

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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97;

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on January 21, 2022.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 24 March 2022

Siloam Springs, AR, KSLG, RNAV (GPS) RWY 18, Amdt 2
 Prescott, AZ, KPRC, VOR RWY 12, Amdt 3
 Fresno, CA, KFCH, RNAV (GPS) RWY 12, Amdt 1A
 Hanford, CA, KHJO, VOR–A, Amdt 10, CANCELLED
 Napa, CA, KAPC, RNAV (GPS) RWY 6, Amdt 3
 Napa, CA, KAPC, VOR RWY 6, Amdt 15
 Ontario, CA, KONT, RNAV (RNP) Z RWY 26L, Amdt 3
 Ontario, CA, KONT, RNAV (RNP) Z RWY 26R, Amdt 3
 Ontario, CA, Ontario International Airport, Takeoff Minimums and Obstacle DP, Amdt 9A

Rio Vista, CA, O88, RNAV (GPS) RWY 25, Amdt 4
 Salinas, CA, KSNS, RNAV (GPS) RWY 8, Orig
 Tulare, CA, KTLR, VOR RWY 13, Amdt 2A, CANCELLED
 Alamosa, CO, KALS, ILS OR LOC RWY 2, Amdt 3
 Alamosa, CO, KALS, RNAV (GPS) RWY 2, Amdt 2
 Alamosa, CO, KALS, RNAV (GPS) RWY 20, Amdt 2
 Alamosa, CO, KALS, VOR–B, Amdt 6
 Fort Collins/Loveland, CO, KFNL, ILS OR LOC RWY 33, Amdt 7
 Fort Collins/Loveland, CO, KFNL, RNAV (GPS) RWY 15, Orig-C
 Fort Collins/Loveland, CO, KFNL, RNAV (GPS) RWY 33, Amdt 2
 Donalsonville, GA, 17J, RNAV (GPS) RWY 1, Amdt 2
 Donalsonville, GA, 17J, RNAV (GPS) RWY 19, Amdt 2
 Wellington, KS, KEGT, VOR RWY 18, Amdt 3, CANCELLED
 Falmouth, MA, 5B6, RNAV (GPS) RWY 7, Orig
 Falmouth, MA, 5B6, RNAV (GPS) RWY 25, Orig
 Falmouth, MA, Falmouth Airpark, Takeoff Minimums and Obstacle DP, Orig
 Coldwater, MI, KOEB, VOR RWY 7, Amdt 5B, CANCELLED
 Coldwater, MI, KOEB, VOR/DME RWY 25, Orig-B, CANCELLED
 Detroit, MI, KDET, RNAV (GPS) RWY 15, Orig-D
 Bowling Green, MO, H19, RNAV (GPS) RWY 13, Amdt 1
 Bowling Green, MO, H19, RNAV (GPS) RWY 31, Amdt 1
 Bowling Green, MO, Bowling Green Muni, Takeoff Minimums and Obstacle DP, Amdt 1
 Keene, NH, KEEN, ILS OR LOC RWY 2, Amdt 6
 Saranac Lake, NY, KSLK, RNAV (GPS) RWY 23, Amdt 2
 Columbus, OH, KCMH, RNAV (RNP) Z RWY 28L, Amdt 2A
 Albany, OR, S12, VOR–A, Amdt 5
 Elizabethton, TN, 0A9, RNAV (GPS) RWY 6, Amdt 1
 Decatur, TX, KLUD, RNAV (GPS) RWY 35, Orig-C

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BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 736, 744, and 774

[Docket No. 220127–0035]

RIN 0694–AI61

Foreign-Direct Product Rules: Organization, Clarification, and Correction

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

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is clarifying, reorganizing, and making minor corrections to the provisions of the foreign-direct product (FDP) rules. Before this final rule, the FDP rules appeared in parts 736 and 744 of the Export Administration Regulations (EAR); now, the rules are consolidated in part 734 of the EAR. These revisions clarify the applicability of the FDP rules and make one correction applicable to the FDP rules as to the term “U.S.-origin technology and software.”

DATES: The effective date of this rule is February 3, 2022.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, 202–482–2440, *Sharron.Cook@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Consolidation and Organization of the Foreign-Direct Product (FDP) Rules

This final rule consolidates the FDP rules in § 734.9 of the Export Administration Regulations (EAR). Before publication of this rule, the FDP rules were found in § 736.2(b)(3) (General Prohibition 3) and footnote 1 to supplement no. 4 to part 744 (the Entity List). Placing the FDP rules in part 734 (Scope of the EAR) clarifies that they are used to determine if a foreign-produced item is subject to, and thus within the scope of, the EAR. To further clarify the FDP rules, this rule moves the license requirement, license review policy, and license exception applicability text for listed entities from the Entity List’s footnote 1 to supplement no. 4 to part 744 to § 744.11(a), where the overall license requirements pertaining to listed entities are located.

Organization of the FDP Rules

In new § 734.9, this rule separates the FDP provisions into four paragraphs: The National Security FDP rule, the 9x515 FDP rule, the “600 series” FDP rule, and the Entity List FDP rule. While the product scope of the first three FDP rules is relatively similar in format, the country scopes of each rule are different. This reorganization and naming of the FDP rules does not make substantive changes to the FDP rules. Rather, it facilitates reference to and compliance with the rules.

The original national security-focused FDP rule is now the National Security FDP rule. The provisions of the 9x515 FDP rule and the “600 series” FDP rule are reorganized into separate paragraphs with a description of the product scope followed by the country scope. The provisions of the Entity List FDP rule are organized with a description of the

product scope followed by the applicable end-user scope.

This rule moves a definition of the term ‘major component’ from a note to footnote 1 to Supplement no. 4 to part 744 of the EAR to a new definition paragraph in § 734.9(a) of the EAR. In making this change, this rule clarifies that the definition of the term ‘major component’ applies to all the FDP rules, and not just the Entity List FDP rule. A ‘major component’ of a plant located outside the United States for all FDP rules is “equipment” that is essential to the “production” of an item, including testing “equipment.” As noted in the August 20, 2020, final rule that amended the Entity List FDP rule (see 85 FR 51596, at 51601), any equipment that is involved in any of the production stages is considered *essential*. As a conforming edit, to indicate that the term is defined in that section, BIS added single quotation marks around the term ‘major component’ wherever it appears in § 734.9.

Clarification of the FDP Rules

This rule further clarifies the FDP rules by adding double quotation marks around terms that are defined in part 772 of the EAR, *e.g.*, direct product, technology, software, and equipment. BIS has received requests for additional guidance about determining the scope of production equipment in relation to the Entity List FDP rule and clarifying that these are defined terms should help the public better understand its obligations.

In addition, this rule clarifies in § 736.2(b)(3) of the EAR (General Prohibition Three), that foreign-direct products subject to the EAR are not necessarily subject to a license requirement and that license requirements must be determined based on an assessment of the classification, destination, end user, and end use of the items.

Lastly, this rule clarifies the circumstances under which the “600 series” FDP rule applies to items described in Export Control Classification Number (ECCN) 0A919. The text of ECCN 0A919 states that it includes the foreign direct product of “600 series” technology or software. However, before this rule, the text of General Prohibition Three did not explicitly include ECCN 0A919 items when describing other aspects of determining applicability of the “600 series” FDP rule. This rule also replaces the cross reference in ECCN 0A919.a.3 as a conforming edit.

Correction: U.S.-Origin “technology” and “software”

In this rule, BIS corrects an earlier revision to General Prohibition Three to clarify when the FDP rules are intended to apply to the direct product of U.S.-origin technology or software. On May 19, 2020, BIS published a rule entitled “Export Administration Regulations: Amendments to General Prohibition Three (Foreign-Direct Product Rule) and the Entity List” (85 FR 29849). This rule removed the word “U.S.” from the heading of § 736.2(b)(3) (Foreign-Direct Product rule) where it had been placed in front of the words “technology and software.” This revision was made because the scope of the heading did not align with the scope of the Entity List foreign-direct product rule being added to the EAR on that date. The Entity List FDP rule in § 734.9(e), and as it previously appeared in footnote 1 to supplement no. 4 to part 744 of the EAR, applies to the FDP of technology or software that is subject to the EAR, but that is not necessarily technology or software of U.S. origin. The preamble of the May 19 rule that added the Entity List FDP rule clearly stated that BIS did not intend to change the scope of the other FDP rules, noting General Prohibition Three: “continues to apply to foreign-produced items controlled for national security reasons, 9x515 items, or “600 series” items and has three criteria: The reason for control or classification of the U.S. “technology” or “software”; the foreign-produced item’s reason for control or classification; and the destination country of the foreign-produced item[.]” The May 19 rule stated that it “maintains the scope and criteria of General Prohibition Three[.]” Nevertheless, by removing the term “U.S.” from General Prohibition Three’s heading, BIS may have inadvertently caused confusion as to whether the revision was intended to change the product scope of all FDP rules, because the term “U.S.” had only been in the heading and not in the other FDP rules’ product scope descriptions. For this reason, this rule clarifies the EAR by specifically stating in each of the FDP rules that the application of the rule relates to U.S.-origin technology or software.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included ECRA (codified, as amended, at 50 U.S.C. Sections 4801–4852). ECRA provides the legal basis for BIS’s principal

authorities and serves as the authority under which BIS issues this rule.

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 and distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits and of reducing costs, harmonizing rules, and promoting flexibility.

This final rule has not been designated a “significant regulatory action” under Executive Order 12866. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

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 final rule does not intentionally affect any PRA collection burden, because this intent of this final rule is to organize, clarify, and correct the rules pertaining to the foreign direct product and in doing so BIS only expects minimal, if any, change to the burden hours associated with license requirements. The following is a list of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) collection approvals that may be encountered if a license is required, and the estimated average burden hours for each:

- 0694–0088, “Simplified Network Application Processing System,” and carries a burden-hour estimate of 29.6 minutes for a manual or electronic submission;
- 0694–0137 “License Exceptions and Exclusions,” which carries a burden-hour estimate average of 1.5 hours per submission (Note: Submissions for License Exceptions are rarely required);
- 0694–0096 “Five Year Records Retention Period,” which carries a burden-hour estimate of less than 1 minute; and
- 0607–0152 “Automated Export System (AES) Program,” which carries a burden-hour estimate of 3 minutes per electronic submission.

Any comments regarding these collections of information, including

suggestions for reducing the burden, may be submitted online at <https://www.reginfo.gov/public/do/PRAMain>. Find the particular information collection by using the search function and entering either the title of the collection or the OMB Control Number.

3. Pursuant to Section 1762 of the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation and delay in effective date.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 736

Exports.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements, Terrorism.

For the reasons discussed in the preamble, the Bureau of Industry and Security of the Department of Commerce amends 15 CFR parts 734, 736, 744, and 774 as follows:

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 1. The authority citation for part 734 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 2. Add § 734.9 to read as follows:

§ 734.9 Foreign-Direct Product (FDP) Rules.

Foreign-produced items located outside the United States are subject to the EAR when they are a “direct product” of specified “technology” or “software,” or are produced by a plant or ‘major component’ of a plant that itself is a “direct product” of specified “technology” or “software.” If a foreign-produced item is subject to the EAR, then you should separately determine the license requirements that apply to

that foreign-produced item (e.g., by assessing the item classification, destination, end-use, and end-user in the relevant transaction). Not all transactions involving foreign-produced items that are subject to the EAR require a license. Those transactions that do require a license may be eligible for a license exception.

(a) *Definitions.* The terms defined in this paragraph are specific to § 734.9 of the EAR. These terms are indicated by single quotation marks. Terms that are in double quotation marks are defined in part 772 of the EAR.

Major Component: A major component of a plant located outside the United States means “equipment” that is essential to the “production” of an item, including testing “equipment.”

(b) *National Security FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (b)(1) of this section and the country scope in paragraph (b)(2) of this section.

(1) *Product scope of National Security FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (b)(1)(i) or (ii) of this section.

(i) “*Direct product*” of “*technology*” or “*software*.” A foreign-produced item meets the product scope of this paragraph if it meets both of the following conditions:

(A) The foreign-produced item is the “direct product” of U.S.-origin “technology” or “software” that requires a written assurance as a supporting document for a license, as defined in paragraph (o)(3)(i) of supplement no. 2 to part 748 of the EAR, or as a precondition for the use of License Exception TSR at § 740.6 of the EAR; and

(B) The foreign-produced item is subject to national security controls as designated in the applicable ECCN of the Commerce Control List at part 774 of the EAR.

(ii) “*Direct product*” of a complete plant or ‘major component’ of a plant. A foreign-produced item meets the product scope of this paragraph if it meets both of the following conditions:

(A) The foreign-produced item is a “direct product” of a complete plant or ‘major component’ of a plant that itself is the “direct product” of U.S.-origin “technology” that requires a written assurance as a supporting document for a license or as a precondition for the use of License Exception TSR in § 740.6 of the EAR; and

(B) The foreign-produced item is subject to national security controls as designated on the applicable ECCN of

the Commerce Control List at part 774 of the EAR.

(2) *Country scope of National Security FDP rule.* A foreign-produced item meets the country scope of this paragraph if its destination is listed in Country Group D:1, E:1, or E:2 (See supplement no.1 to part 740 of the EAR).

(c) *9x515 FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (c)(1) of this section and the country scope in paragraph (c)(2) of this section.

(1) *Product scope of 9x515 FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (c)(1)(i) or (ii) of this section.

(i) “*Direct product*” of “*technology*” or “*software*.” A foreign-produced item meets the product scope of this paragraph if it meets both of the following conditions:

(A) The foreign-produced item is the “direct product” of U.S.-origin “technology” or “software” that is specified in ECCN 9D515 or 9E515; and

(B) The foreign-produced item is specified in a 9x515 ECCN.

(ii) “*Direct product*” of a complete plant or ‘major component’ of a plant. A foreign-produced item meets the product scope of this paragraph if it meets both of the following conditions:

(A) The foreign-produced item is a “direct product” of a complete plant or any ‘major component’ of a plant that itself is the “direct product” of U.S.-origin “technology” specified in ECCN 9E515; and

(B) The foreign-produced item is specified in a 9x515 ECCN.

(2) *Country scope of 9x515 FDP rule.* A foreign produced item meets the country scope of this paragraph if its destination is listed in Country Group D:5, E:1, or E:2 (see supplement no. 1 to part 740 of the EAR).

(d) “*600 series*” FDP rule. A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (d)(1) of this section and the country scope in paragraph (d)(2) of this section.

NOTE 1 TO PARAGRAPH (D) INTRODUCTORY TEXT: As described in the CCL, ECCN 0A919 is included in this paragraph because it includes the “direct product” of “600 series” “technology” or “software”.

(1) *Product scope of “600 series” FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (d)(1)(i) or (ii) of this section.

(i) “*Direct product*” of “*technology*” or “*software*.” A foreign-produced item

meets the product scope of this paragraph if it meets both of the following conditions:

(A) The foreign-produced item is the “direct product” of U.S.-origin “technology” or “software” that is specified in a “600 series” ECCN; and

(B) The foreign-produced item is specified in a “600 series” ECCN or ECCN 0A919.

(ii) “*Direct product*” of a complete plant or ‘major component’ of a plant. Foreign-produced items meet the product scope of this paragraph if they meet both of the following conditions:

(A) The foreign-produced item is the “direct product” of a complete plant or ‘major component’ of a plant that itself is the “direct product” of U.S.-origin “technology” that is specified in a “600 series” ECCN; and

(B) The foreign produced item is specified in a “600 series” ECCN.

(2) *Country scope of “600 series” FDP rule.* A foreign-produced item meets the country scope of this paragraph if it is destined to a country listed in Country Group D:1, D:3, D:4, D:5, E:1, or E:2 (see supplement no.1 to part 740 of the EAR).

(e) *Entity List FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (e)(1) of this section and the end-user scope in paragraph (e)(2) of this section. See § 744.11(a) of the EAR for license requirements, license review policy, and license exceptions applicable to foreign-produced items that are subject to the EAR pursuant to this paragraph.

(1) *Product Scope of Entity List FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (e)(1)(i) or (ii) of this section.

(i) “*Direct product*” of “*technology*” or “*software*.” A foreign-produced item meets the product scope of this paragraph if the foreign-produced item is a “direct product” of “technology” or “software” subject to the EAR and specified in ECCN 3D001, 3D991, 3E001, 3E002, 3E003, 3E991, 4D001, 4D993, 4D994, 4E001, 4E992, 4E993, 5D001, 5D991, 5E001, or 5E991 of the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR; or

(ii) “*Direct product*” of a complete plant or ‘major component’ of a plant. A foreign-produced item meets the product scope of this paragraph if the foreign-produced item is produced by any plant or ‘major component’ of a plant that is located outside the United States, when the plant or ‘major component’ of a plant, whether made in the U.S. or a foreign country, itself is a

“direct product” of “technology” or “software” subject to the EAR that is specified in ECCN 3D001, 3D991, 3E001, 3E002, 3E003, 3E991, 4D001, 4D993, 4D994, 4E001, 4E992, 4E993, 5D001, 5D991, 5E001, or 5E991 of the CCL.

NOTE 2 TO PARAGRAPH (E)(1): A foreign-produced item includes any foreign-produced wafer whether finished or unfinished.

(2) *End-user scope of the Entity List FDP rule.* A foreign-produced item meets the end-user scope of this paragraph if there is “knowledge” that:

(i) *Activities involving Footnote 1 designated entities.* The foreign-produced item will be incorporated into, or will be used in the “production” or “development” of any “part,” “component,” or “equipment” produced, purchased, or ordered by any entity with a footnote 1 designation in the license requirement column of the Entity List in Supplement No. 4 to part 744 of the EAR; or

(ii) *Footnote 1 designated entities as transaction parties.* Any entity with a footnote 1 designation in the license requirement column of the Entity List in Supplement No. 4 to part 744 of the EAR is a party to any transaction involving the foreign-produced item, e.g., as a “purchaser,” “intermediate consignee,” “ultimate consignee,” or “end-user.”

PART 736—GENERAL PROHIBITIONS

■ 3. The authority citation for part 736 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021); Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

■ 4. Section 736.2 is amended by revising paragraph (b)(3) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(3) *General Prohibition Three—Foreign-direct product (FDP) rules—*(i) You may not, without a license or license exception, export from abroad, reexport, or transfer (in-country) foreign-“direct products” subject to the EAR pursuant to § 734.9 if such items are subject to a license requirement in part 736, 742, 744, 746, or 764 of the EAR.

(ii) Each license exception described in part 740 of the EAR supersedes General Prohibition Three if all terms and conditions of a given license exception are met and none of the restrictions of § 740.2 or 744.11(a) apply.

PART 744—CONTROL POLICY: END-USER AND END-USER BASED

■ 5. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; 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. 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 September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 6. Section 744.11 is amended by revising paragraph (a) to read as follows:

§ 744.11 License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States.

* * * * *

(a) *License requirement, availability of license exceptions, and license application review policy.* (1) A license is required, to the extent specified on the Entity List, to export, reexport, or transfer (in-country) any item subject to the EAR when an entity that is listed on the Entity List is a party to the transaction as described in § 748.5(c) through (f). License exceptions may not be used unless authorized in the Entity List entry for the entity that is party to the transaction. Applications for licenses required by this section will be evaluated as stated in the Entity List entry for the entity that is party to the transaction, in addition to any other applicable review policy stated elsewhere in the EAR.

(2) *Entity List Foreign-Direct Product (FDP) license requirements, review policy, and license exceptions.* You may not, without a license or license exception, reexport, export from abroad, or transfer (in-country) any foreign-produced item subject to the EAR pursuant to § 734.9(e) of the EAR to any end user described in § 734.9(e)(2) of the EAR. All license exceptions described in part 740 of the EAR are available for foreign-produced items that are subject to this license requirement if all terms and conditions of the applicable license

exception are met and the restrictions in § 740.2 do not apply. The sophistication and capabilities of technology in items is a factor in license application review; license applications for foreign-produced items subject to a license requirement by this paragraph (a)(2) that are capable of supporting the “development” or “production” of telecom systems, equipment and devices below the 5G level (e.g., 4G, 3G) will be reviewed on a case-by-case basis.

- 7. Supplement No. 4 to part 744 is amended by:
■ a. Removing the phrase “see §§ 736.2(b)(3)(vi),¹” wherever it appears and adding in its place “see § 734.9(e),¹”; and
■ b. Revising footnote 1.
The revision reads as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *
¹ For this entity, see § 734.9(e) of the EAR for foreign-produced items that are subject to the EAR and § 744.11 of the EAR for related license requirements, license review policy, and applicable license exceptions.
* * * * *

PART 774—THE COMMERCE CONTROL LIST

- 8. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

- 9. In supplement no. 1 to part 774, Category 0, ECCN 0A919 is revised to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *
0A919 “Military commodities” located and produced outside the United States as follows (see list of items controlled)

License Requirements

Reasons for Control: RS, AT

Table with 2 columns: Control(s), Country Chart (see Supp. No. 1 to part 738). Rows include RS applies to entire entry and AT applies to entire entry.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) “Military commodities” are subject to the export licensing jurisdiction of the Department of State if they incorporate items that are subject to the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). (2) “Military commodities” described in this paragraph are subject to the export licensing jurisdiction of the Department of State if such commodities are described on the U.S. Munitions List (22 CFR part 121) and are in the United States. (3) The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles that are subject to the ITAR; or the furnishing to foreign persons of any technical data controlled under 22 CFR 121.1 whether in the United States or abroad are under the licensing jurisdiction of the Department of State. (4) Brokering activities (as defined in 22 CFR 129) of “military commodities” that are subject to the ITAR are under the licensing jurisdiction of the Department of State.

Related Definitions: “Military commodity” or “military commodities” means an article, material or supply that is described on the U.S. Munitions List (22 CFR part 121) or on the Munitions List that is published by the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (i.e., the Wassenaar Arrangement Munitions List (WAML)), but does not include software, technology, any item listed in any ECCN for which the last three numerals are 018, or any item in the “600 series.”

Items:
a. “Military commodities” produced and located outside the United States that are not subject to the International Traffic in Arms Regulations (22 CFR parts 120–130) and having any of the following characteristics:

- a.1. Incorporate more than a de minimis amount of U.S.-origin controlled content classified under ECCNs 6A002, 6A003, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criterion of Note 3.a to 6A003.b.4);
a.2. Incorporate more than a de minimis amount of U.S.-origin “600 series” controlled content (see § 734.4 of the EAR); or
a.3. Are direct products of U.S.-origin “600 series” technology or software (see § 734.9(d) of the EAR).
b. [Reserved]
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Thea D. Rozman Kendler, Assistant Secretary for Export Administration.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2021–0873]

RIN 1625–AA08

Special Local Regulations; Sector Ohio Valley Annual and Recurring Special Local Regulations, Update

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its special local regulations for recurring marine parades, regattas, and other events that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). This rule informs the public of regularly scheduled events that require additional safety measures through the establishing of a special local regulation. Through this rulemaking the current list of recurring special local regulations is updated with revisions, additional events, and removal of events that no longer take place in Sector Ohio Valley’s AOR. When these special local regulations are enforced, certain restrictions are placed on marine traffic in specified areas.

DATES: This rule is effective February 3, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to https://www.regulations.gov, type USCG–2021–0873 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Christopher Roble, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779–5336, email SECOHV-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Captain of the Port Sector Ohio Valley (COTP) is establishing,