined in § 515.307 of this part, except that all property in which the individual has an interest that was blocked pursuant to this part prior to the date on which the individual became lawfully present in the United States in a non-visitor status shall remain blocked. Such an individual is further authorized to withdraw a total amount not to exceed \$250 in any one calendar month from any blocked accounts held in the individual's name. For the purposes of this section, the term "non-visitor status" does not apply to an individual who is present in the United States on a non-immigrant visa valid only for a specified period of time.

\* \* \* \* \*

(e) \* \* \*

(2) *Example 2:* A national of Cuba with a blocked U.S. bank account arrives in the United States without a valid visa but is allowed by the U.S. Government to remain in the United States in a non-visitor status. One year later, he applies for and receives permanent resident alien status. From the date he was permitted to remain in the United States in a non-visitor status until the date he applies for permanent resident alien status, he qualifies for the general license contained in paragraph (c) of this section. During this time he can engage in all transactions as if he is an unblocked national, with the exception that he cannot gain access to his blocked bank account other than to withdraw \$250 each month. Beginning at the point in time when he applies for permanent resident alien status, he is licensed as an unblocked national pursuant to paragraph (a) of this section. At this time, he can apply to OFAC for

a specific license to have his blocked bank account unblocked.

\* \* \* \* \*

■ 8. Amend § 515.533 by revising the section heading, paragraph (a) introductory text, and the note to paragraph (b), by redesignating existing paragraph (e) as paragraph (g) and revising newly designated paragraph (g), and by adding new paragraphs (e) and (f) to read as follows:

**§ 515.533 Transactions incident to exportations from the United States and reexportations of 100% U.S.-origin items to Cuba; negotiation of executory contracts.**

(a) All transactions ordinarily incident to the exportation of items from the United States, or the reexportation of 100% U.S.-origin items from a third country, to any person within Cuba are authorized, provided that:

\* \* \* \* \*

**Note to paragraph (b):** This paragraph does not authorize transactions related to travel to, from, or within Cuba. See paragraphs (e) and (f) for general licenses, and paragraph (g) for a statement of specific licensing policy, with respect to such transactions.

\* \* \* \* \*

(e) *General license for travel-related transactions incident to sales of agricultural commodities, medicine, or medical devices.* The travel-related transactions set forth in § 515.560(c) and additional transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of agricultural commodities, medicine, or medical devices that appear consistent with the export or re-export licensing policy of the Department of Commerce are authorized, provided that:

(1) The traveler is regularly employed by a producer or distributor of the agricultural commodities, medicine, or medical devices or by an entity duly appointed to represent such a producer or distributor;

(2) The traveler's schedule of activities does not include free time, travel, or recreation in excess of that consistent with a full work schedule; and

(3) The traveler submits to OFAC at least 14 days in advance of each departure to Cuba a written report identifying both the traveler and the producer or distributor and describing the purpose and scope of such travel. Within 14 days of return from Cuba, the traveler shall submit a written report describing the business activities conducted, the persons with whom the traveler met in the course of such activities, and the expenses incurred. Such reports must be captioned

“Section 515.533(e) Report” and faxed to 202/622–1657 or mailed to the Office of Foreign Assets Control, *Attn:* Licensing Division, 1500 Pennsylvania Avenue, NW., Annex–2nd Floor, Washington, DC 20220. If more than one traveler is traveling on the same trip for or on behalf of the same producer or distributor, one combined pre-trip and one combined post-trip report may be filed covering all such travelers.

(f) *General license for travel-related transactions incident to sales of telecommunications-related items.* The travel-related transactions set forth in § 515.560(c) and additional transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of telecommunications-related items that have been authorized for commercial export or re-export to Cuba by the Department of Commerce are authorized, provided that:

(1) The traveler is regularly employed by a telecommunications services provider that is a person subject to U.S. jurisdiction or by an entity duly appointed to represent such a provider;

(2) The traveler's schedule of activities does not include free time, travel, or recreation in excess of that consistent with a full work schedule; and

(3) The traveler submits to OFAC at least 14 days in advance of each departure to Cuba a written report identifying both the traveler and the telecommunications services provider that is a person subject to U.S. jurisdiction and describing the purpose and scope of such travel. Within 14 days of return from Cuba, the traveler shall submit a written report describing the business activities conducted, the persons with whom the traveler met in the course of such activities, and the expenses incurred. Such reports must be captioned “Section 515.533(f) Report” and faxed to 202/622–1657 or mailed to the Office of Foreign Assets Control, *Attn:* Licensing Division, 1500 Pennsylvania Avenue, NW., Annex–2nd Floor, Washington, DC 20220. If more than one traveler is traveling on the same trip for or on behalf of the same telecommunications services provider that is a person subject to U.S. jurisdiction, one combined pre-trip and one combined post-trip report may be filed covering all such travelers.

(g) *Specific licenses for travel-related transactions incident to exports.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and additional transactions that are directly incident to the

marketing, sales negotiation, accompanied delivery, or servicing in Cuba of exports that appear consistent with the export or re-export licensing policy of the Department of Commerce and are not authorized by the general licenses in paragraphs (e) and (f) of this section.

■ 9. Revise § 515.542 to read as follows:

**§ 515.542 Mail and telecommunications-related transactions.**

(a) All transactions of common carriers incident to the receipt or transmission of mail between the United States and Cuba are authorized.

(b) All transactions, including but not limited to payments, incident to the provision of telecommunications services between the United States and Cuba, the provision of satellite radio or satellite television services to Cuba, or the entry into and performance under roaming service agreements with telecommunications services providers in Cuba, by a telecommunications services provider that is a person subject to U.S. jurisdiction are authorized. This paragraph does not authorize any transactions addressed in paragraphs (c), (d), (f) or (g) of this section, nor does it authorize the entry into or performance of a contract with or for the benefit of any particular individual in Cuba.

(c) All persons subject to U.S. jurisdiction are authorized to enter into, and make payments under, contracts with non-Cuban telecommunications services providers, or particular individuals in Cuba, for telecommunications services provided to particular individuals in Cuba, provided that such individuals in Cuba are not prohibited officials of the Government of Cuba, as defined in § 515.337 of this part, or prohibited members of the Cuban Communist Party, as defined in § 515.338 of this part. The authorization in this paragraph includes, but is not limited to, payment for activation, installation, usage (monthly, pre-paid, intermittent, or other), roaming, maintenance, and termination fees.

(d)(1) *General license for telecommunications facilities linking the United States and Cuba.* Transactions incident to the establishment of facilities to provide telecommunications services linking the United States and Cuba, including but not limited to fiber-optic cable and satellite facilities, are authorized.

(2) *Specific licenses for telecommunications facilities linking third countries and Cuba.* Specific licenses may be issued on a case-by-case basis authorizing transactions incident

to the establishment of facilities to provide telecommunications services linking third countries and Cuba, including but not limited to fiber-optic cable and satellite facilities, provided that such facilities are necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(e) Any entity subject to U.S. jurisdiction relying on paragraph (b), (c), (d)(1), or (d)(2) of this section shall notify OFAC in writing within 30 days after commencing or ceasing to offer such services, as applicable, and shall furnish by January 15 and July 15 of each year semiannual reports providing the total amount of all payments made to Cuba or a third country related to any of the services authorized by this section during the prior six months. These notifications and reports must be captioned “Section 515.542 Notification” or “Section 515.542 Report” and faxed to 202/622–6931 or mailed to the Office of Foreign Assets Control, *Attn:* Policy Division, 1500 Pennsylvania Avenue, NW., Annex–4th Floor, Washington, DC 20220.

(f) For the purposes of this section, the term *telecommunications services* includes but is not limited to telephone, telegraph, and similar services and the transmission of satellite radio and satellite television broadcasts and news wire feeds.

(g) Nothing in this section authorizes the exportation or re-exportation of any items to Cuba. For the rules related to authorization of exports and re-exports to Cuba, see §§ 515.533 and 515.559 of this part.

(h) For an authorization of travel-related transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of telecommunications-related items that have been authorized for commercial export to Cuba by the U.S. Department of Commerce, see § 515.533(f) of this part. For an authorization of travel-related transactions that are directly incident to participation in professional meetings for the commercial marketing of, sales negotiation for, or performance under contracts for the provision of the telecommunications services, or the establishment of facilities to provide telecommunications services, authorized by paragraphs (b), (c), or (d)(1) of this section, see paragraph (a)(3) of section 515.564 of this part. Nothing in this § 515.542 authorizes transactions related to travel to, from, or within Cuba.

§ 515.545 [Amended]

■ 10. Amend § 515.545 by removing paragraph (a) and by redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

■ 11. Amend § 515.560 by removing paragraph (f); by redesignating paragraph (g) as paragraph (f); and by revising paragraphs (a)(1), (a)(4), (a)(12), (c)(1), (c)(2), (c)(4)(i), and (d) to read as follows:

§ 515.560 Travel-related transactions to, from, and within Cuba by persons subject to U.S. jurisdiction.

(a) \* \* \* (1) Family visits (general and specific licenses) (see § 515.561);

(4) Professional research and professional meetings (general and specific licenses) (see § 515.564);

(12) Certain export transactions that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba or engaged in by U.S.-owned or -controlled foreign firms (general and specific licenses) (see §§ 515.533 and 515.559).

(1) Transportation to and from Cuba. All transportation-related transactions ordinarily incident to travel to and from (not within) Cuba are authorized.

(2) Living expenses in Cuba. All transactions ordinarily incident to travel anywhere within Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there, are authorized, provided that, unless otherwise authorized, the total for such expenses does not exceed the "maximum per diem rate" for Havana, Cuba, in effect during the period that the travel takes place. The maximum per diem rate is published in the Department of State's "Maximum Travel per Diem Allowances for Foreign Areas," a supplement to section 925, Department of State Standardized Regulations (Government Civilians, Foreign Areas), which is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371945, Pittsburgh, PA 1520-7954, and on the Department of State's Office of Allowances Web site (http://aoprals.state.gov).

(i) The total of all family remittances authorized by § 515.570(a) does not exceed \$3,000, and

(d) A blocked Cuban national permanently resident outside the United States who is departing the United States may carry currency, as that term is defined in paragraph (c)(5) of this section, as follows:

(1) The amount of any currency brought into the United States by the Cuban national and registered with U.S. Customs and Border Protection upon entry;

(2) Up to \$3,000 in funds received as remittances by the Cuban national during his or her stay in the United States; and

■ 12. Revise § 515.561 to read as follows:

§ 515.561 Persons visiting close relatives in Cuba.

(a) General license. (1) Persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family with them are authorized to engage in the travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to visiting a close relative, as defined in § 515.339 of this part, who is a national of Cuba, as defined in § 515.302 of this part.

(2) Persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family with them are authorized to engage in the travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to visiting a close relative, as defined in § 515.339 of this part, who is a U.S. Government employee assigned to the U.S. Interests Section in Havana.

(b) Specific licenses. Specific licenses may be issued on a case-by-case basis authorizing persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family with them to engage in the travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to visiting a close relative, as defined in § 515.339 of this part, who is neither a national of Cuba, as defined in § 515.302 of this part, nor a U.S. Government employee assigned to the U.S. Interests Section in Havana.

■ 13. Amend § 515.564 by adding headings to paragraphs (a)(1) and (a)(2), and by adding new paragraph (a)(3) to read as follows:

§ 515.564 Professional research and professional meetings in Cuba.

(a) \* \* \* (1) Professional research.

(2) Professional meetings organized by an international professional organization. \* \* \*

(3) Professional meetings for commercial telecommunications transactions. The travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to participation in professional meetings for the commercial marketing of, sales negotiation for, or performance under contracts for the provision of the telecommunications services, or the establishment of facilities to provide telecommunications services, authorized by paragraphs (b), (c), or (d)(1) of § 515.542 of this part by a telecommunications services provider that is a person subject to U.S. jurisdiction are authorized, provided that:

(i) The traveler is regularly employed by a telecommunications services provider that is a person subject to U.S. jurisdiction or by an entity duly appointed to represent such a provider; and

(ii) The traveler's schedule of activities does not include free time, travel, or recreation in excess of that consistent with a full work schedule.

■ 14. Revise § 515.570 to read as follows:

§ 515.570 Remittances to Nationals of Cuba.

(a) Family remittances authorized. Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized to make remittances to nationals of Cuba who are close relatives, as defined in § 515.339 of this part, of the remitter, provided that:

(1) The remittances are not made from a blocked source. Certain remittances from blocked accounts are authorized pursuant to paragraph (c) of this section;

(2) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part; and

(3) The remittances are not made for emigration-related purposes. Remittances for emigration-related purposes are addressed by paragraph (b) of this section.

(b) Two one-time \$1,000 emigration-related remittances authorized. Persons subject to the jurisdiction of the United States are authorized to remit the following amounts:

(1) Up to \$1,000 per payee on a one-time basis to Cuban nationals for the purpose of covering the payees'

preliminary expenses associated with emigrating from Cuba to the United States. These remittances may be sent before the payees have received valid visas issued by the State Department or other approved U.S. immigration documents, but may not be carried by a licensed traveler to Cuba until the payees have received valid visas issued by the State Department or other approved U.S. immigration documents. See § 515.560(c)(4) of this part for the rules regarding the carrying of authorized remittances to Cuba. These remittances may not be made from a blocked source unless authorized pursuant to paragraph (c) of this section.

(2) Up to an additional \$1,000 per payee on a one-time basis to Cuban nationals for the purpose of enabling the payees to emigrate from Cuba to the United States, including for the purchase of airline tickets and payment of exit or third-country visa fees or other travel-related fees. These remittances may be sent only once the payees have received valid visas issued by the State Department or other approved U.S. immigration documents. A remitter must be able to provide the visa recipients' full names, dates of birth, visa numbers, and visa dates of issuance. See § 515.560(c)(4) of this part for the rules regarding the carrying of authorized remittances to Cuba. These remittances may not be made from a blocked source unless authorized pursuant to paragraph (c) of this section.

(c) Provided the recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part, certain remittances from blocked sources are authorized as follows:

(1) Funds deposited in a blocked account in a banking institution in the United States held in the name of, or in which the beneficial interest is held by, a national of Cuba as a result of a valid testamentary disposition, intestate succession, or payment from a life insurance policy or annuity contract triggered by the death of the policy or contract holder may be remitted:

(i) To that national of Cuba, provided that s/he is a close relative, as defined in § 515.339 of this part, of the decedent;

(ii) To that national of Cuba as emigration-related remittances in the amounts and consistent with the criteria set forth in paragraph (b) of this section.

(2) Up to \$300 in any consecutive three-month period may be remitted from any blocked account in a banking institution in the United States to a Cuban national in a third country who

is an individual in whose name, or for whose beneficial interest, the account is held.

(d) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing the following:

(1) Remittances by persons subject to U.S. jurisdiction, including but not limited to non-governmental organizations and individuals, to independent non-governmental entities in Cuba, including but not limited to pro-democracy groups, civil society groups, and religious organizations, and to members of such groups or organizations;

(2) Remittances from a blocked account to a Cuban national in excess of the amount specified in paragraph (c)(2) of this section; or

(3) Remittances by persons subject to U.S. jurisdiction to a person in Cuba, directly or indirectly, for transactions to facilitate non-immigrant travel by an individual in Cuba to the United States under circumstances where humanitarian need is demonstrated, including but not limited to illness or other medical emergency.

**Note to § 515.570:** For the rules relating to the carrying of remittances to Cuba, see § 515.560(c)(4) of this part. Persons subject to U.S. jurisdiction are prohibited from engaging in the collection or forwarding of remittances to Cuba unless authorized pursuant to § 515.572. For a list of authorized U.S. remittance service providers other than depository institutions, see Authorized Providers of Air, Travel and Remittance Forwarding Services to Cuba available from OFAC's Web site ([www.treas.gov/ofac](http://www.treas.gov/ofac)).

■ 15. Amend § 515.572 by revising paragraph (a)(3) and adding a note to paragraph (a)(3) to read as follows:

**§ 515.572 Authorization of transactions incident to the provision of travel services, carrier services, and remittance forwarding services.**

(a) \* \* \*

(3) *Authorization of remittance forwarders.* Persons subject to U.S. jurisdiction, including persons that provide payment forwarding services and noncommercial organizations acting on behalf of donors, that wish to provide services in connection with the collection or forwarding of remittances authorized pursuant to this part must obtain specific authorization from OFAC. Depository institutions, as defined in § 515.333, are hereby authorized to provide these services without obtaining specific authorization from OFAC. However, all licensed remittance forwarders, including depository institutions, that forward remittances authorized pursuant to this part are required to collect from persons

who use their services information showing compliance with the relevant remittance provisions of this part. Depository institutions are permitted to set up testing arrangements and exchange authenticator keys with Cuban financial institutions to forward remittances authorized by or pursuant to § 515.570, but may not open or use direct correspondent accounts of their own with Cuban financial institutions.

**Note to paragraph (a)(3):** A suggested form for the collection of information showing compliance with the remittance provisions in § 515.570 is available from OFAC's Web site ([www.treas.gov/ofac](http://www.treas.gov/ofac)).

\* \* \* \* \*

Dated: September 1, 2009.

**Adam J. Szubin,**

*Director, Office of Foreign Assets Control.*

Approved: September 1, 2009.

**Stuart A. Levey,**

*Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.*

[FR Doc. E9-21440 Filed 9-3-09; 4:15 pm]

**BILLING CODE 4811-45-P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 110

[Docket No. USCG-2008-0047]

RIN 1625-AA01

#### Anchorage Regulations; Port of New York and Vicinity

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the existing special anchorage area at Perth Amboy, New Jersey, at the junction of the Raritan River and Arthur Kill. This action is necessary to facilitate safe navigation and provide for a safe and secure anchorage for vessels of not more than 20 meters in length. This action is intended to increase the safety of life and property on the Raritan River and Arthur Kill, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce.

**DATES:** This rule is effective October 8, 2009.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0047 and are available online by going to <http://>