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EXECUTIVE ORDER 13088

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON THE NATIONAL EMERGENCY DECLARED BY EXECUTIVE ORDER NO. 13088 OF JUNE 9, 1998, IN RESPONSE TO THE THREAT TO THE NATIONAL SECURITY AND FOREIGN POLICY OF THE UNITED STATES CONSTITUTED BY THE ACTIONS AND POLICIES OF THE GOVERNMENTS OF THE FEDERAL REPUBLIC OF YUGOSLAVIA, AND THE REPUBLIC OF SERBIA WITH RESPECT TO KOSOVO, PURSUANT TO 50 U.S.C. 1703(c)

FEBRUARY 2, 1999.—Referred to the Committee on International Relations and ordered to be printed

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THE WHITE HOUSE,
Washington, January 5, 1999.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On June 9, 1998, by Executive Order 13088 (63 *Fed. Reg.* 32109, June 12, 1998), I declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), and the Republic of Serbia with respect to Kosovo. The order blocks all property and interests in property of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia and the Republic of Montenegro within the United States or within the possession or control of United States persons, and prohibits all new investment in the territory of the Republic of Serbia by United States persons, and the approval or other facilitation by United States persons of other persons' new investment in the territory of the Republic of Serbia.

1. The declaration of the national emergency on June 9, 1998, was made pursuant to the authority vested in me by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. The emergency declaration was reported by message to the Congress dated June 10, 1998, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)).

The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c) and covers the period from June 9 through December 8, 1998. It discusses only Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order 13088.

2. The Office of Foreign Assets Control (OFAC), acting under authority delegated by the Secretary of the Treasury, implemented the sanctions imposed under the foregoing statutes and Executive Order 13088 and has issued the Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations, 31 CFR part 586 (the "Regulations") (63 *Fed. Reg.* 54575, October 13, 1998). A copy of the Regulations is attached to this report.

The Regulations block all property and interests in property of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas

branches. The Regulations also prohibit financial transactions with, including trade financing for, the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro by United States persons. However, the Regulations provide an exemption, contained in section 2 of Executive Order 13088, for financial transactions, including trade financing, by United States persons within the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) that are (a) conducted exclusively through the domestic banking system within the Federal Republic of Yugoslavia (Serbia and Montenegro) in local currency (dinars), or (b) conducted using bank notes or barter.

The Regulations also prohibit all new investment in the territory of the Republic of Serbia by United States persons, and the approval or other facilitation by United States persons of other persons' new investment in the territory of the Republic of Serbia. The term "new investment," means (a) the acquisition of debt or equity interests in, (b) a commitment or contribution of funds or other assets to, or (c) a loan or other extension of credit to, a public or private undertaking, entity, or project, other than donations of funds to charitable organizations for purely humanitarian purposes. Any transaction by a United States person that evades or avoids, or that has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order 13088 is prohibited. Finally, the Regulations provide a general license, authorizing all transactions by United States persons involving property or interests in property of the Government of the Republic of Montenegro, except as provided pursuant to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585.

3. Since the issuance of Executive Order 13088 on June 9, 1998, OFAC has issued 73 specific licenses, the majority of which (55) authorized financial transactions with respect to personal remittances by individuals to the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) and funding of humanitarian operations by nongovernmental organizations (NGOs) within the Federal Republic of Yugoslavia (Serbia and Montenegro). Other licenses authorized certain diplomatic transactions, transactions related to air safety issues and payment of overflight fees, the closure of Federal Republic of Yugoslavia (Serbia and Montenegro) entities formerly operating within the United States and the liquidation and maintenance of blocked tangible property, and intellectual property protection for U.S. firms operating in the Federal Republic of Yugoslavia (Serbia and Montenegro). OFAC also instituted a mechanism for NGOs to continue to support humanitarian operations in Yugoslavia and administers a registration program for NGOs to route money and supplies there as appropriate.

Since June 9, 1998, U.S. banks and banks in the United States have reported to OFAC that they have blocked 877 transactions totaling $20,361,767 pursuant to the sanctions. Most of the blockings were of funds transfers originating from, or destined for, Serbian banks.

4. The expenses incurred by the Federal Government in the 6-month period from June 9 through December 8, 1998, that are directly attributable to the declaration of a national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia in connection with the situation in Kosovo are estimated at approximately $715,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in OFAC and its Chief Counsel's Office), the Department of State, and the National Security Council.

5. The situation reviewed above continues to present an extraordinary and unusual threat to the national security and foreign policy of the United States. The declaration of the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia contained in Executive Order 13088 was made in reaction to the unacceptable actions and policies of the Belgrade authorities in Kosovo, and continues to apply. The current situation in Kosovo is fragile and, as yet, unresolved. It is of particular importance that developments in Kosovo should not disrupt progress in implementing the Dayton peace agreement. This threat to the peace of the region constitutes an unusual and extraordinary threat to the national security of the United States.

With this in mind and in support of United Nations Security Council Resolutions 1099 and 1203, I shall continue to exercise the powers at my disposal with respect to the measures against the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro, as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

Sincerely,

WILLIAM J. CLINTON.

FDC Date	State	City	Airport	FDC No.	SIAP
09/25/98	MS	Columbus-West Point-Starkville	Golden Triangle Regional	FDC 8/6827	VOR/DME OR GPS-E, AMDT 5...
09/28/98	RI	Providence	Theodore Francis Green State	FDC 8/6858	ILS RWY 5, AMDT 16, ILS RWY 5 (CAT II), AMDT 16...
09/28/98	RI	Providence	Theodore Francis Green State	FDC 8/6862	VOR RWY 5, AMDT 13...
09/28/98	RI	Providence	Theodore Francis Green State	FDC 8/6864	NDB RWY 5, AMDT 15...
09/28/98	RI	Providence	Theodore Francis Green State	FDC 8/6866	VOR/DME or GPS RWY 23, AMDT 6A...
09/29/98	MI	Alma	Gratiot Community	FDC 8/6906	SDF RWY 9, AMDT 7...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6883	NDB RWY 14, AMDT 11...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6885	VOR RWY 14, AMDT 21...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6886	VOR/DME OR TACAN OR GPS RWY 32, AMDT 2...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6887	VOR/DME OR TACAN OR GPS RWY 14, AMDT 2...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6888	ILS RWY 32, AMDT 3...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6889	ILS RWY 14, AMDT 13...
09/29/98	MS	Gulfport	Gulfport-Biloxi Regional	FDC 8/6892	VOR RWY 32, AMDT 20...
09/29/98	SC	Loris	Twin City	FDC 8/6899	VOR/DME-A, AMDT 2...

[FR Doc. 98-27362 Filed 10-9-98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 586

Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing the Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations to implement Executive Order 13088 of June 9, 1998, "Blocking Property of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro, and Prohibiting New Investment in the Republic of Serbia in Response to the Situation in Kosovo."

EFFECTIVE DATE: October 13, 1998.

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

On June 9, 1998, the President issued Executive Order 13088 (the "Order"), effective at 12:01 a.m. EDT on June 10, 1998, declaring a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Serbia with respect to Kosovo, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706). The Order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions,

including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Order. In implementation of the Order, the Treasury Department is issuing the Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations, 31 CFR part 586 (the "Regulations").

Section 586.201 of the Regulations implements sections 1 and 2 of the Order, blocking all property and interests in property of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches. In keeping with the Order, this section also specifies that the blocking of property and property interests includes the prohibition of financial transactions with, including trade financing for, the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Serbia, and the Republic of Montenegro by United States persons. Section 586.201 also encompasses the exemption contained in section 2 of the Order, which excludes from blocking financial transactions, including trade financing, by United States persons within the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) if (a) conducted exclusively through the domestic banking system within the Federal Republic of Yugoslavia (Serbia and Montenegro) in local currency (dinars), or (b) conducted using bank notes or barter. This exemption is further described in § 586.408 and expanded by the general license contained in § 586.513.

Section 7 of the Order provides that special consideration shall be given to the circumstances of the Government of the Republic of Montenegro and persons located in and organized under the laws of that Republic in the implementation of the Order. On June 18, 1998, OFAC issued General License No. 1, authorizing all transactions by U.S. persons involving property or interests in property of the Government of the Republic of Montenegro, except as provided pursuant to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585. This general license is implemented in § 586.516 of the Regulations.

Section 586.204 of the Regulations implements section 3 of the Order and prohibits all new investment in the territory of the Republic of Serbia by U.S. persons, and the approval or other facilitation by U.S. persons of other persons' new investment in the territory of the Republic of Serbia. The term "new investment," defined in section 5(c) of the Order and § 586.312 of the Regulations, means (i) the acquisition of debt or equity interests in, (ii) a commitment or contribution of funds or other assets to, or (iii) a loan or other extension of credit to, a public or private undertaking, entity, or project, other than donations of funds for purely humanitarian purposes to charitable organizations.

Section 586.205 of the Regulations implements section 4 of the Order and prohibits any transaction by a U.S. person that evades or avoids, or that has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Order.

Transactions otherwise prohibited under this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of 31 CFR chapter V. Penalties for violations of the Regulations are described in subpart C of the Regulations.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") 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

As authorized in the APA, the Regulations are being issued without prior notice and public comment procedure. Collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by OMB under control number 1505-0164. An adjustment to the approved burden hours to reflect the additional burden imposed in administering the Regulations has been filed with OMB. 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 586

Administrative practice and procedure, Banks, banking, Blocking of assets, Federal Republic of Yugoslavia (Serbia & Montenegro), Investments, Kosovo, Montenegro, Penalties, New investment, Reporting and recordkeeping requirements, Serbia.

For the reasons set forth in the preamble, 31 CFR part 586 is added to read as follows:

PART 586—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA & MONTENEGRO) KOSOVO SANCTIONS REGULATIONS

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Sec.
586.101 Relation of this part to other laws and regulations.

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586.515 Payments for services rendered by the Government of the FRY (S&M) to aircraft authorized, aircraft and maritime safety.
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Subpart I—Paperwork Reduction Act

586.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1641, 1701–1706; E.O. 13088, 63 FR 32109 (June 12, 1998).

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

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

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions pursuant to part 501 of this chapter with respect to the prohibitions of this part are considered actions 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 or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 586.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no property or interests in property of the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Montenegro, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) The blocking of property and property interests in paragraph (a) of this section includes the prohibition of financial transactions with, including trade financing for, the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Montenegro by United States persons.

(c) Nothing in this section shall prohibit financial transactions, including trade financing, by United States persons within the territory of the FRY (S&M) if conducted exclusively through the domestic banking system within the FRY (S&M) in local currency (dinars), or conducted using bank notes or barter.

Note to paragraph (c) of § 586.201: See §§ 586.408 and 586.513.

(d) Unless otherwise authorized by this part or by a specific license expressly referring to this section, the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Montenegro, and held within the possession or control of a U.S. person is prohibited, irrespective of the fact that at any time (either prior to, on, or subsequent to the effective date) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred, or otherwise disposed of any such security.

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

Note to § 586.201: On June 18, 1998, the Office of Foreign Assets Control issued General License No. 1, now contained in § 586.516, authorizing all transactions by U.S. persons involving property or interests in property of the Government of the Republic of Montenegro, except with respect to property that continues to be blocked pursuant to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (see § 585.525). In addition, as set forth in § 586.502 (d), any transaction authorized with respect to the Government of the FRY (S&M) pursuant to this part is also authorized with respect to the Governments of the Republic of Serbia and the Republic of Montenegro, unless otherwise specified.

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

(a) Any transfer after the effective date which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization issued pursuant to this part and involves any property or interest in property blocked pursuant to § 586.201 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 interest in, any property or interest in property blocked pursuant to § 586.201, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

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

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

(3) 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, license, or other direction or authorization issued pursuant to this part; or

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

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

Note to paragraph (d) of § 586.202: 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 or interest in property blocked pursuant to § 586.201.

§ 586.203 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 § 586.201 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 which 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 § 586.201 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 § 586.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates which 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 § 586.201. 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 which provides immediate financial or economic benefit or access to persons whose property or interests in property are blocked pursuant to § 586.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 586.204 Prohibited new investment within Serbia.

Except as otherwise provided in regulations, orders, directives, or licenses that may hereafter be issued pursuant to this order, all new investment in the territory of the Republic of Serbia by United States persons, and the approval or other facilitation by United States persons of other persons' new investment in the territory of the Republic of Serbia, are prohibited.

§ 586.205 Evasions; attempts; conspiracies.

Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 586.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 586.309, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not authorize transactions related to information and

informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information and informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications), provision of services to market, produce or co-produce, create or assist in the creation of information and informational materials, and payment of royalties to persons whose property or interests in property are blocked pursuant to § 586.201 with respect to income received for enhancements or alterations made by U.S. persons to information or informational materials imported from persons whose property and property interests are blocked pursuant to § 586.201.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the sale or leasing of telecommunications transmission facilities (such as satellite links or dedicated lines) for use in the transmission of any data. The exportation of such items or services and the sale or leasing of such facilities to a person whose property and interests in property are blocked pursuant to § 586.201 is prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including non-scheduled air, sea, or land voyages.

(d) *Journalistic activity.* The prohibitions contained in this part do not apply to transactions in the FRY (S&M) for journalistic activity by persons regularly employed in such capacity by a news-gathering organization.

(e) *Humanitarian donations.* The prohibitions of this part do not apply to donations by U.S. persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

Subpart C—General Definitions

§ 586.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 586.201 held in the name of a person whose property is blocked pursuant to § 586.201 or in which such person 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.

§ 586.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EDT, June 10, 1998.

§ 586.303 Entity.

The term *entity means* a partnership, association, trust, joint venture, corporation, or other organization.

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

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

§ 586.305 General license.

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

§ 586.306 Government of the Federal Republic of Yugoslavia (Serbia and Montenegro).

The term *Government of the Federal Republic of Yugoslavia (Serbia and Montenegro)* means the government of the FRY (S&M), its agencies, instrumentalities, and controlled entities, including all financial institutions and state-owned and socially-owned entities organized or located in the FRY (S&M) as of June 9, 1998, any successors to such entities, and their respective subsidiaries and branches, wherever located, and any persons acting or purporting to act for or on behalf of any of the foregoing.

Note to § 586.306: Please refer to the appendices at the end of this chapter for listings of persons determined to fall within this definition who have been designated pursuant to this part. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designations, or who wish to assert that the circumstances resulting in designation are no longer applicable.

§ 586.307 Government of the Republic of Montenegro.

The term *Government of the Republic of Montenegro* means the government of the Republic of Montenegro, including any subdivisions thereof or local governments therein, its agencies, instrumentalities and controlled entities, including all financial institutions and state-owned and socially-owned entities organized or located in the Republic of Montenegro as of June 9, 1998, any successors to such entities, and their respective subsidiaries and branches, wherever located, and any persons acting or purporting to act for or on behalf of any of the foregoing.

Note to § 586.307: Section 586.516 authorizes all transactions by U.S. persons involving property or interests in property of the Government of the Republic of Montenegro, unless such property remains blocked pursuant to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (see § 585.525).

§ 586.308 Government of the Republic of Serbia.

The term *Government of the Republic of Serbia* means the government of the Republic of Serbia, including any subdivisions thereof or local governments therein, its agencies, instrumentalities, and controlled entities, including all financial institutions and state-owned and socially-owned entities organized or located in the Republic of Serbia as of June 9, 1998, any successors to such entities, and their respective subsidiaries and branches, wherever located, and any persons acting or purporting to act for or on behalf of any of the foregoing.

Note to § 586.308: Please refer to the appendices at the end of this chapter for listings of persons determined to fall within this definition who have been designated pursuant to this part. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designations, or who wish to assert that the circumstances resulting in designation are no longer applicable.

§ 586.309 Information and informational materials.

(a)(1) For purposes of this part, the term *information and informational materials* means publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, and other information and informational materials.

(2) To be considered informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information and informational materials* with respect to U.S. exports does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (the "EAA"), or section 6 of the EAA to the extent that such controls promote nonproliferation or antiterrorism policies of the United States.

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 586.310 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.

§ 586.311 License.

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

§ 586.312 New investment.

The term *new investment* means the acquisition of debt or equity interests in, a commitment or contribution of funds or other assets to, or a loan or other extension of credit to, a public or private undertaking, entity, or project, including the Government of the Republic of Serbia, other than donations of funds to charitable organizations for purely humanitarian purposes.

§ 586.313 Person.

The term *person* means an individual or entity.

§ 586.314 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 586.315 Specific license.

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

§ 586.316 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 and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 586.317 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 586.318 United States.

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

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

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

Subpart D—Interpretations

§ 586.401 Reference to amended sections.

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

§ 586.402 Effect of amendment.

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

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

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away

from a person whose property or interests in property are blocked pursuant to § 586.201, such property shall no longer be deemed to be property blocked pursuant to § 586.201, unless there exists in the property another interest that is blocked pursuant to § 586.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 586.201, such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 586.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 586.201 if effected after the effective date.

§ 586.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except an unlicensed transaction by a person whose property or interests in property are blocked pursuant to § 586.201, or involving an unlicensed debit to a blocked account or transfer of blocked property not explicitly authorized within the terms of the license.

§ 586.406 Provision of services.

(a) Except as provided in § 586.201(c) or as otherwise authorized, the prohibitions contained in § 586.201 apply to services performed by U.S. persons, wherever located:

(1) On behalf of, or for the benefit of, a person whose property or interests in property are blocked pursuant to § 586.201, or

(2) With respect to property interests of a person whose property or interests in property are blocked pursuant to § 586.201.

(b) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with persons whose property or interests in property are blocked pursuant to § 586.201. See § 586.509 on licensing policy with regard to the provision of certain legal services.

§ 586.407 Offshore transactions.

(a) The prohibitions contained in § 586.201 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 person whose property and interests in property are blocked pursuant to § 586.201 has or has had an interest since the effective date.

(b) Prohibited transactions include, but are not limited to, importation into or exportation from locations outside the United States of, or purchasing, selling, financing, swapping, insuring, transporting, lifting, storing, incorporating, transforming, brokering, or otherwise dealing in, within such locations, goods, technology or services in which the U.S. person knows, or has reason to know, that a person whose property and interests in property are blocked pursuant to § 586.201 has or has had an interest since the effective date.

(c) *Examples:* (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in, furniture, shoes or other goods manufactured by a state or socially-owned entity organized or located in the FRY (S&M).

(2) A U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is a state or socially-owned entity within the territory of the FRY (S&M), or which benefits or supports the business of such an entity, unless the entity is licensed by the Office of Foreign Assets Control to conduct such transactions with U.S. persons or the transaction is generally licensed in, or exempted from the prohibitions of, this part.

Note to § 586.407: See § 586.513 with regard to the authorization of certain trade-related transactions.

§ 586.408 Exempt financial transactions within the territory of the FRY (S&M); prohibition on establishment of new offices in Serbia.

(a) Section 586.201(c) exempts financial transactions, including trade financing, from the prohibitions contained in § 586.201 by U.S. persons physically located within the territory of the FRY (S&M), where those transactions are conducted exclusively through the domestic banking system within the FRY (S&M) in local currency (dinars), or using bank notes or barter. A U.S. entity must have a permanent establishment, such as a branch or representative office, within the territory of the FRY (S&M) to be considered physically located there for purposes of this paragraph (a).

(b) The prohibition on new investment within Serbia contained in § 586.204, as defined in § 586.312, precludes the establishment after the effective date of a new representative or branch office or joint venture or other entity within the territory of the Republic of Serbia, because such activity would necessarily involve a commitment or contribution of funds or other assets to a public or private undertaking, entity, or project within Serbia. See § 586.513 concerning the authorization of certain trade-related transactions conducted using bank notes or barter by U.S. persons located outside of the territory of the FRY (S&M).

Note to § 586.408: All transactions with respect to property in which the Government of the Republic of Montenegro has an interest are authorized pursuant to § 586.516. Therefore, all financial transactions by U.S. persons within the territory of the Republic of Montenegro are authorized, unless the transaction involves property in which another interest exists that is blocked pursuant to § 586.201 or any other part of this chapter. See § 586.403.

§ 586.409 Approval or other facilitation of other persons' investment in the territory of the Republic of Serbia.

(a) The prohibition contained in § 586.204 against approval or other facilitation by U.S. persons of other persons' investment in the territory of the Republic of Serbia bars any action by a U.S. person that assists or supports other persons' activity that would constitute prohibited new investment under that section if engaged in by a U.S. person. Such approval or other facilitation with respect to persons whose property or interests in property are blocked pursuant to § 586.201 also constitutes a violation of that section. See the definition of the term *new investment* in § 586.312.

(b) *Examples:* (1) A U.S. person is prohibited from brokering, financing, guaranteeing, or approving the purchase by any other person, including a foreign affiliate, of shares, including an equity interest, in a publicly or privately held undertaking, entity or project located in the territory of the Republic of Serbia, except as provided in § 586.514.

(2) The sale to a non-U.S. person of a U.S. person's equity or income interest in an entity in the territory of the Republic of Serbia constitutes facilitation of that other person's investment in Serbia, and would otherwise be prohibited but for the authorization contained in § 586.514.

(3) A U.S. national or permanent resident alien employed by a foreign person may not participate in any

decision-making role in an activity by the foreign person that includes investment in the territory of the Republic of Serbia.

§ 586.410 Transfer of funds to the benefit of certain persons in the territory of the FRY (S&M).

Section 586.201 does not prohibit U.S. financial institutions that are not blocked, including their foreign branches, from transferring funds to accounts in financial institutions for the benefit of individuals, non-governmental organizations and other persons located in the territory of the FRY (S&M) whose property and interests in property are not blocked pursuant to that section, provided that such transactions do not result in the transfer of funds to or for the benefit of persons whose property or interests in property are blocked pursuant to § 586.201.

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

§ 586.501 General and specific licensing procedures.

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

§ 586.502 Effect of license or authorization.

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

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part 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 under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

Note to paragraph (c) of § 586.502: The general license in § 586.516 authorizing transactions with respect to property in which the Government of the Republic of Montenegro has an interest removes such property and interests in property from the phrase "property and interests in property blocked pursuant to § 586.201" for purposes of this part.

(d) Any general license or statement of licensing policy contained in this part authorizing transactions with respect to the Government of the FRY (S&M) shall, unless otherwise stated, also authorize analogous transactions with respect to the Governments or territories of the Republic of Serbia and the Republic of Montenegro.

§ 586.503 Exclusion from licenses and authorizations.

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

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

Any payment of funds or transfer of credit in which any person whose property and interests in property are blocked pursuant to § 586.201 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 § 586.504: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 586.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 586.505 Payment of obligations to U.S. persons authorized.

(a) The transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person not blocked pursuant to this chapter solely for the purpose of payment of obligations to U.S. persons of persons whose property or interests in property are blocked pursuant to § 586.201 is authorized, provided that the obligation arose prior to the effective date or is otherwise authorized pursuant to statute or the provisions of this part, and the payment requires no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

(b) A person receiving payment under this section may distribute all or part of that payment to any person, provided that any such payment to a person whose property or interests in property are blocked pursuant to § 586.201 must be to a blocked account in a U.S. financial institution.

Note to § 586.505: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 586.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 586.506 Investment and reinvestment of certain funds.

U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 586.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but in no case may funds be transferred outside the United States for this purpose; and

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

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to any person whose property or interests in property are blocked pursuant to § 586.201.

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

Persons other than those whose property or interests in property are blocked pursuant to § 586.201 are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, involving a property interest blocked pursuant to § 586.201, as long as the bankers

acceptances were created or the deferred payment undertakings were incurred prior to the effective date.

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

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

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

§ 586.509 Provision of certain legal services authorized.

(a) The provision to or on behalf of a person whose property or interests in property are blocked pursuant to § 586.201 of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed.

(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 person whose property or interests in property are blocked pursuant to § 586.201:

(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 of the prohibitions contained in this part;

(2) Representation of a person whose property or interests in property are blocked pursuant to § 586.201 when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of a person whose property or interests in property are blocked pursuant to § 586.201;

(4) Representation of a person whose property and interests in property are blocked pursuant to § 586.201 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 person whose property or interests in property are blocked pursuant to § 586.201, not otherwise authorized in or exempted by this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property of a person whose property or interests in property are blocked pursuant to § 586.201 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 a property interest of such person is prohibited unless specifically licensed in accordance with § 586.202(e).

§ 586.510 Transactions related to telecommunications authorized.

All transactions with respect to the receipt and transmission of telecommunications involving the FRY (S&M) are authorized. This section does not authorize the provision to any person whose property or interests in property are blocked pursuant to § 586.201 of telecommunications equipment or technology, nor the sale or leasing of telecommunications transmission facilities (such as satellite links or dedicated lines).

§ 586.511 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between the United States and the FRY (S&M) are authorized, provided that mail is limited to personal communications not involving a transfer of anything of value.

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

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

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright or other form of intellectual property protection, or the entrance of a defense to any such proceedings.

(b) This section authorizes the payment of fees currently due to the United States Government, or of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States, in connection with the transactions authorized in paragraph (a) of this section. Payment effected pursuant to the terms of this paragraph (b) may not be made from a blocked account.

(c) This section authorizes the payment of fees currently due to the Government of the FRY (S&M), or of the reasonable and customary fees and charges currently due to attorneys or representatives within the territory of the FRY (S&M), in connection with the transactions authorized in paragraph (a) of this section.

(d) Nothing in this section affects obligations under any other provision of law.

§ 586.513 Certain transactions with respect to trade with blocked persons authorized.

(a) U.S. persons may trade in goods in which a person whose property and interests in property are blocked pursuant to § 586.201 has an interest, provided that the payment for the goods is made in bank notes and coins of any currency or by barter. Any open account credit terms may not exceed 30 days. Transactions relating to services incident to this trade in goods, including payment for shipping and insurance to non-blocked entities, are authorized.

(b) *Example:* A U.S. company located outside of Serbia may ship goods to Serbia in exchange for bank notes and coins or under a barter arrangement in exchange for Serbian goods, exchanged directly with the U.S. company or assigned to a third company in satisfaction of an obligation owed that party by the U.S. company. Except as provided in § 586.408 or otherwise specifically authorized, however, the U.S. company may not establish or use an account at a financial institution

within the territory of the Republic of Serbia in connection with any trade transaction described in this section.

§ 586.514 Divestiture of U.S. person's equity investment in the territory of the Republic of Serbia.

Notwithstanding the prohibition in § 586.204 against the facilitation by a U.S. person of other persons' new investment in the territory of the Republic of Serbia, all transactions related to the divestiture or transfer to a non-U.S. person, other than a person whose property or property interests are blocked pursuant to § 586.201 or this chapter, of a U.S. person's investment in the Republic of Serbia are authorized.

§ 586.515 Payments for services rendered by the Government of the FRY (S&M) to aircraft authorized; aircraft and maritime safety.

(a) Payments to the Government of the FRY (S&M) of charges for services rendered by that Government in connection with the overflight of the territory of the FRY (S&M) or emergency landing in the FRY (S&M) by aircraft are authorized.

(b) Specific licenses may be issued on a case-by-case basis for the exportation and reexportation of goods, services, and technology to insure the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft, and to ensure the safety of ocean-going maritime traffic in international waters.

§ 586.516 Transactions with respect to property in which the Government of the Republic of Montenegro has an interest authorized.

All transactions by U.S. persons involving property or interests in property in which the Government of the Republic of Montenegro has an interest are authorized, except with respect to property blocked pursuant to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (see § 585.525). Property and interests in property of the Government of Montenegro shall not be considered "property and interests in property blocked pursuant to § 586.201" for purposes of this part. This authorization does not apply, however, to property in which the Government of Montenegro has an interest but in which there also exists an interest of another person whose property or interests in property are blocked pursuant to § 586.201 or any other part of this chapter.

Subpart F—Reports

§ 586.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

Subpart G—Penalties

§ 586.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (the "Act"), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

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

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined 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.

§ 586.702 Prepenalty notice.

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

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

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

§ 586.703 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 shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty

notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30-day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 586.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent 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 the prepenalty notice, 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.

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

(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 collection and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

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

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

Subpart H—Procedures

§ 586.801 Procedures.

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

§ 586.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 13088 (63 FR 32109, June 12, 1998), and any further Executive orders relating to the national emergency declared in Executive Order 13088, 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

§ 586.901 Paperwork Reduction Act notice.

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

Dated: September 18, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control

Approved: September 29, 1998.

Elisabeth A. Bresee,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98-27339 Filed 10-7-98; 4:34 pm]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN52-01-7277a; MN53-01-7278a; FRL-6162-1]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Minnesota's State Implementation Plan (SIP) for sulfur dioxide (SO_2) in Air Quality Control Region (AQCR) 131. The EPA's action is based upon a revision request submitted by the State of Minnesota on April 24, 1997, which amends two State Administrative Orders for two Northern States Power facilities: Inver Hills and Riverside. The Orders are included as part of Minnesota's approved SIP to attain and maintain the National Ambient Air Quality Standard for sulfur dioxide.

DATES: This rule is effective on December 14, 1998 unless the Agency receives relevant adverse comments by November 12, 1998. Should the Agency receive such comments, it will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Victoria Hayden at (312) 886-4023 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Victoria Hayden, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886-4023.

SUPPLEMENTARY INFORMATION:

I. Background

On April 14, 1994, and September 9, 1994, EPA approved SIP revisions for SO_2 for much of the Minneapolis-Saint Paul area. The regulatory portion of these revisions consisted of administrative orders limiting emissions from affected facilities. On June 13, 1995, EPA approved amendments to the previously approved administrative orders addressing SO_2. On April 24, 1997, Minnesota submitted additional changes to the amendments for the administrative orders for two Northern States Power facilities: Inver Hills and Riverside. For the Inver Hills Generating Facility the administrative order was amended to increase the boilers heat input, decrease their emission limits, increase the amount of fuel oil usage, but decrease the sulfur content. The administrative order for the Riverside Station was revised similarly to increase