PART 740—LICENSE EXCEPTIONS

§ 740.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C.

(a) Scope. A “License Exception” is an authorization contained in this part that allows you to export or reexport under stated conditions, items subject to the Export Administration Regulations (EAR) that would otherwise require a license under General Prohibi-
on commercial documents in accordance with Destination Control Statement requirements of §758.6 of the EAR.

(f) Recordkeeping. Records of transactions involving exports under any of the License Exceptions must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.


§ 740.2 Restrictions on all License Exceptions.

(a) You may not use any License Exception if any one or more of the following apply:

(1) Your authorization to use a License Exception has been suspended or revoked, or your intended export does not qualify for a License Exception.

(2) The export or reexport is subject to one of the ten General Prohibitions, is not eligible for a License Exception, and has not been authorized by BIS.

(3) The item is primarily useful for surreptitious interception of wire, oral, or electronic communications, or related software, controlled under ECCNs 5A980 or 5D980, unless the item is consigned to and for the official use of an agency of the U.S. Government (see §740.11(b)(2)(ii) of this part, Governments (GOV)).

(4) The item being exported or reexported is subject to the license requirements described in §742.7 of the EAR and the export or reexport is not:

(i) Being made to Australia, Japan, New Zealand, or a NATO (North Atlantic Treaty Organization) member state (see NATO membership listing in §772.1 of the EAR);

(ii) Authorized by §740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. government);

(iii) Authorized by §740.14(e) of the EAR (certain shotguns and shotgun shells for personal use); or

(iv) Authorized by §740.20 of the EAR (License Exception STA).

(5)(i) The item is controlled for missile technology (MT) reasons, except that the items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, or 7E101, may be exported as part of a manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under §740.9(a)(2)(ii) (License Exception TMP for kits consisting of replacement parts), §740.10 (License Exception RPL), §740.13 (License Exception TSU), or §740.15(c) (License Exception AVS for equipment and spare parts for permanent use on a vessel or aircraft).

(ii) MT controlled commodities described in ECCNs 2A001 or 2A101 may be exported or reexported under §740.9(a)(2)(ii) (License Exception TMP) or §740.10 (License Exception RPL) as one-for-one replacement for equipment previously legally exported or reexported.

(6) The export or reexport is to a sanctioned destination (Cuba, Iran, North Korea, and Syria), unless a license exception or portion thereof is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country in part 746 of the EAR.

(7) “Space qualified” items. Commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b; “software” for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3D001 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6D001, 6D002, 6D991; and “technology” for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3E001, 6E001, 6E002, 6E101, 6E991.

(8) The item is controlled under ECCNs 2A983, 2A984, 2D983, 2D984, 2E983, or 2E984 and the License Exception is other than:

(i) RPL, under the provisions of §740.10, including §740.10(a)(3)(v), which prohibits exports and reexports of replacement parts to countries in Country Group E:1 (see Supplement 1 to part 740));