

**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 Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the "CACR"), to clarify the meaning of the term "payment of cash in advance," which is used in the restrictions on payment and financing terms for authorized exports from the United States to Cuba.

**DATES:** Effective Date: February 22, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Chief of Policy Planning and Program Management, tel. (202) 622-4855, Chief of Licensing, tel.: (202) 622-2480, Chief of Compliance, tel. (202) 622-2490, or Chief Counsel, tel.: (202) 622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

**SUPPLEMENTARY INFORMATION:****Electronic and Facsimile Availability**

This file is available for download without charge in ASCII and Adobe Acrobat readable (\*.PDF) formats at GPO Access. GPO Access supports HTTP, FTP, and Telnet at fedbbs.access.gpo.gov. It may also be accessed by modem dialup at (202) 512-1387 followed by typing "/GO/FAC." Paper copies of this document can be obtained by calling the Government Printing Office at (202) 512-1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: <http://www.treas.gov/ofac>, or via FTP at ofacftp.treas.gov. Facsimiles of information are available through the Office's 24-hour fax-on-demand service: call (202) 622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

**Background**

Section 908(b)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, Pub. L. 106-387, prohibits U.S. persons from providing payment or financing terms for authorized sales of agricultural items to Cuba or any person in Cuba other

than through "payment of cash in advance" or certain financing by third-country financial institutions. Last fall, U.S. financial institutions stopped payments that were in process and requested guidance from the Treasury as to whether the term required the seller to receive payment before shipping the goods from the United States or before delivering the goods to the Cuban purchaser.

To mitigate the immediate impact on the transfer of such payments, OFAC adopted an interim policy of issuing specific licenses that authorized the unblocking of such payments pending the issuance of further guidance clarifying the meaning of the term "payment of cash in advance." OFAC created this specific licensing policy to ensure the Cuban people did not experience a disruption in agricultural shipments to Cuba and to avoid any unnecessary disruption of U.S. business.

With this final rule, OFAC is amending paragraph (a)(2) of § 515.533 of the CACR to clarify that the term "payment of cash in advance" means that payment is received by the seller or the seller's agent prior to shipment of the goods from the port at which they are loaded. This conforms to the common understanding of the term in international trade finance. In order to continue to avoid a disruption in agricultural shipments to Cuba, OFAC is amending paragraph (d) of § 515.533 to provide a general license authorizing the processing of payments received for certain exports to Cuba that are shipped prior to receipt of payment for a limited time. This general license only applies when the goods are shipped from the port at which they are loaded on or before March 24, 2005 and when payment is received by a U.S. banking institution on or before March 24, 2005 and prior to transfer of title to, and control of, the goods to the Cuban purchaser.

**Public Participation**

Because the CACR 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**

The collections of information related to the CACR 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, part 515 of 31 CFR chapter V is amended as follows:

**PART 515—CUBAN ASSETS CONTROL REGULATIONS**

■ 1. The authority citation for 31 CFR part 515 continues 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. 106-387, 114 Stat. 1549; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1147; 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 E—Licenses, Authorizations, and Statements of Licensing Policy**

■ 2. Amend § 515.533 by revising paragraphs (a)(2) introductory text and (a)(2)(i) and by adding paragraph (d) to read as follows:

**§ 515.533 Transactions incident to exports from the United States to Cuba and reexports of U.S.-origin items to Cuba; negotiation of executory contracts.**

(a) \* \* \*

(2) Only the following payment and financing terms may be used:

(i) Payment of cash in advance. For the purposes of this section, the term "payment of cash in advance" means that payment is received by the seller or the seller's agent prior to shipment of the goods from the port at which they are loaded;

\* \* \* \* \*

(d) In addition to those transactions authorized pursuant to paragraph (a) of this section, all transactions ordinarily incident to the processing of payments received for items exported from the United States to any person within Cuba are authorized, provided that:

(1) The exportation is licensed or otherwise authorized by the Department

of Commerce under the provisions of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420) (see the Export Administration Regulations, 15 CFR 730–774);

(2) The items are shipped from the port at which they are loaded on or before March 24, 2005; and

(3) Payment is received by a U.S. banking institution on or before March 24, 2005, and prior to the transfer of title to, and control of, the exported items to the Cuban purchaser.

\* \* \* \* \*

Dated: February 18, 2005.

**Robert W. Werner,**

*Director, Office of Foreign Assets Control.*

Approved: February 18, 2005.

**Juan C. Zarate,**

*Assistant Secretary for Terrorist Financing, Department of the Treasury.*

[FR Doc. 05–3651 Filed 2–22–05; 3:00 pm]

BILLING CODE 4810–25–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[R01–OAR–2004–CT–0004; A–1–FRL–7877–6]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Connecticut; Plan for Controlling MWC Emissions From Existing Municipal Waste Combustors

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) approves the sections 111(d)/129 State Plan submitted by the Connecticut Department of Environmental Protection (CT DEP) on September 16, 2004. This State Plan is for implementing and enforcing provisions at least as protective as the federal Emission Guidelines (EGs) applicable to existing large and small Municipal Waste Combustion (MWC) units.

**DATES:** This direct final rule is effective on April 26, 2005 without further notice unless EPA receives adverse comments by March 28, 2005. If EPA receives such comments, we will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

C. E-mail: [kenyon.michael@epa.gov](mailto:kenyon.michael@epa.gov).

D. Fax: (617) 918–0521.

E. Mail: "RME ID Number R01–OAR–2004–CT–0004", Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

F. Hand Delivery or Courier: Deliver your comments to Michael Kenyon, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**Instructions:** Direct your comments to Regional Material in EDocket (RME) ID Number R01–OAR–2004–CT–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below to schedule your review. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, telephone number (617) 918–1659, fax number (617) 918–0659, e-mail [courcier.john@epa.gov](mailto:courcier.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. What Action Is EPA Taking Today?
- II. Why Does EPA Want To Regulate Air Emissions From MWCs?
- III. When Did EPA First Publish These Requirements?
- IV. Who Must Comply With the Requirements?
- V. Are Any Sources Exempt From the Requirements?
- VI. By What Date Must MWCs in Connecticut Achieve Compliance?
- VII. What Happens if an MWC Does Not/ Cannot Meet the Requirements by the Final Compliance Date?
- VIII. What Options Are Available to Operators if They Cannot Achieve Compliance Within One Year of the Effective Date of the State Plan?
- IX. What Is a State Plan?
- X. What Did the State Submit as Part of Its State Plan?
- XI. Why Is EPA Approving Connecticut's State Plan?
- XII. Why Does EPA Need To Approve State Plans?
- XIII. Regulatory Assessment Requirements