

FAA's aeronautical database from "lat. 31°48'24" N., long. 106°22'40" W." to "lat. 31°48'26" N., long. 106°22'35" W."

Class C airspace areas are published in paragraph 4000 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class C airspace area modification in this document will be published subsequently in the Order.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

The FAA has determined that this action of modifying the El Paso International Airport, El Paso, TX, Class C airspace area by removing a cutout from the Class C airspace area that excludes the airspace within a 2-mile radius of West Texas Airport (now closed) and the airspace beyond an 8-mile arc from the El Paso International Airport beginning at the 115° bearing from the airport clockwise to the Rio Grande River, removing the West Texas Airport and geographic coordinate references from the Class C airspace description, and amending the El Paso International Airport geographic coordinates to reflect the current airport reference point information contained in the FAA's aeronautical database qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F. *Environmental Impacts: Policies and Procedures*, Paragraph 5–6.5a, which categorically excludes from further environmental review [R]ulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points. This action is not expected to cause any potentially significant

environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

*Paragraph 4000 Subpart C—Class C Airspace.*

\* \* \* \* \*

#### ASW TX C El Paso International Airport, TX [Amended]

El Paso International Airport, TX  
(Lat. 31°48'26" N., long. 106°22'35" W.)

That airspace extending upward from the surface to and including 8,000 feet MSL within a 5-mile radius of the El Paso International Airport, excluding that airspace west of long. 106°27'02" W., and that airspace within Mexico; and that airspace extending upward from 5,200 feet MSL to and including 8,000 feet MSL within a 10-mile radius of the El Paso International Airport, excluding that airspace west of long. 106°27'02" W., and that airspace within Mexico.

Issued in Washington, DC, on November 22, 2016.

**Leslie M. Swann,**

*Acting Manager, Airspace Policy Group.*

[FR Doc. 2016–28726 Filed 11–30–16; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 740

[160519443–6999–02]

RIN 0694–AG97

### Temporary Exports to Mexico Under License Exception TMP

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

**ACTION:** Final rule.

**SUMMARY:** This final rule aligns the time limit of License Exception Temporary Imports, Exports, Reexports, and Transfers (in-country) (TMP), which authorizes, among other things, certain temporary exports to Mexico, with the time limit of Mexico's Decree for the Promotion of Manufacturing, Maquiladora and Export Services (IMMEX) program. Currently, TMP allows for the temporary export and reexport of various items subject to the Export Administration Regulations (EAR), as long as the items are returned no later than one year after export, reexport, or transfer if not consumed or destroyed during the period of authorized use. Other than a four-year period for certain personal protective equipment, the one-year limit extends to all items shipped under license exception TMP. However, the one-year period does not align with the time constraints of Mexico's IMMEX program, which allows imports of items for manufacturing operations on a time limit that may exceed 18 months. This rule amends TMP to complement the timeline of the IMMEX program. Under this amendment, items temporarily exported or reexported under license exception TMP and imported under the provisions of the IMMEX program would be authorized to remain in Mexico for up to four years from the date of export or reexport.

**DATES:** *Effective:* January 3, 2017.

**FOR FURTHER INFORMATION CONTACT:** Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, by telephone (202) 482–2440 or email: [RPD2@bis.doc.gov](mailto:RPD2@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Overview

Mexico's Decree for the Promotion of Manufacturing, Maquiladora and Export Services, known as IMMEX, is a platform used by U.S. and foreign manufacturers to lower production costs by temporarily importing production materials into Mexico. Created in 2006, IMMEX is the product of the merger of

two previous Mexican economic policies: The Maquiladora program, which was designed to attract foreign investment by exempting temporary imports from taxes, and the Temporary Import Program to Promote Exports (PITEX), which incentivized Mexican companies to grow and compete in foreign markets by providing temporary import benefits. Under IMMEX, companies located in Mexico are not subject to quotas and do not have to pay taxes on items temporarily imported and manufactured, transformed, or repaired before reexport.

Under IMMEX, the length of time that imports may remain in Mexico is commodity dependent, with some items allowed to remain in-country for 18 months or more. These time allotments are greater than the time limits for License Exception Temporary Imports, Exports, Reexports, and Transfers (in-country) (TMP) allowed under § 740.9(a)(14) of the EAR. With few exceptions, items exported under TMP, if not consumed or destroyed during the authorized use abroad, must be returned to the United States one year after the date of export. The discrepancy between the time periods of IMMEX and TMP reduces the efficacy of both policies, thereby hindering the shipment of items subject to the EAR to and from Mexico.

U.S. companies that produce items subject to the EAR and ship those items to Mexico under IMMEX have notified the Bureau of Industry and Security of this discrepancy and have requested that BIS amend the EAR to increase compatibility with IMMEX. Considering the strength of Mexico's export control regime, as exemplified by its accession as a member to the Wassenaar Arrangement, the Australia Group, and the Nuclear Suppliers Group, BIS published the proposed rule 81 FR 57505 on August 23, 2016 (known hereafter as the August 23 rule) proposing to amend § 740.9(a) to account for IMMEX's time limit. For the purpose of simplicity, BIS did not propose to match the various time periods instituted by IMMEX. Instead, the rule proposed to revise § 740.9(a)(8) to allow temporary exports and reexports to remain in Mexico for up to four years, which accommodates the maximum available time that temporarily imported items may remain in Mexico under IMMEX and is in parallel with the validity period of BIS's licenses. Additionally, the August 23 rule proposed to revise introductory paragraph § 740.9(a)(14) to include a reference to § 740.9(a)(8) as an exception to the one-year time limit of TMP. BIS received only one comment regarding the rule, in which the user expressed

support for the potential change in the regulations. Because BIS received only one comment, which was positive, regarding the August 23 rule, this final rule implements the proposed rule without change.

#### Export Administration Act

Although the Export Administration Act of 1979, as amended, expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 4, 2016, 81 FR 52585 (August 4, 2016), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

#### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor is 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 does not contain any collections of information.

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

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements

under the Administrative Procedure Act (5 U.S.C. 553) or any other statute. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy, Small Business Administration at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities.

#### Number of Small Entities

The Bureau of Industry and Security (BIS) does not collect data on the size of entities that apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be affected by this rule, it acknowledges that this rule would affect some unknown number.

#### Economic Impact

BIS believes that this final rule will not have a significant economic impact because exporters are already using other provisions of the EAR to participate in IMMEX. Currently, exporters participating in IMMEX are using TMP for exports of a one-year duration. If the item is to remain in Mexico longer than one year, exporters are required to either use another license exception or apply for a license that will address a specific time limit. This final rule merely extends the eligibility period for TMP to four years to complement the lengthy IMMEX time limit which could be 18 months or more, depending on circumstances. Extending the time limit of TMP to four years provides exporters flexibility in complying with the EAR and allows them to take fuller advantage of the privileges granted by IMMEX. While such a provision should reduce the paperwork burden to exporters, BIS does not believe increasing the time limit will lead to a significant increase in exports to Mexico. Rather, this final rule is consistent with the principle of the EAR in easing the unnecessary regulatory burden to exporters.

#### List of Subjects in 15 CFR Part 740

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

Accordingly, 15 CFR part 740 of the EAR (15 CFR parts 730–774) is amended as follows:

**PART 740—[AMENDED]**

■ 1. The authority citation for part 740 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *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 4, 2016, 81 FR 52587 (August 8, 2016).

■ 2. Section 740.9 is amended by revising paragraph (a)(8) and the introductory text of paragraph (a)(14) to read as follows:

**§ 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).**

\* \* \* \* \*

(a) \* \* \*

(8) *Assembly in Mexico.* Commodities may be exported to Mexico under Customs entries that require return to the United States after processing, assembly, or incorporation into end products by companies, factories, or facilities participating in Mexico's in-bond industrialization program (IMMEX) under this paragraph (a)(8), provided that all resulting end-products (or the commodities themselves) are returned to the United States as soon as practicable but no later than four years after the date of export or reexport.

\* \* \* \* \*

(14) *Return or disposal of items.* With the exception of items described in paragraphs (a)(8) and (11) of this section, all items exported, reexported, or transferred (in-country) under this section must, if not consumed or destroyed in the normal course of authorized temporary use abroad, be returned to the United States or other country from which the items were so transferred as soon as practicable but no later than one year after the date of export, reexport, or transfer (in-country). Items not returned shall be disposed of or retained in one of the following ways:

\* \* \* \* \*

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2016-28893 Filed 11-30-16; 8:45 am]

**BILLING CODE 3510-33-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****18 CFR Parts 375 and 388**

[Docket No. RM17-5-000; Order No.832]

**Regulations Implementing the FOIA Improvement Act of 2016 and Clarifying the FOIA Regulations**

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** On June 30, 2016, President Obama signed the Freedom of Information Act Improvement Act of 2016. The Act requires agencies to revise their regulations within 180 days to account for the new statutory mandates. After undertaking a review of Commission regulations in accordance with Section 3 of the Act, the Commission is revising its FOIA regulations to incorporate the statutory mandates. Additionally, this rule updates the delegation regulations with respect to determinations made by the General Counsel in response to FOIA administrative appeals.

**DATES:** This rule will become effective January 3, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Mark Hershfield, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502-8597, [mark.hershfield@ferc.gov](mailto:mark.hershfield@ferc.gov).

Christopher MacFarlane, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502-6761, [christopher.macfarlane@ferc.gov](mailto:christopher.macfarlane@ferc.gov).

**SUPPLEMENTARY INFORMATION:**

**ORDER NO. 832**

**FINAL RULE**

**I. Introduction**

1. On June 30, 2016, President Obama signed the Freedom of Information Act (FOIA) Improvement Act of 2016 (FOIA Improvement Act or the Act).<sup>1</sup> The Act directs agencies to: (1) Make information that has been requested and disclosed three times publically accessible in an electronic format;<sup>2</sup> (2) institute a sunset period of 25 years on records protected under the deliberative

<sup>1</sup> FOIA Improvement Act of 2016, Public Law 114-185, 130 Stat. 538 (June 2016). The Act also requires several actions that do not necessitate a revising of the regulations such as FOIA officers offering additional FOIA training.

<sup>2</sup> See Proactive Disclosure of Non-Exempt Agency Information: Making Information Available Without the Need to File a FOIA Request, OIP Guidance (Oct. 5, 2015), <https://www.justice.gov/oip/oip-guidance-5>.

process privilege; (3) codify the Department of Justice's foreseeability of harm standard when rendering FOIA determinations;<sup>3</sup> (4) take reasonable steps to segregate exempt information from nonexempt information; (5) limit fees in unusual circumstances when the agency response is delayed; and (6) provide additional notice requirements to FOIA requesters in agency determination letters.

2. Section 3 of the Act requires agencies to revise their regulations to account for the new statutory mandates. The Act provides that agencies must revise their rules within 180 days to incorporate the statutory changes. Accordingly, the Commission is revising its regulations to implement the FOIA Improvement Act. Consistent with the FOIA administrative appeal provisions in section 388.110, the Commission also is clarifying under section 375.309 that the General Counsel or a designee may issue final determinations on administrative FOIA appeals.

**II. Discussion**

3. After undertaking a review of Commission regulations in accordance with Section 3 of the Act, the Commission is revising its FOIA regulations in 18 CFR 388.106-388.10, as follows.

*A. Revisions to Section 375.309*

4. The FOIA administrative appeal provisions in section 388.110 provide that a FOIA administrative appeal must be directed to the General Counsel for determination, and that the General Counsel or the General Counsel's designee will make a determination on that appeal within the statutory timeframe.<sup>4</sup> Consistent with the Commission's FOIA administrative appeal provisions in section 388.110, the Commission is clarifying, in section 375.309, that the General Counsel or a designee will provide determinations in response to FOIA administrative appeals.

*B. Revisions to Section 388.106*

5. The FOIA Improvement Act requires agencies to "make available for public inspection in an electronic format" records that have been released and "that have been requested 3 or more times." Section 388.106 concerns Commission records available in the public reference room at the

<sup>3</sup> See 5 U.S.C. 552(b)(5)(2012) (incorporating various privileges including the deliberative process privilege covering "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.")

<sup>4</sup> See 5 U.S.C. 552(a)(6)(A)(ii) (2012).