

III. Regulatory Impact Statement

Executive Order 12866

This final rule has been evaluated in accordance with the existing policies and procedures and is considered not significant under both Executive Order 12866 and DOT Regulatory Policies and Procedures. The rule is exempt from review by the Office of Management and Budget (OMB) in accordance with the provisions of Executive Order 12866, because its provisions are required by current regulatory language, without interpretation.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) requires an assessment of the impact of the proposed and final rule on small entities unless the agency certifies that the proposed regulation will have no significant economic impact on small entities. This revision of 14 CFR part 254 provides for a minimal increase in the amount of the minimum baggage liability limit that air carriers may incur in cases of lost or damaged baggage. It will pose minor additional costs only in those instances in which carriers lose or damage baggage, or delay delivering baggage to the traveler, and it affects only carriers operating large aircraft or those small carriers interlining with such carriers. As a result, many operations of small entities, such as air taxis and commuter air carriers, are not covered by the rule. Accordingly, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping requirements necessitating clearance by OMB.

List of Subjects in 14 CFR Part 254

Administrative practice and procedure, Air carriers, Consumer protection, Department of Transportation.

■ Accordingly, the Department of Transportation revises 14 CFR part 254, *Domestic Baggage Liability*, to read as follows:

■ 1. The authority citation continues to read as follows:

Authority: 49 U.S.C. 40113, 41501, 41501, 41504, 41510, 41702 and 41707.

■ 2. Section 254.4 is revised to read as follows:

§ 254.4 Carrier liability.

On any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an

air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger's personal property, including baggage, in its custody to an amount less than \$2,800 for each passenger.

■ 3. Section 254.5 is revised to read as follows:

§ 254.5 Notice requirement.

In any flight segment using large aircraft, or on any flight segment that is included on the same ticket as another flight segment that uses large aircraft, an air carrier shall provide to passengers, by conspicuous written material included on or with its ticket, either:

- (a) Notice of any monetary limitation on its baggage liability to passengers; or
- (b) The following notice: "Federal rules require any limit on an airline's baggage liability to be at least \$2,800 per passenger."

Issued in Washington, DC on September 8, 2004.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 04–21247 Filed 9–21–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 040713207–4207–01]

RIN 0694–AD13

India: Removal of Indian Entity and Revision in License Review Policy for Certain Indian Entities; and a Clarification

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: On January 12, 2004, President George W. Bush announced the Next Steps in Strategic Partnership (NSSP) with India. The proposed cooperation outlined in the NSSP will progress through a series of reciprocal steps that build on each other, including steps related to enhancing cooperation in peaceful uses of space technology and steps to create the appropriate environment for successful high technology commerce. This rule implements three initial steps the United States has agreed to take under the NSSP. These steps are: To remove the Indian Space Research Organization (ISRO) Headquarters, Bangalore from the Department of Commerce Entity

List; to remove the export license requirements for items subject to the Export Administration Regulations (EAR) having a classification of EAR99 or a classification where the third through fifth digits of the Export Commodity Classification Number (ECCN) are "999", e.g. XX999, for the seven (7) ISRO subsidiaries listed on the Entity List; and establish a presumption of approval for all items *not* controlled for nuclear proliferation reasons going to the "balance of plant" portion of Indian nuclear facilities subject to International Atomic Energy Agency safeguards (Rajasthan 1 & 2 and Tarapur 1 & 2).

This rule also makes one clarification in order to make clear the longstanding interpretation that information regarding the Entity List published in the **Federal Register** is intended to inform the public, not simply to inform exporters.

DATES: This rule is effective September 22, 2004.

ADDRESSES: Although this is a final rule, comments are welcome and should be addressed to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, PO Box 273, Washington, DC 20044, e-mailed to: scook@bis.doc.gov or faxed to (202) 482–3355.

Comments regarding the collections of information associated with this rule, including suggestions for reducing the burden, should be sent to OMB Desk Officer, New Executive Office Building, Washington, DC 20503—Attention: David Rostker; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Industry and Security, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

In November 2001, Indian Prime Minister Vajpayee and President Bush committed India and the United States to a strategic partnership. Since then, the two countries have strengthened bilateral cooperation significantly in several areas. On January 12, 2004, the two leaders announced the next steps in implementing a shared vision to expand cooperation, deepen the ties of commerce and friendship between the two nations, and increase stability in Asia and beyond.

The proposed cooperation will progress through a series of reciprocal steps that will build on each other. It

will include expanded engagement on nuclear regulatory and safety issues and missile defense, ways to enhance cooperation in peaceful uses of space technology, and steps to create the appropriate environment for successful high technology commerce.

This rule implements three initial steps in transforming the relationship between the United States and India by: (1) Removing the Indian Space Research Organization (ISRO) Headquarters in Bangalore from the Department of Commerce Entity List contained in Supplement No. 4 to Part 744 of the Export Administration Regulations (EAR); (2) removing the license requirement for the seven (7) ISRO subsidiaries listed on the Entity List for all items subject to the Export Administration Regulations (EAR) having a classification of EAR99 or a classification where the third through fifth digits of the Export Commodity Classification Number (ECCN) are "999", *e.g.*, XX999.; and (3) establishing a presumption of approval for all items *not* controlled for nuclear proliferation reasons going to the "balance of plant" portion of Indian nuclear facilities subject to International Atomic Energy Agency safeguards (Rajasthan 1 & 2 and Tarapur 1 & 2). Balance of plant" refers to the part of a nuclear power plant used for power generation (*e.g.*, turbines, controllers, or power distribution) to distinguish it from the nuclear reactor. This explanation of "balance of plant" is added as a footnote to the Entity List.

The removal of ISRO Headquarters, Bangalore from the Entity List eliminates the existing license requirements in Supplement No. 4 to Part 744 for exports to this entity. The removal of entities from the Entity List does not relieve exporters or reexporters of their obligations under Part 744. Neither the removal of entities from the Entity List or the removal of license requirements for entities on the Entity List relieves exporters or reexporters of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, "you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR." BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, "BIS's 'Know Your Customer' Guidance and Red Flags" when exporting or reexporting to India.

This rule also amends section 744.1 by revising the phrase "Exporters are" to read "The public is" in the second sentence of paragraph (c). BIS is revising

this phrase in order to clarify the longstanding interpretation that when information regarding the Entity List was published in the **Federal Register**, BIS was informing the public.

Therefore, this rule clarifies that BIS's intent has always been to notify all persons that entities listed in Supplement No. 4 are ineligible to receive any items subject to the EAR without a license to the extent specified in the supplement. The word "Exporter" should not be read to limit the scope of the notice.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)) as extended by the Notice of August 7, 2003 (3 CFR, 2003 Comp. 328 (2004)), continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking 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 of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves a collection of information subject to the PRA. This collection has been approved by OMB under control number 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 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 final 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 Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, PO Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of October 29, 2003, 68 FR 62209, 3 CFR, 2003 Comp., p. 347; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

§ 744.1 [Amended]

■ 2. Section 744.1 is amended by revising the phrase "Exporters are" to read "The public is" in the second sentence of paragraph (c).

■ 3. In Supplement No. 4 to part 744, under the country of "India", the entities "Indian Space Research Organization (ISRO) headquarters in Bangalore" and "Department of Atomic Energy Agency entities" are revised to read as set forth below:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	Federal Register citation
INDIA	<p>The following Indian Space Research Organization (ISRO) subordinate entities: ISRO Telemetry, Tracking and Command Network (ISTRAC); ISRO Inertial Systems Unit (IISU), Thiruvananthapuram; Liquid Propulsion Systems Center; Solid Propellant Space Booster Plant (SPROB); Space Applications Center (SAC), Ahmadabad; Sriharikota Space Center (SHAR); Vikram Sarabhai Space Center (VSSC), Thiruvananthapuram.</p> <p>The following Department of Atomic Energy entities: Bhabha Atomic Research Center (BARC); Indira Gandhi Atomic Research Center (IGCAR); Indian Rare Earths; Nuclear reactors (including power plants) not under International Atomic Energy Agency (IAEA) safeguards, fuel reprocessing and enrichment facilities, heavy water production facilities and their collocated ammonia plants.</p> <p>The following Department of Atomic Energy entities: Nuclear reactors (including power plants) subject to International Atomic Energy Agency (IAEA) safeguards: Tarapur (TAPS 1 & 2); Rajasthan (RAPS 1 & 2).</p>	<p>For all items subject to the EAR having a classification other than (1) EAR99 or (2) a classification where the third through fifth digits of the ECCN are "999", e.g. XX999.</p> <p>For all items subject to the EAR.</p> <p>For all items subject to the EAR.</p>	<p>Case-by-case review for all items on the CCL.</p> <p>Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.</p> <p>Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items. Presumption of approval for EAR99 items not controlled for Nuclear Proliferation (NP) reasons for use in the "balance of plant" (non-reactor-related end uses) ¹ activities at nuclear facilities subject to International Atomic.</p>	<p>63 FR 64322, 11/19/98; 65 FR 14444, 03/17/00; 66 FR 50090, 10/01/01; [Insert Federal Register citation 09/22/04.</p> <p>63 FR 64322, 11/19/98; 65 FR 14444, 03/17/00; 66 FR 50090, 10/01/01; [Insert Federal Register citation 09/22/04.</p> <p>63 FR 64322, 11/19/98; 65 FR 14444, 03/17/00; 66 FR 50090, 10/01/01; [Insert Federal Register citation 09/22/04.</p>

¹ "Balance of Plant" refers to the part of a nuclear power plant used for power generation (e.g., turbines, controllers, or power distribution) to distinguish it from the nuclear reactor.

Dated: September 17, 2004.
Peter Lichtenbaum,
Assistant Secretary for Export Administration.
 [FR Doc. 04-21303 Filed 9-21-04; 8:45 am]
BILLING CODE 3510-33-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165
 [CGD05-04-047]
 RIN 1625-AA00

Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and Its Tributaries

AGENCY: Coast Guard, DHS.
ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone that will require all vessels in a 500-yard radius around escorted passenger vessels to operate at the minimum speed necessary to navigate safely and prohibit any vessels from entering within 100 yards of escorted passenger vessels in the Captain of the Port (COTP) Philadelphia. This security zone is needed to ensure public safety and enhance maritime security. The zone will ensure the security of the vessels during transit in the COTP Philadelphia zone.

DATES: This rule is effective September 10, 2004.

ADDRESSES: Comments and related material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-04-047 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington

Avenue, Philadelphia, Pennsylvania 19147 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 28, 2004 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled "Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries" in the **Federal Register** (69 FR 36032). We received no letters commenting on the proposed rule.

In addition, a temporary final rule with the same title was published in the **Federal Register** on April 13, 2004 (69 FR 19326). That temporary final rule