

exceeding 1,050 nm but not exceeding 1,200 nm; *and*

a.3.b.2. A response "time constant" of 95 ns or less;

a.3.c. Non-"space-qualified" "focal plane arrays", having individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm.

b. "Monospectral imaging sensors" and "multispectral imaging sensors" designed for remote sensing applications, having any of the following:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200  $\mu$ r (microradians); *or*

b.2. Being specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm and having all the following:

b.2.a. Providing output imaging data in digital format; *and*

b.2.b. Being any of the following:

b.2.b.1. "Space-qualified"; *or*

b.2.b.2. Designed for airborne operation, using other than silicon detectors, and having an IFOV of less than 2.5 mr (milliradians).

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating any of the following:

c.1. Image intensifier tubes having the characteristics listed in 6A002.a.2.a; *or*

c.2. "Focal plane arrays" having the characteristics listed in 6A002.a.3.

**Technical Note:** "Direct view" refers to imaging equipment, operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically or by any other means.

**Note:** 6A002.c does not control the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use.

d. Special support components for optical sensors, as follows:

d.1. "Space-qualified" cryocoolers;

d.2. Non-"space-qualified"

cryocoolers, having a cooling source temperature below 218 K ( $-55^{\circ}$  C), as follows:

d.2.a. Closed cycle type with a specified Mean-Time-To-Failure (MTTF), or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers having bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive.

e. "Space qualified" "focal plane arrays" having more than 2,048 elements per array and having a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm.

Dated: March 9, 2000.

**R. Roger Majak,**

*Assistant Secretary for Export Administration.*

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**BILLING CODE 3510-33-P**

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### 15 CFR Parts 756 and 766

[Docket No. 000306060-0060-01

RIN 0694-AC16

#### Revision to the Export Administration Regulations; Administrative Enforcement Proceedings

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by amending its regulations on administrative enforcement proceedings. Specifically, this rule amends the EAR by providing that, notwithstanding certain circumstances, when determining whether to deny the export privileges of a person convicted of violating certain laws, BXA will give prior notice of this administrative action and an opportunity for that person to make written comments to BXA stating why a denial is not appropriate. This rule further clarifies the scope of the export privileges which may be denied. In addition, it clarifies in part 756 of the EAR that these administrative procedures are subject to the appeals procedures described in that part.

**DATES:** This rule is effective March 20, 2000.

**FOR FURTHER INFORMATION CONTACT:** Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482-2440.

**SUPPLEMENTARY INFORMATION:** In 1985, the Export Administration Act (EAA) was amended to add subsection 11(h), which provided that, at the discretion of the Secretary of Commerce, no person who has been convicted of a violation of certain designated statutes shall be eligible to apply for or use any export license for a period of up to 10 years from the date of the conviction. The designated statutes include the EAA or any regulation, license, authorization or order issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act; section 4(b) of the Internal Security Act of 1950; 18 U.S.C. sections 793, 794 or 798, and section 38 of the Arms Export Control Act. The Secretary may also revoke any export license under this Act in which such person has an interest at the time of the conviction. BXA uses this denial authority to protect U.S. national security and foreign policy interests.

Section 766.25(a) provides that "the Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny permission to apply for or use any license, including any License Exception, to any person who has been convicted of a violation of the" aforementioned designated statutes. This rule amends section 766.25(b) of the EAR by providing that, unless exceptional circumstances exist, BXA will notify a person convicted of one of the designated statutes that BXA is going to issue an order denying that person's export privileges and giving that person an opportunity to make written submission to BXA regarding BXA's proposed denial. This rule further clarifies that the export privileges that may be denied in any such order, include, but are not limited, to applying for, obtaining, or using any license, License Exception, or export control document; or participating in or benefiting in any way from any export or export-related transaction subject to the EAR.

Section 756.1(a) states, in pertinent part, that actions taken under part 766 of the EAR are not subject to the appeals procedures described in part 756. This rule amends section 756.1(a)(2) to provide that an appeal from an action taken under section 766.25 shall be subject to the appeals procedures in part 756.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive

Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121) and August 13, 1999 (64 FR 44101).

#### Rule Making Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current valid OMB Control Number. This regulation does not involve any paperwork collections.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

#### List of Subjects

##### 15 CFR Part 756

Administrative practice and procedures, Exports, Foreign trade, Penalties.

##### 15 CFR Part 766

Administrative practice and procedures, Business and industry,

Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 756 and 766 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

1. The authority citation for parts 756 and 766 are revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

#### PART 756—[AMENDED]

2. Section 756.1 is amended by revising paragraph (a)(2) to read as follows:

##### § 756.1 Introduction.

(a) \* \* \*

(2) Denial or probation orders, civil penalties, sanctions, or other actions under parts 764 and 766 of the EAR, except that, an appeal from an action taken under § 766.25 shall be subject to the appeals procedures described in this part 756.

\* \* \* \* \*

#### PART 766—[AMENDED]

3. Section 766.25 is amended by revising the section heading and paragraphs (a), (b), (d), (e) and (f) to read as follows:

##### § 766.25 Administrative action denying export privileges.

\* \* \* \* \*

(a) *General.* The Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA, the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) *Procedure.* Upon notification that a person has been convicted of a violation of one or more of the provisions specified in paragraph (a) of this section, the Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, will determine whether to deny such person export privileges, including but not limited to applying for, obtaining, or using any license, License Exception, or export control document; or participating in or benefiting in any way from any export

or export-related transaction subject to the EAR. Before taking action to deny a person export privileges under this section, the Director of the Office of Exporter Services will provide the person written notice of the proposed action and an opportunity to comment through a written submission, unless exceptional circumstances exist. In reviewing the response, the Director of the Office of Exporter Services will consider any relevant or mitigating evidence why these privileges should not be denied. Upon final determination, the Director of the Office of Exporter Services will notify by letter each person denied export privileges under this section.

\* \* \* \* \*

(d) *Duration.* Any denial of export privileges under this section shall not exceed 10 years from the date of the conviction of the person who is subject to the denial.

(e) *Effect.* Any person denied export privileges under this section will be considered a “person denied export privileges” for purposes of § 736.2(b)(4) (General Prohibition 4—Engage in actions prohibited by a denial order) and § 764.2(k) of the EAR.

(f) *Publication.* The name and address(es) of any person denied export privileges under this section will be published as described in Supplement No. 2 to part 764 of the EAR, noting that such action was taken pursuant to this section and section 11(h) of the EAA.

\* \* \* \* \*

Dated: March 9, 2000.

**R. Roger Majak,**

*Assistant Secretary for Export Administration.*

[FR Doc. 00–6679 Filed 3–17–00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Parts 26 and 161

[USCG–1999–6141]

RIN 2115–AF92

#### Puget Sound Vessel Traffic Service

**AGENCY:** Coast Guard, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** On December 14, 1999, the Coast Guard published a direct final rule (64 FR 69633; USCG–1999–6141). This direct final rule notified the public of the Coast Guard's intent to amend the designated monitoring areas of the Puget