

Portland, OR, Portland Intl, RNAV (GPS) RWY 10R, Orig  
 Portland, OR, Portland Intl, RNAV (GPS) RWY 10L, Orig  
 Portland, OR, Portland Intl, RNAV (GPS) RWY 28L, Orig  
 Portland, OR, Portland Intl, RNAV (GPS) RWY 28R, Orig  
 Monongahela, PA, Rostraver, VOR-A, Amdt 5  
 Monongahela, PA, Rostraver, RNAV (GPS) RWY 8, Orig  
 Monongahela, PA, Rostraver, RNAV (GPS) RWY 26, Orig  
 Monongahela, PA, Rostraver, GPS RWY 26, Orig-B, CANCELLED

\* \* \* Effective 14 April 2005

Annapolis, MD, Lee, RNAV (GPS) RWY 30, Orig-B  
 Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 8R, Amdt 58C

\* \* \* Effective 12 May 2005

Rifle, CO, Garfield County Regional, LOC/DME-A, Amdt 6B  
 Rifle, CO, Garfield County Regional, ILS RWY 26, ORIG-B  
 Freeport, IL, Albertus, NDB RWY 6, Orig-C, CANCELLED  
 Dyersburg, TN, Dyersburg Muni, RNAV (GPS) RWY 4, Amdt 1  
 Dyersburg, TN, Dyersburg Muni, RNAV (GPS) RWY 22, Orig  
 Dyersburg, TN, Dyersburg Muni, NDB RWY 4, Amdt 1  
 Dyersburg, TN, Dyersburg Muni, VOR-A, Amdt 17

The FAA published an Amendment in Docket No. 30435, Amdt No. 3114 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 18, page 4011; dated January 28, 2005) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Perryville, AK, Perryville, RNAV (GPS) RWY 3, Orig

The FAA published an Amendment in Docket No. 30431, Amdt No. 3111 to Part 97 of the Federal Aviation Regulations (Vol 69, FR No. 239, page 74416; dated December 14, 2004) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Kalskag, AK, Kalskag, RNAV (GPS) RWY 6, Orig  
 Kalskag, AK, Kalskag, RNAV (GPS)-A, Orig  
 Kalskag, AK, Kalskag, GPS RWY 6, Orig-A, CANCELLED  
 Kalskag, AK, Kalskag, GPS RWY 24, Orig-A, CANCELLED

The FAA published an Amendment in Docket No. 30436, Amdt No. 3115 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 24, page 6339; dated February 7, 2005) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 13, Amdt 1

Cedar Rapids, IA, The Eastern Iowa, RNAV (GPS) RWY 31, Amdt 1

The FAA published an Amendment in Docket No. 30431, Amdt No. 3111 to Part 97 of the Federal Aviation Regulations (Vol 69, FR No. 239, page 74416; dated December 14, 2004) under section 97.33 effective 17 MAR 2005, which is hereby rescinded:

Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 14, Amdt 1  
 Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 18, Amdt 1  
 Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 21, Amdt 1  
 Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 32, Amdt 1  
 Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 36, Amdt 1  
 Madison, WI, Dane County Regional-Truax Field, ILS OR LOC/DME RWY 18, Orig  
 Madison, WI, Dane County Regional-Truax Field, ILS OR LOC/DME RWY 21, Orig  
 Madison, WI, Dane County Regional-Truax Field, ILS OR LOC/DME RWY 36, Orig  
 Madison, WI, Dane County Regional-Truax Field, ILS RWY 18, Amdt 7C, CANCELLED  
 Madison, WI, Dane County Regional-Truax Field, ILS RWY 21, Orig-A, CANCELLED  
 Madison, WI, Dane County Regional-Truax Field, ILS RWY 36, Amdt 29D, CANCELLED  
 Madison, WI, Dane County Regional-Truax Field, RADAR-1, Amdt 17

The FAA published an Amendment in Docket No. 30435, Amdt No. 3114 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 18, page 4012; dated January 28, 2005) under section 97.33 effective 17 MAR 2005, which is hereby amended as follows:

Dallas-Fort Worth, TX, Dallas/Fort Worth International, ILS RWY 35C (CAT II), Amdt 7, CANCELLED

[FR Doc. 05-3095 Filed 2-17-05; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 730, 738, 740, 748, 756, 764, 766, 772 and 774

[Docket No. 050202022-5022-01]

RIN 0694-AD32

#### Technical Corrections to the Export Administration Regulations

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule makes technical corrections to the Export Administration Regulations (EAR) by updating internal agency process matters, clarifying license exceptions, correcting citation

errors and clarifying paperwork requirements. None of these technical corrections change the current interpretations or licensing requirements of the EAR.

**DATES:** This rule is effective February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** William H. Arvin, Office of Exporter Services, Regulatory Policy Division, e-mail [warvin@bis.doc.gov](mailto:warvin@bis.doc.gov), fax 202 482 3355 or telephone 202 482 2440.

**SUPPLEMENTARY INFORMATION:** From time-to-time the Bureau of Industry and Security (BIS) reviews portions of the Export Administration Regulations (EAR) and identifies omissions, unnecessary language, obsolete provisions, and provisions for which clarification is desirable. This rule is the product of such a review; it clarifies, updates, and revises the EAR. It does not make substantive changes to the provisions and requirements of the EAR. In brief, this rule:

- Updates the description of BIS's general plan of organization in § 730.9;
- Revises and shortens the description of the scope of the Commerce Country Chart in § 738.3(a);
- Clarifies availability of License Exception TMP for exhibition and demonstration in Country Group D:1;
- Clarifies availability of License Exception TMP for reexports of kits of replacement parts to Country Group D:1;
- Adds the Under Secretary for Industry and Security as an official who may determine whether information subject to § 12(c) of the Export Administration Act may be released to the public in conformance with the applicable Departmental Organization Order;
- Removes an unnecessary statement about responsibility to classify items from § 748.3(a);
- Revises the description of emergency processing of license applications to conform to current agency practice;
- Redesignates two paragraphs in § 748.11 to conform to the standard Code of Federal Regulations structure;
- Corrects a citation to the recordkeeping requirements pertaining to certificates or other documents obtained in connection with exports subject to the Inter-American Firearms Convention;
- Sets the value of aircraft and vessels on temporary sojourn to \$0 for license application purposes to prevent confusing statistical values of items licensed for export to embargoed destinations;
- Revises the titles of the head and deputy head of BIS in part 756

(Appeals) to conform to the currently applicable Departmental Organizational Orders;

- Corrects a citation error in the prohibition against concealment or misrepresentation of facts and adds another citation to clearly distinguish the export control documents from the boycott report documents that are subject to § 764.2(g);

- Revises the title of the head of BIS in part 766 (Administrative Enforcement Proceedings) to conform to the currently applicable Departmental Organizational Orders;

- Revises the address for filing papers in administrative enforcement proceedings;

- Revises the definition of the term “controlled country” to make clear that controlled countries are countries subject to national security export controls, to add two previously omitted countries, and to reflect the shift of North Korea from Country Group E:2 to D:1;

- Removes a reference to a no longer existent technical note and corrects the name of another document referenced in ECCN 1C018; and

- Revises the ECCN 3A001 License Exceptions paragraph to exclude certain commodities controlled for missile technology reasons consistent with § 740.2(a)(5).

The above-referenced changes are described in detail below.

#### **Revisions to Statement of BIS’s General Plan of Organization**

Section 730.9 of the EAR describes BIS’s general plan of organization. This rule revises § 730.9 to reflect the current organization of the Bureau. Revised § 730.9 incorporates references to government Web sites as the sources of detailed information about BIS and its constituent units.

#### **Revisions to Description of the Scope of the Commerce Control List in § 738.3(a)**

Section 738.3(a) describes the scope of the Commerce Country Chart. Prior to publication of this rule, § 738.3(a) stated that only two instances existed in which the Country Chart could not be used in the process of determining license requirements based on the reasons for control expressed in Export Control Classification Numbers (ECCN) on the Commerce Control List; short supply items, and “Unique entries”. The section then listed the ECCNs that were “unique.” Since the time that § 738.3 was initially written, the Commerce Control List has been revised in ways that make that description inaccurate. The number of ECCNs that contain, in their license requirements sections,

license requirements that are not related to the Country Chart has grown. In some ECCNs, these license requirements are in lieu of Country Chart license requirements. In other ECCNs, these license requirements are in addition to Country Chart license requirements. In addition, some ECCNs now serve as cross references to the license requirements of other government agencies. This rule clarifies and shortens § 738.3 by providing a more general description of when the Country Chart is needed to determine, in whole or in part, license requirements and by eliminating references to specific ECCNs.

#### **Clarification—License Exception TMP May Be Used for Exhibition and Demonstration in Country Group D:1**

On August 10, 2001, BIS published a rule revising the exhibition and demonstration provisions of License Exception TMP (§ 740.9(a)(2)(iii) of the EAR) to expand the scope of permissible destinations for such exhibitions and demonstrations from Country Group B to all destinations not in Country Group E:1. When publishing that rule, BIS stated that it “expands the scope of eligible countries for License Exception TMP for exhibition and demonstration by making Country Group D:1 eligible for this provision” (see 66 FR 42108, August 10, 2001). However, that rule did not revise § 740.9(a)(3)(i)(B) of the EAR, which prohibits use of License Exception TMP for destinations in Country Group D:1 unless excepted in that paragraph. This rule adds an exception to § 740.9(a)(3)(i)(B) covering exhibition and demonstration of commodities and software authorized under § 740.9(a)(2)(iii), making the former consistent both with the latter and with BIS’s published statement concerning the effect of the rule published on August 10, 2001.

#### **Clarification—License Exception TMP May Be Used for Reexports of Kits of Replacement Parts to Country Group D:1**

Section 740.9(a)(2)(ii) authorizes exports and reexports of kits of replacement parts under License Exception TMP to all destinations except those in Country Group E:1. However, prior to publication of this rule, § 740.9(a)(3)(i)(B)(3), which provides an exception to the prohibition of use of License Exception TMP for shipments of kits of replacement parts to destinations in Country Group D:1, referred only to exports. This rule adds the phrase “or reexported” to § 740.9(a)(3)(i)(B)(3), making it consistent with § 740.9(a)(2)(ii).

#### **Revision—Statement of BIS’s Practice Regarding Release of Information Obtained for the Purpose of Considering or Concerning License Applications**

This rule revises § 748.1(c) to list the Under Secretary for Industry and Security as an official upon whose determination BIS will release information that is subject to § 12(c) of the Export Administration Act (EAA) to the public. Section 12(c) of the EAA sets forth the criteria for public release of information obtained for purposes of considering or concerning export license applications. Section 12(c) designates the Secretary of Commerce as the official in the Executive Branch who has authority to determine whether a release of information that is subject to § 12(c) of the EAA is in the national interest. In Department of Commerce Departmental Organization Order (DOO) 10–16, the Secretary of Commerce designates the Under Secretary for Industry and Security, formerly the Under Secretary for Export Administration, to exercise this authority. This rule revises § 748.1(c) to reflect the requirements of DOO 10–16.

#### **Removal of Unnecessary Statement About Responsibility To Classify Items**

Section 748.3 describes the procedures for requesting BIS to classify items that are subject to the EAR and for requesting advisory opinions from BIS. This rule removes the phrase “In light of your responsibility to classify your item” from the first sentence of § 743.3(a) because the phrase has no relevance to EAR procedures for requesting BIS to perform the classification.

#### **Revision of Description of Emergency Processing To Conform to Current Practice**

Section 748.4(h) describes procedures for requesting emergency treatment of license applications and BIS’s policy for dealing with those requests. Prior to publication of this rule, that section set forth some procedures that BIS no longer requires to be followed. Moreover, in accordance with Executive Order 12981, as amended by Executive Orders 13020, 13026, and 13117, BIS may not unilaterally issue emergency licenses if the application must be reviewed by other government agencies. This rule revises § 748.4(h) to describe BIS’s current practice of giving applications expedited review and requesting the other reviewing agencies to do likewise when BIS determines that expedited review is appropriate.

**Redesignation of Paragraphs To Conform to Standard Code of Federal Regulations Structure**

This rule redesignates § 748.11(e)(4)(ii)(1) and (2) as § 748.11(e)(4)(ii)(A) and (B) respectively.

**Technical Correction—Part 762 Recordkeeping Requirements Apply to Inter-American Firearms Convention Import Certificates**

Section 748.14 of the EAR requires, *inter alia*, that applicants for licenses to ship certain firearms and related items to destinations in countries that are members of the Organization of American States obtain and retain an import certificate or equivalent original document. This rule corrects one sentence in § 748.14(b) to state that the recordkeeping provisions of Part 762, rather than only § 762.2, apply to the Firearms Convention certificate requirement. Section 762.2 is merely a list of records that must be kept. The complete recordkeeping requirements are set forth in the whole of Part 762.

**Use of \$0 for Value of Vessels and Aircraft in License Applications for Temporary Sojourns**

The departure of a vessel or aircraft from the United States is, under the EAR, an export of that aircraft or vessel. If the vessel or aircraft is traveling, even temporarily, from the United States to a destination for which it would require an export license and no license exception is available, a license is required for the export of the vessel or aircraft in addition to any licenses that may be required for its cargo. License applicants are required to state the value of the export on license applications. To date, this provision has required applicants seeking licenses for vessels or aircraft on temporary sojourn to estimate the value of the vessel or aircraft even though the value is irrelevant to determining the outcome of the application. In addition, these values can create a misleading impression in BIS's annual licensing statistics as readers who may be unaware of the requirement to license these temporary exports erroneously conclude that BIS has licensed large volumes of aircraft and vessels for permanent export to embargoed destinations. This rule addresses both problems by adding a new paragraph (u) to supplement No. 2 to part 748, instructing the applicant to declare the value of the aircraft or vessel as \$0 on applications to send vessels or aircraft on temporary sojourn. This rule also adds a reference to that new paragraph (u) in § 748.8, which contains references

to all of the "unique license requirements" in Supp. No.2 to Part 748.

**Revision of Title of Head and Deputy Head of the Bureau of Industry and Security in Part 756**

Part 756 describes the procedures for appealing certain administrative actions to the head of BIS. This rule revises the titles of "Under Secretary for Export Administration" and "Deputy Under Secretary for Export Administration" to read "Under Secretary for Industry and Security" and "Deputy Under Secretary for Industry and Security," respectively in § 756.2. This change conforms the titles in § 756.2 to those in the Department of Commerce Departmental Organizational Orders 10-16 and 50-1, as amended, dated March 19, 2004.

**Citation Correction and Clarification of Prohibition Against Concealment or Misrepresentation of Facts**

Section 764.2(g)(1)(ii) prohibits falsifying, misrepresenting, or concealing material facts in export control documents and boycott reports. Prior to publication of this rule, that section referenced § 760.6 of the EAR for the definition of boycott reports. Section 760.6 does not exist. This rule adds to § 764.2(g)(1)(ii) a reference to the definition of export control documents found in § 772.1. This rule also revises a sentence in § 764.2(g)(1)(ii) to clarify the definition of boycott reports by referring to such reports as "reports filed or required to be filed pursuant to § 760.5 of the EAR."

**Revision of Title of BIS Head in Part 766—Administrative Enforcement Proceedings**

Section 766.2 defines certain terms that are used in administrative enforcement proceedings under the EAR. Prior to publication of this rule, three of those definitions, "initial decision," "recommended decision," and "Under Secretary" referred to the Under Secretary for Export Administration. This rule revises the title of the Under Secretary in those definitions to read the "Under Secretary of Commerce for Industry and Security," pursuant to the title established in the Department of Commerce Departmental Organizational Orders 10-16 and 50-1, as amended, dated March 19, 2004.

**Revision of Address for Filing Papers in Administrative Enforcement Proceedings**

Section 766.5 sets forth an address for filing papers in administrative enforcement proceedings. This rule

replaces the obsolete address in § 766.5 with the current address for filing papers with the administrative law judge.

**Revision of Definition of Controlled Country**

Section 772.1 of the EAR defines many terms used in the regulations, including the term "controlled country." Under this definition, the term "controlled country" refers to destinations to which BIS applies Commerce Control List based national security controls. All such destinations, except Cuba, are listed in Country Group D:1. Prior to publication of this rule, two destinations that had been added to Country Group D:1, and thereby made subject such national security controls, were omitted from the definition. Those destinations are: Macau, which was added to Country Group D:1 on May 28, 1999 (*see* 64 FR 28908); and Iraq, which was added on July 30, 2004 (*see* 69 FR 46074). Additionally, North Korea was removed from Country Group E:2 and added to Country Group D:1 on June, 19, 2000 (*see* 65 FR 38150-38151). This rule revises the definition of the term "controlled country" in § 772.1 to state that Macau, Iraq, and North Korea are in Country Group D:1, and to eliminate redundant statements from the definition.

**Removal of Reference to a Non-existent Advisory Note and Correction of the Name of a Multilateral Regime Control List Referenced in ECCN 1C018**

Export Control Classification Number 1C018 was revised in 1999 to remove the advisory note from that ECCN (*see* 64 FR 47667-47668, September 1, 1999). However, that revision did not change the reference to License Exception GBS in the License Exceptions section of that ECCN, which continued to indicate that License Exception GBS was available for items listed in the advisory note that had been removed. This rule corrects that error by revising the reference to License Exception GBS to read "N/A" to make clear that License Exception GBS is not available for any item in ECCN 1C018. This rule also replaces the term "International Munitions List" in the heading of 1C018 with the term "Wassenaar Arrangement Munitions List" to reflect the current name of that document.

### Exclusion of Certain Commodities in ECCN 3A001 Controlled for Missile Technology Reasons From License Exception GBS Eligibility

ECCN 3A001, paragraph .a.1.a. controls certain integrated circuits when usable in missiles and paragraph .a.5.a controls certain analog-to-digital converters when “designed or modified” for military use, hermetically sealed and rated for operation in the temperature range from below -54°C. to above +125°C. for missile technology reasons. Prior to publication of this rule, the License Exception section of ECCN 3A001 indicated that commodities in paragraph .a were eligible for License Exception LVS and that commodities in paragraphs .a.2 to .a.12 were eligible for License Exception GBS. However, section 740.2(a)(5) prohibits the use of license exceptions for items controlled for missile technology reasons except for some specified ECCNs in some specific circumstances. ECCN 3A001 is not one of those specified ECCNs. This rule adds the phrases “except a.1.a and a.5.a when controlled for MT” to the LVS paragraph and “except a.5.a when controlled for MT” to the GBS paragraph to make them consistent with § 740.2(a)(5).

### 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 collections of information subject to the PRA. These collections have been approved by the Office of Management and Budget (OMB) under control numbers 0694-0088 and 0694-0058.

Control number 0694-0088 “Multi-Purpose Application” carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Control Number 0694-0058 “Voluntary Self-disclosures” carries an annual burden hour estimate of 670 hours. BIS believes that this rule will not change the burden hours imposed by either of these collections. Send comments regarding these burden estimates or any other aspect of these

collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at [david\\_rostker@omb.eop.gov](mailto:david_rostker@omb.eop.gov) or by fax to 202.395.285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, PO Box 273, Washington, DC 20044.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(3)(B) to waive the provisions of the Administrative Procedure Act requiring a notice of proposed rulemaking and the opportunity for public comment because this regulation updates internal agency process matters, clarifies license exceptions, corrects citation errors and clarifies paperwork requirements as described in the preamble. The revisions made by this rule are purely administrative and do not affect the rights or obligations of the public. Because these revisions are not substantive changes to the EAR, it is unnecessary to provide notice and opportunity for public comment. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because notice of proposed rulemaking and 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.

### List of Subjects

#### 15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

#### 15 CFR Parts 740 and 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

#### 15 CFR Parts 738 and 772

Exports.

#### 15 CFR Part 756

Administrative practice and procedure, Exports, Penalties.

#### 15 CFR Part 764

Administrative practice and procedure, Exports, Law enforcement, Penalties.

#### 15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Law enforcement, Penalties.

#### 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

n Accordingly, parts 730, 738, 740, 748, 756, 764, 766, 772, and 774 are amended as follows:

### PART 730—[AMENDED]

n 1. Revise the authority citation for part 730 to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 2151 note, Pub. L. 108-175; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; 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. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; 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; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

n 2. Revise § 730.9 to read as follows:

#### § 730.9 Organization of the Bureau of Industry and Security.

The head of the Bureau of Industry and Security is the Under Secretary for Industry and Security. The Under Secretary is assisted by a Deputy Under Secretary for Industry and Security, the Assistant Secretary for Export Administration, the Assistant Secretary for Export Enforcement, the Director of Administration, the Director of the Office of Congressional and Public Affairs, the Chief Information Officer, and the Director of the Office of International Programs. The functions and authorities of the Under Secretary are described in the Department's Organizational Order 10-16. The Department's organizational and administrative orders are available via

Office of Management and Organization's Web page on the Department's Web site at <http://www.osec.doc.gov/omo/DMPHome.htm>. The principal functions of the Bureau that directly affect the public are carried out by two units: Export Administration and Export Enforcement.

(a) Export Administration is headed by the Assistant Secretary for Export Administration, who is assisted by a Deputy Assistant Secretary. Its substantive work is carried out by five sub-units: the Office of Nonproliferation and Treaty Compliance, the Office of National Security and Technology Transfer Controls, the Office of Exporter Services, the Operating Committee, and the Office of Strategic Industries and Economic Security. The functions of the Operating Committee are described in § 750.4(f)(1) of the EAR. The roles of the other units are described on BIS's Web site at <http://www.bis.doc.gov/about/programoffices.htm>.

(b) Export Enforcement is headed by the Assistant Secretary for Export Enforcement who is assisted by a Deputy Assistant Secretary. Its substantive work is carried out by three sub-units: the Office of Export Enforcement, the Office of Enforcement Analysis and the Office of Antiboycott Compliance. The roles of these units are described on BIS's Web site at <http://www.bis.doc.gov/about/programoffices.htm>.

(c) BIS is also assisted in its work by six technical advisory committees. The procedures and criteria for establishing and operating the technical advisory committees is at supplement No. 2 to this part. Information about the specific roles of each committee, meeting schedules, and membership selection is available on BIS's Web site at <http://tac.bis.doc.gov/>.

**PART 738—[AMENDED]**

n 3. The authority citation for part 738 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 4. Revise § 738.3(a) to read as follows:

**§ 738.3 Commerce Country Chart Structure.**

(a) *Scope.* The Commerce Country Chart allows you to determine the

Commerce Control List (CCL) export and reexport license requirements for most items listed on the CCL. Such license requirements are based on the Reasons for Control listed in the Export Control Classification Number (ECCN) that applies to the item. Some ECCNs, however, impose license requirements either without reference to a reason for control code that is listed on the Commerce Country Chart, or in addition to such a reference. Those ECCNs may state their license requirements in full in their "Reasons for Control" sections or they may refer the reader to another provision of the EAR for license requirement information. In addition, some ECCNs do not impose license requirements, but refer the reader to the regulations of another government agency that may impose license requirements on the items described in that ECCN.

\* \* \* \* \*

**PART 740—[AMENDED]**

n 5. The authority citation for part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 6. In § 740.9, revise paragraphs (a)(3)(i)(B)(2) and (3) and add a paragraph (a)(3)(i)(B)(4) to read as follows:

**§ 740.9 Temporary imports, exports, and reexports (TMP).**

\* \* \* \* \*

- (a) \* \* \*
- (3) \* \* \*
- (i) \* \* \*
- (B) \* \* \*

(2) Commodities and software exported under paragraph (a)(2)(i), *tools of trade*, of this section;

(3) Commodities exported or reexported as *kits consisting of replacement parts*, consistent with the requirements of paragraph (a)(2)(ii) of this section; and

(4) Commodities and software exported or reexported for exhibition and demonstration in accordance with the requirements of paragraph (a)(2)(iii) of this section.

\* \* \* \* \*

**PART 748—[AMENDED]**

n 7. The authority citation for part 748 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66

FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 8. Revise § 748.1(c) to read as follows:

**§ 748.1 General provisions.**

\* \* \* \* \*

(c) *Confidentiality.* Consistent with section 12(c) of the Export Administration Act, as amended, information obtained for the purpose of considering license applications, and other information obtained by the U.S. Department of Commerce concerning license applications, will not be made available to the public without the approval of the Secretary of Commerce or of the Under Secretary for Industry and Security.

n 9. Revise the first sentence of § 748.3, paragraph (a) to read as follows:

**§ 748.3 Classification requests, advisory opinions, and encryption review requests.**

(a) *Introduction.* You may ask BIS to provide you with the correct Export Control Classification Number down to the paragraph (or subparagraph) level, if appropriate. \* \* \*

\* \* \* \* \*

n 10. Revise § 748.4(h) to read as follows:

**§ 748.4 Basic guidance related to applying for a license.**

\* \* \* \* \*

(h) *Emergency processing.* Applicants may request emergency processing of license applications by contacting the Outreach and Educational Services Division of the Office of Exporter Services by telephone on (202) 482–4811 or by facsimile on (202) 482–3617. Refer to the Application Control Number when making emergency processing requests. BIS will expedite its evaluation, and attempt to expedite the evaluations of other government agencies, of a license application when, in its sole judgement, the circumstances justify emergency processing. Emergency processing is not available for Special Comprehensive License applications. See § 750.7(h) of the EAR for the limit on the validity period of emergency licenses.

n 11. In § 748.8 add a new paragraph (u) to read as follows:

**§ 748.8 Unique application and submission requirements.**

\* \* \* \* \*

(u) *Aircraft and vessels on temporary sojourn.*

**§ 748.11 [Amended]**

n 12. Redesignate § 748.11(e)(4)(ii)(I) as § 748.11(e)(4)(ii)(A) and § 748.11(e)(4)(ii)(2) as § 748.11(e)(4)(ii)(B).

n 13. Revise the third sentence of the introductory text of § 748.14(b) to read as follows:

§ 748.14 Import Certificate for firearms destined for Organization of American States member countries.

\* \* \* \* \*

(b) Import Certificate procedure. \* \* \* All the recordkeeping provisions of part 762 of the EAR apply to this requirement. \* \* \*

\* \* \* \* \*

n 14. In Supplement No. 2 to part 748, add a new paragraph (u) to read as follows:

Supplement No. 2 to Part 748—Unique License Application Requirements

\* \* \* \* \*

(u) Aircraft and vessels on temporary sojourn. If the application is for an aircraft or a vessel traveling on a temporary sojourn, state the value of the aircraft or vessel as \$0 in box 22(g) (unit price) and 22(h) (total price). In box 23 (Total Application Dollar Value), insert the total value of items other than the aircraft or vessel that are included in the same application. If the application is only for the aircraft or vessel on temporary sojourn, insert \$0.

PART 756—[AMENDED]

n 15. Revise the authority citation for part 756 to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 16. In § 756.2, revise the first sentence of paragraph (a) and revise paragraph (b)(1) to read as follows:

§ 756.2 Appeal from an administrative action.

(a) Review and appeal officials. The Under Secretary may delegate to the Deputy Under Secretary for Industry and Security or to another BIS official the authority to review and decide the appeal. \* \* \*

(b) Appeal procedures. (1) Filing. An appeal under this part must be received by the Under Secretary for Industry and Security, Bureau of Industry and Security, U.S. Department of Commerce, Room 3898, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230 not later than 45 days after the date appearing on the written notice of administrative action. \* \* \* \* \*

PART 764—[AMENDED]

n 17. Revise the authority citation for part 764 to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 18. Revise § 764.2(g)(1)(ii) to read as follows:

§ 764.2 Violations.

\* \* \* \* \*

(g) \* \* \* (ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document as defined in § 772.1, or any report filed or required to be filed pursuant to § 760.5 of the EAR; or \* \* \* \* \*

PART 766—[AMENDED]

n 19. Revise the authority citation for part 766 to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 20. In § 766.2, revise the definitions of "Initial decision," "Recommended decision," and "Under Secretary" to read as follows:

§ 766.2 Definitions.

\* \* \* \* \*

Initial decision. A decision of the administrative law judge in proceedings involving violations relating to part 760 of the EAR, which is subject to appellate review by the Under Secretary of Commerce for Industry and Security, but which becomes the final decision in the absence of such an appeal. \* \* \* \* \*

Recommended decision. A decision of the administrative law judge in proceedings involving violations other than those relating to part 760 of the EAR, which is subject to review by the Under Secretary of Commerce for Industry and Security, who issues a written order affirming, modifying or vacating the recommended decision. \* \* \* \* \*

Under Secretary. The Under Secretary for Industry and Security, United States Department of Commerce.

n 21. In § 766.5, revise the first sentence of paragraph (a) to read as follows:

§ 766.5 Filing and service of papers other than charging letter.

(a) Filing. All papers to be filed shall be addressed to EAR Administrative Enforcement Proceedings, U.S. Coast Guard, ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland, 21202-4022, or such other place as the administrative law judge may designate. \* \* \* \* \*

\* \* \* \* \*

PART 772—[AMENDED]

n 22. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 23. In § 772.1, revise the definition of "controlled country" to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

\* \* \* \* \*

Controlled country. Countries designated controlled for national security purposes under authority delegated to the Secretary of Commerce by Executive Order 12214 of May 2, 1980 pursuant to section 5(b) of the EAA. The controlled countries are: Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, Cuba, the People's Republic of China, Estonia, Georgia, Iraq, Kazakstan, Kyrgyzstan, Laos, Latvia, Lithuania, Macau, Moldova, Mongolia, North Korea, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. All of the controlled countries except Cuba are listed in Country Group D:1 of the EAR. Cuba is listed in Country Group E:2. This definition does not apply to part 768 of the EAR (Foreign Availability), which provides a dedicated definition. \* \* \* \* \*

PART 774—[AMENDED]

n 24. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 et seq.; 22 U.S.C. 287c, 22 U.S.C. 3201 et seq., 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

n 25. In Supplement No. 1 to part 774, Category 1—Materials, Chemicals, "Microorganisms," and Toxins, Export Control Classification Number 1C018, revise the heading and the GBS paragraph of the License Exceptions section to read as follows:

1C018 Commercial Charges and Devices Containing Energetic Materials on the Wassenaar Arrangement Munitions List and Certain Chemicals as Follows (see List of Items Controlled)

\* \* \* \* \*

**License Exceptions**

LVS \* \* \*

GBS: N/A

CIV: \* \* \*

\* \* \* \* \*

n 26. In Supplement No. 1 to part 774, Category 3—Electronics, Export Control Classification Number 3A001, revise the License Exception section to read as follows:

**3A001 Electronic Components, as Follows (see List of Items Controlled)**

\* \* \* \* \*

**License Exceptions**

LVS: N/A for MT or NP.

Yes for:

\$1500: 3A001.c

\$3000: 3A001.b.1, b.2, b.3, .d, .e and .f

\$5000: 3A001.a (except a.1.a and a.5.a when controlled for MT), and .b.4 to b.7

GBS: Yes for 3A001.a.1.b, a.2 to a.12 (except a.5.a when controlled for MT), b.2, and b.8 (except for TWTAs exceeding 18 GHz)

CIV: Yes for 3A001.a.3.b, a.3.c, a.4, a.7, and a.11.

\* \* \* \* \*

Dated: February 14, 2005.

**Matthew S. Borman,**

Deputy Assistant Secretary for Export Administration.

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BILLING CODE 3510-33-P

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Part 740**

[Docket No. 050209030-5030-01]

RIN 0694-AD38

**Revision of License Exception TMP for Activities by Organizations Working To Relieve Human Suffering in Sudan**

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

**SUMMARY:** This rule revises the Export Administration Regulations to allow staff and employees of certain organizations to use License Exception TMP to export basic communications equipment such as cell phones, personal computers, personal digital assistants, global positioning systems or similar satellite receivers and related software to Sudan for up to one year to be used in the activities of those organizations to relieve human suffering.

**DATES:** This rule is effective on February 18, 2005.

**FOR FURTHER INFORMATION CONTACT:** Eric Longnecker, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, 202-482-5537, *elongnec@bis.doc.gov*.

**SUPPLEMENTARY INFORMATION:** This rule revises License Exception TMP (15 CFR 740.9) to authorize certain exports, but not reexports, to Sudan of certain commodities and software that otherwise would require a license pursuant to § 742.10 or § 742.15 of the EAR. This rule makes the tools of trade provisions of License Exception TMP available to (1) non-governmental organizations that are engaged in activities to relieve human suffering in Sudan and that are registered by the Department of the Treasury, Office of Foreign Assets Control (OFAC) pursuant to 31 CFR 538.521, or (2) organizations that are authorized by OFAC to take actions, for humanitarian purposes, that otherwise would be prohibited by the Sudanese Sanctions Regulations (31 CFR part 538), or (3) staff or employees of either such type of organization. Under this rule, those parties are authorized, under section 740.9(a)(i) of the EAR, to export to Sudan certain basic telecommunications equipment controlled under Export control Classification Number (ECCN) 5A991 such as cell phones, personal digital assistants and other wireless handheld devices, personal computers (including laptops) controlled under ECCN 4A994 that do not exceed a composite theoretical performance of 6,500 millions of theoretical operations per second (MTOPS), and global positioning system (GPS) or similar satellite receivers controlled under ECCN 7A994. These revisions to License Exception TMP also allow the export of related software controlled under ECCNs 4D994 and 5D992 for the use of such telecommunications equipment or computers. The software must be loaded onto the commodity prior to being exported and remain loaded on the commodity while in Sudan. This rule also authorizes parts and components of those ECCN 5A991 and 4A994 devices that are controlled under ECCN 5A992 and that are installed with, or contained in, such computers or equipment to be exported under License Exception TMP. The parts and components must remain installed with, or contained in, such computers or equipment while in Sudan. The tools of trade must accompany (either hand carried or as checked baggage) a member of the staff or an employee of such an organization to Sudan.

In connection with the temporary tools of trade exports that it authorizes

pursuant to License Exception TMP, this rule employs the term “staff and employees” rather than the term “employees” that applies to other temporary tools of trade exports under License Exception TMP. The broader term will allow the use of License Exception TMP for temporary tools of trade exports by persons traveling to Sudan at the direction of, or with the knowledge of, an organization registered pursuant to 31 CFR 538.521 or an organization authorized by OFAC to take actions, for humanitarian purposes, that otherwise would be prohibited by the Sudanese Sanctions Regulation (31 CFR part 538) to assist in the work of such organization in Sudan, even if such person is not an employee of such organization. For example, a health care worker traveling from the United States to Sudan, at the direction of, or with the knowledge of, an eligible organization to act as a volunteer providing medical care as part of the activities of that organization would be considered “staff” under this rule, even if that person is not an employee of the eligible organization. This rule makes no such expansion of eligibility for use of License Exception TMP for temporary tools of trade exports to destinations other than Sudan.

Exports made pursuant to this rule must also meet the general requirements for temporary exports under License Exception TMP set forth in § 740.9(a) of the EAR and the specific requirements applying to tools of trade set forth in § 740.9(a)(2)(i). Such exports are also subject to the restrictions on the use of all License Exceptions found in § 730.2 of the EAR.

BIS is publishing this rule to facilitate the activities of organizations working to relieve human suffering in Sudan by reducing the need for export licenses faced by such organizations, their staffs and employees. The commodities and software being made eligible for export under License Exception TMP by this rule do not require a license for export or reexport to most destinations, but do require a license for export or reexport to Sudan because that country has been designated by the Secretary of State as a state sponsor of terrorism.

Although the Export Administration Act of 1979 (EAA), as amended, 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 6, 2004, 69 FR 48763 (August 10, 2004), continues the EAR in effect under the International Emergency Economic Powers Act (IEEPA).

*Rulemaking Requirements:*