

consider the additional stowage volume and time required to manually lower the compartment after indication. The following equipment must be provided directly adjacent to each overhead cross aisle stowage compartment: at least one approved handheld fire extinguisher appropriate for the kinds of fires likely to occur within the overhead stowage compartment and fires involving the compartment motor.

5. *Fire Containment.* Fires originating within the overhead cross aisle stowage compartment or at the drive motor must be controlled without a crewmember having to access the compartment. Alternatively, the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment and drive motor. If the latter approach is elected it must be demonstrated that a crewmember has sufficient access to enable them to extinguish a fire. The time for a crewmember on the main deck to react to the fire alarm, (and, if applicable, to don the firefighting equipment and to open the compartment) must not exceed the

flammability and fire containment capabilities of the stowage compartment.

6. *Smoke Penetration.* There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the overhead cross aisle stowage compartment or drive motor from entering any other compartment occupied by crewmembers or passengers. If access is required to comply with Special Condition 5., this means must include the time period when accessing the stowage compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers, when access to the stowage compartment is opened to manually fight a fire, must dissipate within five minutes after the access to the stowage compartment is closed. Prior to the one minute smoke detection time (reference note 2 in paragraph (7)) penetration of a small quantity of smoke from the stowage compartment into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement.

7. *Compartment Design Criteria.* The overhead cross aisle stowage compartment must be designed to minimize the hazards to the airplane in the event of a fire originating in the stowage compartment or drive motor.

(a) *Fire Extinguishing System.* If a built-in fire extinguishing system is used in lieu of manual firefighting, then the fire extinguishing system must be designed so no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew. The system must have adequate capacity to suppress any fire occurring in the stowage compartment or drive motor, considering the fire threat, volume of the compartment, and the ventilation rate.

(b) *Compartment Size.* All enclosed remote stowage compartments, including the overhead cross aisle stowage compartment, must meet the design criteria given in the table below. As indicated by the table below, enclosed stowage compartments greater than 200 ft<sup>3</sup> in interior volume are not addressed by this special condition.

STOWAGE COMPARTMENT INTERIOR VOLUMES

Fire protection features	less than 25 ft <sup>3</sup>	25 ft <sup>3</sup> to 57 ft <sup>3</sup>	57 ft <sup>3</sup> to 200 ft <sup>3</sup>
Materials of Construction <sup>1</sup> .....	Yes .....	Yes .....	Yes.
Detectors <sup>2</sup> .....	No .....	Yes .....	Yes.
Liner <sup>3</sup> .....	No .....	Yes .....	Yes.

<sup>1</sup> *Material.* The material used to construct each enclosed stowage compartment must be at least fire resistant and must meet the flammability standards established for interior components (that is, 14 CFR Part 25 Appendix F, Parts I, IV, and V) per the requirements of §25.853. For compartments less than 25 ft<sup>3</sup> in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

<sup>2</sup> *Detectors.* Enclosed stowage compartments equal to or exceeding 25 ft<sup>3</sup> in interior volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within one minute. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

- (a) A visual indication in the flight deck within one minute after the start of a fire;
- (b) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

<sup>3</sup> *Liner.* If it can be shown the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment (that is, §25.855 at Amendment 25-93 and Appendix F, part I, paragraph (a)(2)(ii)), in addition to the above.

<sup>1</sup> *Material requirement,* then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft<sup>3</sup> in interior volume but less than 57 ft<sup>3</sup> in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft<sup>3</sup> in interior volume but less than or equal to 200 ft<sup>3</sup>, a liner must be provided that meets the requirements of §25.855 for a Class B cargo compartment.

Issued in Renton, Washington, on October 10, 2006.

**Kalene C. Yanamura,**  
*Acting Manager, Transport Airplane  
 Directorate, Aircraft Certification Service.*  
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**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**15 CFR Parts 732, 736, 740, 744, 752,  
 764, and 772**

[Docket No. 040915266-6239-03]

RIN 0694-AC94

**Revised “Knowledge” Definition,  
 Revision of “Red Flags” Guidance and  
 Safe Harbor**

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** BIS is withdrawing a proposed rule published October 2004. That rule would have revised the definition of “knowledge” in the Export Administration Regulations. It also would have updated the “red flags” guidance and would have provided a safe harbor from liability arising from knowledge under the definition of that term. In light of the public comments received on the proposed rule and BIS’s review of relevant provisions of the existing regulations, this proposed rule is being withdrawn.

**DATES:** The proposed rule is withdrawn on October 18, 2006.

**FOR FURTHER INFORMATION CONTACT:**

William Arvin, Office of Exporter Services, at [warvin@bis.doc.gov](mailto:warvin@bis.doc.gov), fax 202-482-3355 or telephone 202-482-2440.

**SUPPLEMENTARY INFORMATION:****Background**

On October 13, 2004, BIS published a proposed rule to amend the EAR by revising the definition of “knowledge” that applies throughout most of the regulations, to revise its “red flag” guidance and to create a safe harbor with respect to certain violations that have “knowledge” as one of the elements of the offense (69 FR 60829, October 13, 2004; Comment period reopened 69 FR 65555, November 15, 2004).

The proposed rule would have revised the definition of knowledge in § 772.1 of the EAR in four ways. It would have incorporated a “reasonable person” standard, replaced the phrase “high probability” with the phrase “more likely than not,” added the phrase “inter alia” to the description of the facts and circumstances that could make a person aware of the existence or future occurrence of a fact, and eliminated the phrase “known to a person” from the sentence in the knowledge definition that states that knowledge may be inferred from “conscious disregard of facts known to a person.” The proposed rule also would have limited the applicability of the definition to certain actors in transactions subject to the Export Administration Regulations (EAR) and excluded certain usages from the definition.

The proposed rule would have increased from 12 to 23 the number of circumstances explicitly set forth as “red flags” in Supplement No. 3 to part 732 of the EAR.

The proposed rule would have created a “safe harbor” from knowledge based violations. To take advantage of the safe harbor, a party would have to commit no violations of the EAR, in connection with the transaction, identify and resolve any “red flags” present in the transaction and report the red flags found and the resolution to BIS. BIS would have been required to acknowledge receipt of all such reports. Thereafter, if BIS responded to the party’s report by stating that it concurred that the party had adequately addressed red flags or by advising the party that BIS would not be responding to the report, the party would have been able to take advantage of the safe harbor, assuming the party had accurately disclosed all relevant information to

BIS. The proposed rule stated BIS’s intention to respond to most reports within 45 days. However, the response might consist of a notice that BIS needed more time to evaluate the party’s report. If BIS did not respond to the party’s report by the date stated in the acknowledgment provided to the party, the party could have contacted BIS to inquire about the status of the report.

BIS received 18 comments on this proposed rule. Nine of these comments were filed by associations that have multiple members.

With regard to revising the definition of knowledge, the most frequently expressed opinion was that the revisions were, in fact, substantive changes to the definition rather than mere clarifications. Commenters also stated that BIS had not offered any reason as to why any change in the knowledge definition was necessary.

Although the revisions to the “red flags” were criticized less than other proposed changes, commenters made suggestions for revisions or elimination of 12 specific “red flags.” In addition, some commenters asserted that the proposal increased the number of circumstances that could be red flags without providing adequate guidance as to the circumstances when any particular “red flag” would be applicable. The notice did state (as does current Supplement No. 3 to part 732 of the EAR) that not all red flags are applicable in all circumstances.

A number of commenters criticized the safe harbor proposal, stating that it was too complex and lengthy. Several predicted that few, if any, firms would be inclined to use it. Some suggested that submitting a license application for the transaction would be simpler and probably faster than waiting to see if BIS approved of the manner in which the party resolved the “red flags.”

**Withdrawal of Proposal**

BIS has considered the comments on the proposed rule. BIS has also reviewed the proposed rule as compared to the corresponding existing provisions of the EAR and has considered several possible modifications of the proposed rule. As a result of this consideration, BIS has concluded that utilizing this proposed rule as a basis for amending the EAR would neither clarify the public’s responsibilities under the EAR nor make the regulations more effective. Accordingly, BIS is withdrawing this proposal.

Dated: October 11, 2006.

**Christopher A. Padilla,**

*Assistant Secretary for Export Administration.*

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**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****21 CFR Part 1312**

[Docket No. DEA-276P]

RIN 1117-AB00

**Reexportation of Controlled Substances**

**AGENCY:** Drug Enforcement Administration (DEA), Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Controlled Substances Export Reform Act of 2005 amended the Controlled Substances Import and Export Act to provide authority for the Drug Enforcement Administration (DEA) to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied. DEA is hereby proposing to amend its regulations to implement the new legislation.

**DATES:** Written comments must be postmarked, and electronic comments must be sent, on or before December 18, 2006.

**ADDRESSES:** Please submit comments, identified by “Docket No. DEA-276,” by one of the following methods:

1. *Regular mail:* Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL.

2. *Express mail:* DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301.

3. *E-mail comments directly to agency:* [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov).

4. *Federal eRulemaking portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Anyone planning to comment should be aware that all comments received before the close of the comment period will be made available in their entirety for public inspection, including any personal information submitted. For those submitting comments electronically, DEA will accept attachments only in the following