

the legal conclusion that MIOSHA, as a state operating under authority of state law, pursuant to a federally approved state plan, did not have authority to inspect and apply MIOSHA statutory and regulatory requirements to Indian-owned and Indian-operated businesses within the territorial borders of Indian reservations. The state reached the conclusion at that time that, with respect to non-Indian owned businesses operating on Indian reservations, the provisions of MIOSHA would apply.

Subsequently, on September 28, 2004, an addendum to the state's Operational Status Agreement between federal OSHA and MIOSHA was signed. This addendum stated that MIOSHA relinquished to federal OSHA the jurisdiction and enforcement authority for conducting safety and health inspections and interventions within the borders of all Indian reservations for employers who are enrolled members of Indian tribes. The addendum also provided that non-member employers within Indian reservations and member employers located outside the territorial borders of Indian reservations remain under MIOSHA jurisdiction. Accordingly, notice is hereby given of this change in federal enforcement authority with regard to employers on Indian land in the state of Michigan. OSHA is also amending its description of the approved state plan at 29 CFR part 1952, Subpart T to reflect this change in the level of federal enforcement.

B. Obtaining Copies of Referenced Documents

A copy of the documents referenced in this notice may be obtained from: Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693-2244, fax (202) 693-1671; Office of the Regional Administrator, Occupational Safety and Health Administration, 230 S. Dearborn Street, 32nd Floor, Room 3244, Chicago, Illinois 60604, (312) 353-2220, fax (312) 353-7774; and the Michigan Occupational Safety and Health Administration, P.O. Box 30643, 7150 Harris Drive, Lansing, Michigan 48909, (517) 322-1817, fax (517) 322-1775. Other information about the Michigan State Plan is posted on the state's Web site at <http://www.michigan.gov/miosha>. Electronic copies of this **Federal Register** notice are available on OSHA's Web site at <http://www.osha.gov/>.

C. Administrative Procedure

This **Federal Register** document acknowledges a modification made by the state of Michigan to its occupational safety and health state plan, and does not involve any regulatory action by federal OSHA. States with approved plans have authority to modify the statutes, regulations, and procedures in their plan, using procedures provided under state law. These state plan modifications have legal effect in the state as soon as they are adopted; pre-enforcement approval by federal OSHA is not required. 29 CFR 1953.3(a); see *Florida Citrus Packers v. California*, 545 F. Supp. 216, 219 (N.D. Cal. 1982).

The attached **Federal Register** notice is designated a "final rule." That designation is necessary because OSHA publishes a general description of every state plan in 29 CFR part 1952. Because they are set forth in the Code of Federal Regulation, these descriptions can be updated only by publishing a "final rule" document in the final rules section of the **Federal Register**. Such rules do not contain any new federal regulatory requirements, but merely provide public information about changes already in effect under state law. Michigan's determination that certain Indian-owned establishments are not subject to coverage under the state's plan is the result of limitations already in effect under that state's law. The present **Federal Register** notice simply provides information to the public concerning this limitation.

For this reason, public notice and comment are unnecessary, and good cause exists for making this final rule effective upon publication in the **Federal Register**. Accordingly, OSHA finds that public participation is unnecessary, and this notice of approval is effective upon publication in the **Federal Register**.

List of Subjects in 29 CFR Part 1952

Indian tribes, Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, DC, on September 26, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Part 1952 of 29 CFR is hereby amended as follows:

PART 1952—[AMENDED]

■ 1. The authority section for Part 1952 continues to read as follows:

Authority: Section 18 of the OSH Act (29 U.S.C. 667), 29 CFR Part 1902, and Secretary of Labor's Order No. 5-2002 (67 FR 65008).

Subpart T—Michigan

■ 2. In § 1952.265 remove the third sentence and add two sentences in its place to read as follows:

§ 1952.265 Level of Federal enforcement.

* * * Federal OSHA will also retain authority for coverage of Federal government employers and employees; and of the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; and of employers who own or operate businesses located within the boundaries of Indian reservations who are enrolled members of Indian tribes. (Non-Indian employers within the reservations and Indian employers outside the territorial boundaries of Indian reservations remain subject to Michigan jurisdiction.) * * *

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538 and 560

Sudanese Sanctions Regulations; Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is adopting as final, with changes, a previously issued interim final rule. These changes primarily amend the Sudanese Sanctions Regulations and the Iranian Transactions Regulations by issuing general licenses that authorize the exportation or reexportation of food to individuals and entities in an area of Sudan other than the Specified Areas of Sudan and in Iran. Certain specified food items, as well as exports to certain persons, requiring a greater level of scrutiny are excluded from the general licenses.

DATES: *Effective Date:* October 12, 2011.

FOR FURTHER INFORMATION CONTACT:

Assistant Director for Sanctions Compliance and Evaluation, *tel.*: 202/622-2490, Assistant Director for Licensing, *tel.*: 202/622-2480, Assistant Director for Policy, *tel.*: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), *tel.*: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treasury.gov/ofac>). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, *tel.*: 202/622-0077.

Background

OFAC today is adopting as final, with changes, a previously issued interim final rule. *See* 74 FR 61030 (November 23, 2009) (the "2009 interim final rule"). These changes primarily amend the Sudanese Sanctions Regulations, 31 CFR part 538 (the "SSR"), and the Iranian Transactions Regulations, 31 CFR part 560 (the "ITR"), by issuing general licenses that authorize the exportation or reexportation of food (as defined in the general licenses) to Sudan and Iran, respectively. Certain specified food items, as well as exports to certain persons, requiring a greater level of scrutiny are excluded from the general licenses.

The 2009 interim final rule made technical changes to certain sections of the SSR and the ITR relating to the Trade Sanctions Reform and Export Enhancement Act of 2000, as amended (22 U.S.C. 7201 *et seq.*) ("TSRA"). The 2009 interim final rule and accompanying preamble clarified OFAC's policy with respect to the process for issuing one-year licenses to export agricultural commodities, medicine, and medical devices to Sudan and Iran, and the considerations relevant to such licensing decisions. Although a prior notice of proposed rulemaking was not required with respect to the 2009 interim final rule, OFAC solicited comments on the 2009 interim final rule in order to consider how it might make improvements to these sections of the SSR and ITR. OFAC received no comments in response to this solicitation.

TSRA provides that, with certain exceptions, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity unless, at least 60 days before imposing such a sanction, the President submits a report to Congress describing the proposed sanction and the reasons for it and Congress enacts a joint resolution approving the report. *See* 22 U.S.C. 7202. Section 906 of TSRA, however, requires in pertinent part that the export of agricultural commodities, medicine, and medical devices to Cuba, or to the

government of a country that has been determined by the Secretary of State, pursuant to, *inter alia*, section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), to have repeatedly provided support for acts of international terrorism, or to any entity in such a country, shall be made pursuant to one-year licenses issued by the United States Government, except that the requirements of such one-year licenses shall be no more restrictive than general licenses administered by the Department of the Treasury. *See* 22 U.S.C. 7205(a)(1). Section 906 also specifies that procedures be in place to deny licenses for exports of agricultural commodities, medicine, and medical devices to any entity within such country promoting international terrorism.

Moreover, as provided in section 221 of the USA PATRIOT Act (Pub. L. 107-56) (codified at 22 U.S.C. 7210), nothing in TSRA shall limit the application or scope of any law, including any Executive order or regulation promulgated pursuant to such law, establishing criminal or civil penalties for the unlawful export of any agricultural commodity, medicine, or medical device to a Foreign Terrorist Organization; a foreign organization, group, or person designated pursuant to Executive orders 12947 or 13224 (sanctioning terrorists); weapons of mass destruction or missile proliferators; or designated narcotics trafficking entities. In addition, TSRA itself provides in section 904(2) that the restrictions on the imposition of unilateral agricultural sanctions or unilateral medical sanctions shall not affect any authority or requirement to impose a sanction to the extent such sanction applies to any agricultural commodity, medicine, or medical device that is (A) Controlled on the United States Munitions List (the "USML"), (B) controlled on any control list established under the Export Administration Act of 1979 or any successor statute, or (C) used to facilitate the design, development, or production of chemical or biological weapons, missiles, or weapons of mass destruction. *See* 22 U.S.C. 7203(2).

Since the issuance of the 2009 interim final rule, OFAC has continued to review its TSRA licensing procedures, particularly the procedures for licensing exports of agricultural commodities. As a result of this review, OFAC has determined to authorize, by general license, the exportation or reexportation to Sudan and Iran of those agricultural commodities that constitute food, subject to certain limited exceptions. For purposes of these general licenses,

OFAC has defined *food* as items that are intended to be consumed by and provide nutrition to humans or animals in Sudan or Iran—including vitamins and minerals, food additives and supplements, and bottled drinking water—and seeds that germinate into items that are intended to be consumed by and provide nutrition to humans or animals in Sudan or Iran. The definitions also specify that food does not include alcoholic beverages, cigarettes, gum, or fertilizer.

OFAC has further determined that the exportation or reexportation of a small number of food items (which are set forth in SSR section 538.523(a)(3)(C) and ITR section 560.530(a)(2)(C)) to the Governments of Sudan or Iran, any individual or entity in an area of Sudan other than the Specified Areas of Sudan or in Iran, and persons in third countries purchasing specifically for resale to any of the foregoing, as well as the exportation or reexportation of food to military or law enforcement purchasers or importers (see SSR section 538.523(a)(3)(D) and ITR section 560.530(a)(2)(D)), continue to require the level of review afforded by specific licensing. Specific licenses are still required also for the exportation or reexportation of agricultural commodities that do not fall within the definition of *food* in the general licenses, medicine, and medical devices.

Accordingly, through a new general license set forth at SSR section 538.523(a)(3), OFAC is authorizing the exportation or reexportation of food (other than those food items excluded by SSR section 538.523(a)(3)(C) and other than exports or reexports of food to persons excluded by SSR section 538.523(a)(3)(D)) to the Government of Sudan, individuals or entities in an area of Sudan other than the Specified Areas of Sudan, or persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions, provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport. OFAC also is authorizing the exportation or reexportation of food (other than those food items excluded by ITR section 560.530(a)(2)(C) and other than exports or reexports of food to persons excluded by ITR section 560.530(a)(2)(D)) to the Government of Iran, individuals or entities in Iran, or persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions, through a new general license set forth at ITR

section 560.530(a)(2), provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport. Each year, by the anniversary of the effective date of this final rule on October 12, 2011, OFAC will determine whether to revoke these general licenses. Unless revoked, these general licenses will remain in effect.

As with the general license authorizing the exportation or reexportation of TSRA-eligible items to the Specified Areas of Sudan (*see* 31 CFR 538.523; 74 FR 46361 (September 9, 2009)), existing prohibitions and safeguards satisfy TSRA's requirement that procedures be in place to deny authorization for exports to entities within Iran or Sudan that are determined to be promoting international terrorism. For instance, the provisions in the terrorism programs set forth in 31 CFR chapter V that generally prohibit U.S. persons from engaging in transactions with persons whose property and interests in property are blocked under those programs render these general licenses inapplicable to exports of food to such entities. In addition, pursuant to section 538.502 of the SSR and section 560.502 of the ITR, OFAC may exclude any person, property, or transaction from the operation of these general licenses or restrict the applicability of these general licenses with respect to particular persons, property, transactions, or classes thereof, including persons determined not to meet the TSRA eligibility standard. Section 501.803 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501 (the "RPPR") similarly provides that OFAC may amend, modify, or revoke these general licenses at any time. Finally, the requirement that all U.S. persons maintain records of any transaction subject to OFAC-administered sanctions for a period of not less than five years pursuant to section 501.601 of the RPPR, and OFAC's authority to obtain these records, pursuant to section 501.602 of the RPPR, allow OFAC to monitor activities under these general licenses in order to determine whether it should exercise these authorities.

The general licenses set forth at SSR section 538.523(a)(3) and ITR section 560.530(a)(2) do not authorize the exportation or reexportation to Sudan or Iran, respectively, of castor beans, castor bean seeds, raw eggs, fertilized eggs (other than fish and shrimp roe), dried egg albumin, live animals, Rosary/Jequirity peas, non-food-grade gelatin powder, and peptones and their derivatives. (*See* SSR section 538.523(a)(3)(C) and ITR section

560.530(a)(2)(C) for the exclusion of these food items.) Additionally, the general licenses do not authorize the exportation or reexportation of food to military or law enforcement purchasers or importers. (*See* SSR section 538.523(a)(3)(D) and ITR section 560.530(a)(2)(D) for the exclusion of these persons.) The general licenses also do not apply to any transaction or dealing with a person whose property and interests in property are blocked under, or who is designated or otherwise subject to any sanction under, *inter alia*, the terrorism, proliferation of weapons of mass destruction, or narcotics trafficking programs administered by OFAC. (*See* SSR section 538.523(d)(5) and ITR section 560.530(d)(5) for these exclusions.)

Specific licenses are still required for the exportation or reexportation of the following to the Government of Sudan (wherever located), to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to any of the foregoing, and for the conduct of related transactions:

- Agricultural commodities that do not fall within the definition of *food* set forth in SSR section 538.523(a)(3)(B),
- The excluded food items specified in SSR section 538.523(a)(3)(C),
- Food intended for military or law enforcement purchasers or importers,
- Medicine, and
- Medical devices.

Similarly, specific licenses are still required for the exportation or reexportation of the following to the Government of Iran (wherever located), to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, and for the conduct of related transactions:

- Agricultural commodities that do not fall within the definition of *food* set forth in ITR section 560.530(a)(2)(B),
- The excluded food items specified in ITR section 560.530(a)(2)(C),
- Food intended for military or law enforcement purchasers or importers,
- Medicine, and
- Medical devices.

Public Participation

Because the amendment of 31 CFR parts 538 and 560 involves a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because

no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to 31 CFR parts 538 and 560 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

31 CFR Part 538

Administrative practice and procedure, Agricultural commodities, Banks, Banking, Blocking of assets, Drugs, Exports, Food, Foreign trade, Humanitarian aid, Investments, Loans, Medical devices, Medicine, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Sudan, Terrorism, Transportation, Weapons of mass destruction.

31 CFR Part 560

Administrative practice and procedure, Agricultural commodities, Banks, Banking, Blocking of assets, Drugs, Exports, Food, Foreign trade, Humanitarian aid, Investments, Iran, Loans, Medical devices, Medicine, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Terrorism, Transportation, Weapons of mass destruction.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control is adopting the interim final rule of November 23, 2009 (*see* 74 FR 61030), as final, with the following changes:

PART 538—SUDANESE SANCTIONS REGULATIONS

- 1. The authority citation for part 538 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 22 U.S.C. 7201–7211; Pub. L. 109–344, 120 Stat. 1869; Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997

Comp., p. 230; E.O. 13412, 71 FR 61369, 3 CFR, 2006 Comp., p. 244.

Subpart D—Interpretations

■ 2. Amend § 538.405 by revising paragraph (d) and adding a new note to paragraph (d) to read as follows:

§ 538.405 Transactions incidental to a licensed transaction authorized.

* * * * *

(d) Financing of licensed sales for exportation or reexportation of the excluded food items specified in § 538.523(a)(3)(iii), other agricultural commodities not included in the definition of *food* set forth in § 538.523(a)(3)(ii), food (as defined in § 538.523(a)(3)(ii)) intended for military or law enforcement purchasers or importers, medicine, and medical devices to the Government of Sudan, to an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to any of the foregoing. See § 538.525.

Note to § 538.405(d): See § 538.523(a)(3) for a general license authorizing the exportation or reexportation of food (including bulk agricultural commodities listed in appendix A to this part) to the Government of Sudan, individuals or entities in an area of Sudan other than the Specified Areas of Sudan, or persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions.

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

■ 3. Amend § 538.523 by revising the first two sentences of paragraph (a)(1) and revising paragraph (a)(2), adding new paragraph (a)(3), adding new notes 1 and 2 to new paragraph (a)(3), revising paragraphs (b)(1), (b)(2), (d)(5), (e)(1) introductory text, (e)(2), and (e)(3), and adding new paragraph (f) to read as follows:

§ 538.523 Commercial sales, exportation, and reexportation of agricultural commodities, medicine, and medical devices.

(a)(1) *One-year specific license requirement.* The exportation or reexportation of the excluded food items specified in paragraph (a)(3)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(3)(ii) of this section, food (as defined in paragraph (a)(3)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries

purchasing specifically for resale to any of the foregoing, shall only be made pursuant to a one-year specific license issued by the Office of Foreign Assets Control for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract. No specific license will be granted for the exportation or reexportation of agricultural commodities, medicine, or medical devices to any entity or individual in Sudan promoting international terrorism, to any narcotics trafficking entity designated pursuant to Executive Order 12978 of October 21, 1995 (60 FR 54579, October 24, 1995) or the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908), or to any foreign organization, group, or persons subject to any restriction for its or their involvement in weapons of mass destruction or missile proliferation.

* * *

(2) *General license for the Specified Areas of Sudan.* The exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part), medicine, and medical devices to any individual or entity in the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions, including, but not limited to, the making of shipping and cargo inspection arrangements, the obtaining of insurance, the arrangement of financing and payment, shipping of the goods, receipt of payment, and the entry into contracts (including executory contracts), are hereby authorized, provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport, and provided that such activities or transactions relating to the exportation or reexportation of the excluded food items specified in paragraph (a)(3)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(3)(ii) of this section, food (as defined in paragraph (a)(3)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, and medical devices do not involve any property or interests in property of the Government of Sudan and do not relate to the petroleum or petrochemical industries in Sudan. The transshipment of agricultural commodities that fall within the definition of *food* set forth in paragraph (a)(3)(ii) of this section, other than the

excluded food items specified in paragraph (a)(3)(iii) of this section and other than food intended for military or law enforcement purchasers or importers, through an area of Sudan other than the Specified Areas of Sudan destined for the Specified Areas of Sudan also is authorized by this general license. Nothing in this general license authorizes the transshipment of the excluded food items specified in paragraph (a)(3)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(3)(ii) of this section, food (as defined in paragraph (a)(3)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, and medical devices through an area of Sudan other than the Specified Areas of Sudan destined for the Specified Areas of Sudan. See § 538.417.

* * * * *

(3)(i) *General license for the exportation or reexportation of food.* Except as provided in paragraphs (a)(3)(iii) and (a)(3)(iv) of this section, the exportation or reexportation of food (including bulk agricultural commodities listed in appendix A to this part) to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions, including, but not limited to, the making of shipping and cargo inspection arrangements, the obtaining of insurance, the arrangement of financing and payment, shipping of the goods, receipt of payment, and the entry into contracts (including executory contracts), are hereby authorized, provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

(ii) *Definition of Food.* For purposes of this general license, the term *food* means items that are intended to be consumed by and provide nutrition to humans or animals in Sudan, including vitamins and minerals, food additives and supplements, and bottled drinking water, and seeds that germinate into items that are intended to be consumed by and provide nutrition to humans or animals in Sudan. For purposes of this general license, the term *food* does not include alcoholic beverages, cigarettes, gum, or fertilizer.

(iii) *Excluded food items.* Paragraph (a)(3)(i) of this section does not authorize the exportation or reexportation of the following food

items: castor beans, castor bean seeds, raw eggs, fertilized eggs (other than fish and shrimp roe), dried egg albumin, live animals, Rosary/Jequirity peas, non-food-grade gelatin powder, and peptones and their derivatives.

(iv) *Excluded persons.* Paragraph (a)(3)(i) of this section does not authorize the exportation or reexportation of food to military or law enforcement purchasers or importers.

Note 1 to § 538.523(a)(3): Consistent with section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7205), each year by the anniversary of its effective date on October 12, 2011, the Office of Foreign Assets Control will determine whether to revoke this general license. Unless revoked, the general license will remain in effect.

Note 2 to § 538.523(a)(3): See § 538.418 for additional requirements with respect to financial transactions in Sudan.

(b) *General license for arrangement of exportation or reexportation of covered products subject to the one year specific license requirement of paragraph (a)(1) of this section.*

(1) With respect to sales pursuant to paragraph (a)(1) of this section, the making of shipping arrangements, cargo inspection, obtaining of insurance, and arrangement of financing (consistent with § 538.525) for the exportation or reexportation of the excluded food items specified in paragraph (a)(3)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(3)(ii) of this section, food (as defined in paragraph (a)(3)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to any of the foregoing, are authorized.

(2) Entry into executory contracts (including executory pro forma invoices, agreements in principle, or executory offers capable of acceptance such as bids in response to public tenders) for the exportation or reexportation of the excluded food items specified in paragraph (a)(3)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(3)(ii) of this section, food (as defined in paragraph (a)(3)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries

purchasing specifically for resale to any of the foregoing, is authorized, provided that the performance of an executory contract is expressly made contingent upon the prior issuance of the one-year specific license described in paragraph (a)(1) of this section.

* * * * *

(d) * * *

(5) Nothing in this section authorizes any transaction or dealing with a person whose property and interests in property are blocked under, or who is designated or otherwise subject to any sanction under, the terrorism, proliferation of weapons of mass destruction, or narcotics trafficking programs administered by OFAC, 31 CFR parts 536, 544, 594, 595, 597, and 598, or with any foreign organization, group, or person subject to any restriction for its involvement in weapons of mass destruction or missile proliferation, or involving property blocked pursuant to this chapter or any other activity prohibited by this chapter not otherwise authorized in or pursuant to this part.

(e) * * *

(1) *Agricultural commodities.* For the purposes of this part, agricultural commodities are:

* * * * *

(2) *Medicine.* For the purposes of this part, the term medicine has the same meaning given the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(3) *Medical device.* For the purposes of this part, the term medical device has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(f) *Excluded items.* For the purposes of this part, agricultural commodities do not include furniture made from wood; clothing manufactured from plant or animal materials; agricultural equipment (whether hand tools or motorized equipment); pesticides, insecticides, or herbicides; or cosmetics (unless derived entirely from plant materials).

■ 4. Amend § 538.525 by revising the section heading and the introductory text of paragraph (a) to read as follows:

§ 538.525 Payment for and financing of commercial sales of certain agricultural commodities, medicine, and medical devices.

(a) *General license for payment terms.* The following payment terms for sales, pursuant to § 538.523(a)(1), of the excluded food items specified in § 538.523(a)(3)(iii), agricultural commodities that do not fall within the definition of *food* set forth in § 538.523(a)(3)(ii), food (as defined in § 538.523(a)(3)(ii)) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas, or to persons in third countries purchasing specifically for resale to any of the foregoing are authorized:

* * * * *

■ 5. Amend § 538.526 by revising the section heading and paragraph (a) to read as follows:

§ 538.526 Brokering commercial sales of agricultural commodities, medicine, and medical devices.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to provide brokerage services on behalf of U.S. persons for the sales and exportations or reexportations by United States persons that are described in paragraphs (a)(1), (a)(2), and (a)(3) of § 538.523, provided that the sale and exportation or reexportation is authorized, as applicable, by a one-year specific license issued pursuant to paragraph (a)(1) of § 538.523 or by one of the general licenses set forth in paragraphs (a)(2) and (3) of § 538.523.

* * * * *

■ 6. Amend Appendix A to part 538 by revising Note 1 to read as follows:

Appendix A to Part 538—Bulk Agricultural Commodities

Notes: 1. Appendix A sets forth bulk agricultural commodities eligible for sale pursuant to the licensing procedures and general licenses in § 538.523.

* * * * *

PART 560—IRANIAN TRANSACTIONS REGULATIONS

■ 7. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp.,

p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

■ 8. Amend § 560.405 by revising paragraph (d) and adding a new note to paragraph (d) to read as follows:

§ 560.405 Transactions incidental to a licensed transaction authorized.

* * * * *

(d) Financing of licensed sales for exportation or reexportation of the excluded food items specified in § 560.530(a)(2)(iii), other agricultural commodities not included in the definition of *food* set forth in § 560.530(a)(2)(ii), food (as defined in § 560.530(a)(2)(ii)) intended for military or law enforcement purchasers or importers, medicine, or medical devices to Iran, to the Government of Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing (see § 560.532); and

Note to § 560.405(d): See § 560.530(a)(2) for a general license authorizing the exportation or reexportation of food (including bulk agricultural commodities listed in appendix B to this part) to the Government of Iran, individuals or entities in Iran, or persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions.

* * * * *

■ 9. Amend § 560.530 by revising paragraph (a), adding a note to new paragraph (a)(2), and revising paragraph (b), the introductory text to paragraph (c), paragraph (d)(5), and paragraphs (e)(1) introductory text, (e)(2), and (e)(3), and adding new paragraph (f) to read as follows:

§ 560.530 Commercial sales, exportation, and reexportation of agricultural commodities, medicine, and medical devices.

(a)(1) *One-year specific license requirement.* The exportation or reexportation of the excluded food items specified in paragraph (a)(2)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(2)(ii) of this section, food (as defined in paragraph (a)(2)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, shall only be made pursuant to a one-year specific license issued by the Office of Foreign Assets Control for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning

on the date of the signing of the contract. No specific license will be granted for the exportation or reexportation of agricultural commodities, medicine, or medical devices to any entity or individual in Iran promoting international terrorism, to any narcotics trafficking entity designated pursuant to Executive Order 12978 of October 21, 1995 (60 FR 54579, October 24, 1995) or the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908), or to any foreign organization, group, or persons subject to any restriction for its or their involvement in weapons of mass destruction or missile proliferation. Executory contracts entered into pursuant to paragraph (b)(2) of this section prior to the issuance of the one-year specific license described in this paragraph shall be deemed to have been signed on the date of issuance of that one-year specific license (and, therefore, the exporter is authorized to make shipments under that contract within the 12-month period beginning on the date of issuance of the one-year specific license).

(2)(i) *General license for the exportation or reexportation of food.* Except as provided in paragraphs (a)(2)(iii) and (a)(2)(iv) of this section, the exportation or reexportation of food (including bulk agricultural commodities listed in appendix B to this part) to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions, including, but not limited to, the making of shipping and cargo inspection arrangements, the obtaining of insurance, the arrangement of financing and payment, shipping of the goods, receipt of payment, and the entry into contracts (including executory contracts), are hereby authorized, provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

(ii) *Definition of Food.* For purposes of this general license, the term *food* means items that are intended to be consumed by and provide nutrition to humans or animals in Iran, including vitamins and minerals, food additives and supplements, and bottled drinking water, and seeds that germinate into items that are intended to be consumed by and provide nutrition to humans or animals in Iran. For purposes of this general license, the term *food* does not include alcoholic beverages, cigarettes, gum, or fertilizer.

(iii) *Excluded food items.* Paragraph (a)(2)(i) of this section does not authorize the exportation or reexportation of the following food items: castor beans, castor bean seeds, raw eggs, fertilized eggs (other than fish and shrimp roe), dried egg albumin, live animals, Rosary/Jequirity peas, non-food-grade gelatin powder, and peptones and their derivatives.

(iv) *Excluded persons.* Paragraph (a)(2)(i) of this section does not authorize the exportation or reexportation of food to military or law enforcement purchasers or importers.

Note to § 560.530(a)(2): Consistent with section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7205), each year by the anniversary of its effective date on October 12, 2011, the Office of Foreign Assets Control will determine whether to revoke this general license. Unless revoked, the general license will remain in effect.

(b) *General license for arrangement of exportation or reexportation of covered products subject to the one-year specific license requirement of paragraph (a)(1) of this section.*

(1) With respect to sales pursuant to paragraph (a)(1) of this section, the making of shipping arrangements, cargo inspections, obtaining of insurance, and arrangement of financing (consistent with § 560.532) for the exportation or reexportation of the excluded food items specified in paragraph (a)(2)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(2)(ii) of this section, food (as defined in paragraph (a)(2)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, are authorized.

(2) Entry into executory contracts (including executory pro forma invoices, agreements in principle, or executory offers capable of acceptance such as bids in response to public tenders) for the exportation or reexportation of the excluded food items specified in paragraph (a)(2)(iii) of this section, agricultural commodities that do not fall within the definition of *food* set forth in paragraph (a)(2)(ii) of this section, food (as defined in paragraph (a)(2)(ii) of this section) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, is authorized, provided that

the performance of an executory contract is expressly made contingent upon the prior issuance of the one-year specific license described in paragraph (a)(1) of this section.

(c) *Instructions for obtaining one-year specific licenses.* In order to obtain the one-year specific license described in paragraph (a)(1) of this section, the exporter must provide to the Office of Foreign Assets Control:

* * * * *

(d) * * *

(5) Nothing in this section authorizes any transaction or dealing with a person whose property and interests in property are blocked under, or who is designated or otherwise subject to any sanctions under, the terrorism, proliferation of weapons of mass destruction, or narcotics trafficking programs administered by OFAC, 31 CFR parts 536, 544, 594, 595, 597, and 598, or with any foreign organization, group, or person subject to any restriction for its involvement in weapons of mass destruction or missile proliferation, or involving property blocked pursuant to this chapter or any other activity prohibited by this chapter not otherwise authorized in or pursuant to this part.

(e) * * *

(1) *Agricultural commodities.* For the purposes of this part, agricultural commodities are:

* * * * *

(2) *Medicine.* For the purposes of this part, the term medicine has the same meaning given the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(3) *Medical device.* For the purposes of this part, the term medical device has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(f) *Excluded items.* For the purposes of this part, agricultural commodities do not include furniture made from wood; clothing manufactured from plant or animal materials; agricultural equipment (whether hand tools or motorized equipment); pesticides, insecticides, or herbicides; or cosmetics (unless derived entirely from plant materials).

■ 10. Amend § 560.532 by revising the section heading, the introductory text of paragraph (a), and the first sentence of paragraph (b) to read as follows:

§ 560.532 Payment for and financing of commercial sales of certain agricultural commodities, medicine, and medical devices.

(a) *General license for payment terms.* The following payment terms for sales, pursuant to § 560.530(a)(1), of the excluded food items specified in § 560.530(a)(2)(iii), agricultural commodities that do not fall within the definition of *food* set forth in § 560.530(a)(2)(ii), food (as defined in § 560.530(a)(2)(ii)) intended for military or law enforcement purchasers or importers, medicine, or medical devices to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing are authorized:

* * * * *

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case-by-case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to § 560.530(a)(1).

* * * * *

■ 11. Amend § 560.533 by revising the section heading and paragraph (a) to read as follows:

§ 560.533 Brokering commercial sales of agricultural commodities, medicine, and medical devices.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to provide brokerage services on behalf of U.S. persons for the sales and exportations or reexportations by United States persons that are described in paragraphs (a)(1) and (a)(2) of § 560.530, provided that the sale and exportation or reexportation is authorized, as applicable, by a one-year specific license issued pursuant to paragraph (a)(1) of § 560.530 or by the general license set forth in paragraph (a)(2) of § 560.530.

* * * * *

■ 12. Amend Appendix B to part 560 by revising Note 1 to read as follows:

Appendix B to Part 560—Bulk Agricultural Commodities

Notes: 1. Appendix B sets forth bulk agricultural commodities eligible for sale pursuant to the licensing procedures and the general license in § 560.530.

* * * * *

Dated: October 4, 2011.
Adam J. Szubin,
Director, Office of Foreign Assets Control.
 [FR Doc. 2011–26175 Filed 10–11–11; 8:45 am]
BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538 and 560

Sudanese Sanctions Regulations; Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) is amending the Sudanese Sanctions Regulations and the Iranian Transactions Regulations to authorize the processing of funds transfers for the operating expenses or other official business of third-country diplomatic or consular missions in Sudan or Iran, respectively. OFAC also is amending the Sudanese Sanctions Regulations and the Iranian Transactions Regulations to authorize the transportation of human remains to or from Sudan and Iran, respectively, for burial, cremation, or interment.

DATES: *Effective Date:* October 12, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, *tel.*: 202/622–2490, Assistant Director for Licensing, *tel.*: 202/622–2480, Assistant Director for Policy, *tel.*: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), *tel.*: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC’s Web site (<http://www.treasury.gov/ofac>). Certain general information pertaining to OFAC’s sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, *tel.*: 202/622–0077.

Background

OFAC is amending the Sudanese Sanctions Regulations, 31 CFR part 538 (the “SSR”), and the Iranian Transactions Regulations, 31 CFR part 560 (the “ITR”), to authorize the processing of funds transfers for the operating expenses or other official