

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Parts 740 and 772**

[Docket No. 071114704-7749-01]

RIN 0694-AD72

Revisions to License Exceptions TMP and BAG: Expansion of Eligible Items**AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to expand the availability of License Exceptions Temporary Imports, Exports, and Reexports (TMP) and Baggage (BAG) to allow for certain temporary exports and reexports of technology by U.S. persons to U.S. persons or their employees traveling or temporarily assigned abroad.

DATES: *Effective Date:* This rule is effective: December 12, 2007. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694-AD72, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include "RIN 0694-AD72" in the subject line of the message.

Fax: (202) 482-3355. Please alert the Regulatory Policy Division, by calling (202) 482-2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694-AD72.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395-7285; and to the U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e. RIN 0694-AD72)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Office of Exporter

Services, Bureau of Industry and Security, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION:**Background**

Under part 740 of the EAR, License Exception Temporary Imports, Exports, and Reexports (TMP) (§ 740.9) and License Exception Baggage (BAG) (§ 740.14) both contain tools of trade provisions (§ 740.9(a)(2)(i) and § 740.14(b)(4), respectively) which authorize certain temporary exports and reexports for usual and reasonable kinds and quantities of tools of trade for use in a lawful enterprise or undertaking of the exporter. Previously, License Exceptions TMP and BAG did not authorize temporary exports or reexports of technology because the scope of these license exceptions was limited to commodities and software.

This rule expands the availability of License Exceptions TMP and BAG to allow for certain temporary exports and reexports of technology by U.S. persons to U.S. persons or their employees traveling or temporarily assigned abroad. This rule does *not* authorize any new release of technology. Technology exported under License Exceptions TMP or BAG may only be released to persons who may receive that same technology pursuant to other provisions of the EAR. Exporters and reexporters who wish to use the tools of trade provisions of the two relevant license exceptions for the temporary export or reexport of technology subject to the EAR may do so, subject to certain restrictions specifically applicable to technology exports and reexports. These restrictions provide safeguards against the unauthorized risk of access to technology.

Amendments to the Export Administration Regulations

This rule makes the following revisions to the Export Administration Regulations (EAR) to reflect changes to License Exceptions TMP and BAG:

In part 740 (License Exceptions):

(1) This rule makes changes in § 740.9 (Temporary Imports, Exports, and Reexports (TMP)), to amend the "tools of trade" provisions in paragraph (a)(2)(i) to authorize the export or reexport by U.S. persons of certain technology to U.S. persons or their employees traveling or temporarily assigned abroad. This rule adds a new paragraph (a)(2)(i)(C) to add a specific definition of U.S. person applicable to paragraph (a)(2)(i).

In § 740.9, this rule also adds a new paragraph (a)(3)(iv), establishing restrictions to prevent unauthorized export or reexport of technology. These

restrictions include a restriction added to paragraph (a)(3)(iv)(A) for exports or reexports to employees who are not U.S. persons, as defined in (a)(2)(i)(C), to ensure that this license exception will not be used to circumvent other license requirements under the EAR such as the "deemed export" license requirements set forth in § 734.2(b)(2)(ii). Specifically, TMP may be available to employees who are not U.S. persons, as defined in paragraph (a)(2)(i)(C), for exports or reexports of technology under the tools of trade provisions set forth in paragraph (a)(2)(i)(A) only to the extent that such employees are authorized to receive the same technology in accordance with the EAR (e.g., a license or license exception), or, alternatively, do not require such authorization on account of the technology's NLR status. As an additional safeguard, under paragraph (a)(3)(iv)(A)(2), the U.S. person employer must demonstrate and document for recordkeeping purposes the reason that the technology to be authorized for export or reexport under the tools of trade provisions of paragraph (a)(2)(i)(A) is needed by such employees in their temporary business activities abroad on behalf of their U.S. person employer.

This rule adds a new paragraph (a)(1)(i) to provide an additional requirement and guidance for the return or disposal of technology authorized under License Exception TMP. This paragraph (a)(1)(i) clarifies that technology shipped or transmitted as temporary exports or reexports under the provisions of paragraph (a)(2)(i)(A) that exists in a format that could facilitate a subsequent release of the technology must be returned or disposed of in accordance with paragraph (a)(4) of License Exception TMP. This paragraph also provides an illustrative list of examples of technology that exists in a format that could facilitate a subsequent release of technology.

(2) This rule also revises § 740.14 (Baggage (BAG)) to amend the tools of trade provisions in paragraph (b)(4) (Tools of Trade) to authorize the export or reexport of certain technology to U.S. persons for use in the trade, occupation, employment, vocation, or hobby of the traveler or members of the U.S. person's household, provided they are also U.S. persons, who are traveling or moving. This rule adds a new paragraph (b)(4)(i) to add a specific definition of U.S. person applicable to paragraph (b)(4) of this section. In addition, this rule adds a new paragraph (h) prohibiting the unauthorized export or reexport of technology.

(3) In § 772.1 (Definitions of Terms as Used in the Export Administration Regulations), this rule revises paragraph (b) of the definition of U.S. person to clarify that exporters should see § 740.14 (License Exception BAG) for a definition of U.S. person that is specific to that section.

(4) In § 740.9, the reference to Note 2 in Category 5—Part 2 “Information Security” of the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) is removed. Note 2 in Category 5, Part 2 refers persons to License Exceptions TMP and BAG. Prior to the publication of this rule, the last sentence of paragraph (a)(2)(i) of License Exception TMP referred persons back to Note 2 in Category 5, Part 2. License Exception BAG does not contain a reference to Note 2 of Category 5, Part 2. To provide clarity, the reference to Note 2 in § 740.9 is eliminated with the publication of this rule.

In order to provide clearer guidance to the public regarding which encryption items are authorized under License Exceptions TMP and BAG, this rule also specifies certain restrictions applicable to the use of both License Exceptions TMP and BAG for exports and reexports of certain types of encryption technology. First, encryption technology controlled under ECCN 5E002 is not authorized for export or reexport under the amended “tools of trade” provisions of License Exception TMP. Second, in License Exception BAG § 740.14, the new U.S. person “tools of trade” provisions do *not* authorize the export or reexport of ECCN 5E002 encryption technology to any destination listed in Country Group E:1 of Supplement No. 1 to part 740. For the export or reexport of 5E002 technology by companies, their subsidiaries and employees, see License Exception Encryption Commodities and Software (ENC) set forth in § 740.17.

In License Exception TMP § 740.9 paragraph (a)(2)(i), this rule also removes the second to last sentence that stated, prior to the publication of this rule, that items controlled under ECCN 5D992 are permitted pursuant to this section, as this sentence is not needed to clarify the scope of items available under License Exception TMP.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 15, 2007, 72 FR 46137 (August 16, 2007), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This collection has been approved by the Office of Management and Budget under control number 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 58 minutes for a manual or electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Therefore, this regulation is issued in final form.

List of Subjects

15 CFR Part 740

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

15 CFR Part 772

Exports.

■ Accordingly, parts 740 and 772 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 740—[AMENDED]

■ 1. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 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 15, 2007, 72 FR 46137 (August 16, 2007).

■ 2. Section 740.9 is amended by:

- a. Revising paragraph (a)(1);
- b. Revising paragraphs (a)(2) introductory text, (a)(2)(i) introductory text, (a)(2)(i)(A) and adding new paragraph (a)(2)(i)(C);
- c. Revising paragraphs (a)(3)(i)(A), (a)(3)(i)(B) introductory text, (a)(3)(i)(B)(1), (a)(3)(i)(B)(2), (a)(3)(ii), (a)(3)(iii) and adding new paragraph (a)(3)(iv);
- d. Revising paragraph (a)(4); and
- e. Revising paragraph (a)(5), to read as follows:

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

* * * * *

(a) * * * (1) *Scope.* You may export and reexport commodities and software for temporary use abroad (including use in international waters) subject to the conditions and restrictions described in paragraphs (a)(2) through (a)(5) of this section. U.S. persons, as defined in paragraph (a)(2)(i)(C), may export and reexport technology for temporary use abroad under paragraph (a)(2)(i) of this section to U.S. persons or their employees traveling or temporarily assigned abroad (including use in international waters) subject to the conditions and restrictions described in paragraphs (a)(2) through (a)(5) of this section. Paragraph (a) does not authorize any new release of technology. Persons receiving technology exported or reexported under paragraph (a)(2)(i) must already be authorized to receive the same technology in accordance with the EAR (e.g., through a license or license exception), or, alternatively, not require such authorization on account of the technology’s NLR status. Technology exports and reexports authorized under this paragraph (a) may be made as actual shipments, transmissions, or releases. Exports and reexports of encryption items controlled under ECCN 5E002 are not permitted pursuant to this paragraph (a). Items shipped as temporary exports and reexports under the provisions of this paragraph (a) must be returned to the country from which they were exported or reexported as soon as practicable but, except in circumstances described in this section, no later than one year from the date of export or reexport. This requirement does not apply if the items are consumed or destroyed in the normal course of authorized temporary use abroad or an extension or other disposition is permitted by the EAR or in writing by BIS.

(i) *Additional requirement for return or disposal of technology.* Technology shipped or transmitted as a temporary export or reexport under the provisions of this paragraph (a)(2)(i)(A) that exists in a format that could facilitate a subsequent release of the technology must be returned or disposed of in accordance with paragraph (a)(4) of this section. Examples of technology that exists in a format that could facilitate a subsequent release of technology include the following: technology in a hard copy format (e.g. blue prints, manuals); technology in an electronic format stored on an electronic device (e.g. laptop, PDA); or technology stored on removable storage media and devices (e.g. CD-ROMS, flash drives, video cassettes).

(ii) [RESERVED]

(2) *Eligible items.* The following items are eligible to be shipped under this paragraph (a):

(i) *Tools of trade.* Usual and reasonable kinds and quantities of tools of trade (commodities, software, and technology) for use in a lawful enterprise or undertaking of the exporter. For the export or reexport of commodities or software, the transaction must meet the requirements of paragraph (a)(2)(i)(A) or paragraph (a)(2)(i)(B) of this section. For the export or reexport by U.S. persons of technology authorized under this paragraph, the transaction must meet the requirements of paragraph (a)(2)(i)(A) of this section.

(A) *Destinations other than Country Group E:2 or Sudan.* Exports and reexports of tools of trade for use by the exporter or employees of the exporter may be made only to destinations other than Country Group E:2 or Sudan. The tools of trade must remain under the "effective control" (see § 772.1 of the EAR) of the exporter or the exporter's employee. Eligible tools of trade may include, but are not limited to, equipment and software as is necessary to commission or service items, provided that the equipment or software is appropriate for this purpose and that all items to be commissioned or serviced are of foreign origin, or if subject to the EAR, have been lawfully exported or reexported. For exports and reexports by U.S. persons to U.S. persons or their employees traveling or temporarily assigned abroad, eligible tools of trade may also include, but are not limited to, technology as is necessary to commission or service items, provided that all items to be commissioned or serviced either are of foreign origin and not subject to the EAR, or, if subject to the EAR, have been lawfully exported or reexported. Tools

of trade may accompany the individual departing from the United States or may be shipped unaccompanied within one month before the individual's departure from the United States, or at any time after departure.

* * * * *

(C) For purposes of this paragraph (a)(2)(i), U.S. person is defined as follows: an individual who is a citizen of the United States, an individual who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(2) or an individual who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). U.S. person also means any juridical person organized under the laws of the United States, or any jurisdiction within the United States (e.g., corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States).

* * * * *

(3) * * *

(i) * * *

(A) No item may be exported or reexported under paragraph (a) of this section to Country Group E:2 (see Supplement No. 1 to this part) except as permitted by paragraph (a)(2)(viii) of this section (news media). These destination restrictions apply to temporary exports to and for use on any vessel, aircraft or territory under the ownership, control, lease, or charter by any country in Country Group E:2, or any national thereof;

(B) No item may be exported under this License Exception to Country Group D:1 (see Supplement No. 1 to part 740) except:

(1) Commodities and software exported under paragraph (a)(2)(viii), news media, of this section;

(2) Items exported under paragraph (a)(2)(i), tools of trade, of this section;

(ii) *Ineligible items.* (A) Items that will be used outside of Country Group A:1 (see Supplement No. 1 to part 740), Iceland, or New Zealand, either directly or indirectly, in any sensitive nuclear activity as described in § 744.2 of the EAR may not be exported or reexported to any destination under the temporary exports and reexports provisions of this License Exception.

(B) Exports and reexports of encryption items controlled under ECCN 5E002 are not permitted pursuant to this paragraph (a).

(iii) *Use or disposition.* No item may be exported or reexported under this paragraph (a) if:

(A) An order to acquire the item has been received before shipment;

(B) The exporter has prior knowledge that the item will stay abroad beyond the terms of this License Exception; or

(C) The item is for lease or rental abroad.

(iv) *Restrictions specific to the export or reexport of technology.* The authorization for the export or reexport of technology under the tools of trade provisions of paragraph (a)(2)(i)(A) is subject to the restrictions in this paragraph (a)(3)(iv), as described in paragraphs (a)(3)(iv)(A), (a)(3)(iv)(B) and (a)(3)(iv)(C).

(A) The authorization for the export or reexport of technology under the tools of trade provisions of paragraph (a)(2)(i)(A) of this section may be used only by U.S. persons, as defined in (a)(2)(i)(C), or their employees traveling or on temporary assignment abroad. The restrictions under this paragraph (a)(3)(iv)(A) include the following three additional restrictions:

(1) Employees who are not U.S. persons, as defined in (a)(2)(i)(C), may be authorized to receive exports or reexports of the technology eligible for export or reexport under the tools of trade provisions of paragraph (a)(2)(i)(A), only if such employees are already eligible to receive such technology through a current license or a license exception or on account of NLR status;

(2) A U.S. employer of individuals who are not U.S. persons, as defined in (a)(2)(i)(C), must demonstrate and document for recordkeeping purposes the reason that the technology to be authorized for export or reexport under the tools of trade provisions of paragraph (a)(2)(i)(A) is needed by such employees in their temporary business activities abroad on behalf of the U.S. person employer, prior to using the tools of trade provisions of paragraph (a)(2)(i)(A) of this section. This documentation must be created and maintained in accordance with the recordkeeping requirements of part 762 of the EAR; and

(3) The U.S. person must retain supervision over the technology that has been authorized for export or reexport under these or other provisions.

(B) The exporting or reexporting party and the recipient of the technology must take security precautions to protect against unauthorized release of the technology while the technology is being shipped or transmitted and used overseas. Examples of security precautions to help prevent unauthorized access include the following:

(1) Use of secure connections, such as Virtual Private Network connections, when accessing IT networks for e-mail

and other business activities that involve the transmission and use of the technology authorized under this license exception;

(2) Use of password systems on electronic devices that will store the technology authorized under this license exception; and

(3) Use of personal firewalls on electronic devices that will store the technology authorized under this license exception.

(C) Technology authorized under these provisions may not be used for foreign production purposes or for technical assistance unless authorized by BIS.

(4) *Return or disposal of items.* All items exported or reexported under these provisions must, if not consumed or destroyed in the normal course of authorized temporary use abroad, be returned as soon as practicable but no later than one year after the date of export or reexport, to the United States or other country from which the items were so exported or reexported, or shall be disposed of or retained in one of the following ways:

(i) *Permanent export or reexport.* If the exporter or the reexporter wishes to sell or otherwise dispose of the items abroad, except as permitted by this or other applicable provision of the EAR, the exporter must request authorization by submitting a license application to BIS at the address listed in part 748 of the EAR. (See part 748 of the EAR for more information on license applications.) The request should comply with all applicable provisions of the EAR covering export directly from the United States to the proposed destination. The request must also be supported by any documents that would be required in support of an application for export license for shipment of the same items directly from the United States to the proposed destination. BIS will advise the exporter of its decision.

(ii) *Use of a license.* An outstanding license may also be used to dispose of items covered by the provisions of this paragraph (a), provided that the outstanding license authorizes direct shipment of the same items to the same new ultimate consignee in the new country of destination.

(iii) *Authorization to retain item abroad beyond one year.* If the exporter wishes to retain an item abroad beyond the 12 months authorized by paragraph (a) of this section, the exporter must request authorization by submitting Form BIS-748P, Multipurpose Application, 90 days prior to the expiration of the 12 month period. The request must be sent to BIS at the address listed in part 748 of the EAR

and should include the name and address of the exporter, the date the items were exported, a brief product description, and the justification for the extension. If BIS approves the extension request, the exporter will receive authorization for a one-time extension not to exceed six months. BIS normally will not allow an extension for items that have been abroad more than 12 months, nor will a second six month extension be authorized. Any request for retaining the items abroad for a period exceeding 18 months must be made in accordance with the requirements of paragraph (a)(4)(i) of this section.

(5) *Reexports.* (i) Commodities and software lawfully exported from the United States may be reexported to a new country or countries of destination other than Sudan or Country Group E:2 under provisions of this paragraph (a) provided its terms and conditions are met and the commodities and software are returned to the country from which the reexport occurred.

(ii) Technology legally exported from the United States may be reexported by a U.S. person to U.S. persons and their employees in a new country or countries of destination other than Sudan or Country Group E:2 under provisions of this paragraph (a)(2)(i)(A) provided its terms and conditions are met and the technology is returned to the country from which the reexport occurred.

* * * * *

■ 3. Section 740.14 is amended:

- a. By revising paragraphs (a) and (b) introductory text ;
- b. By revising paragraph (b)(4);
- c. By revising the introductory text of paragraph (c); and
- d. By adding new paragraph (h), to read as follows:

§ 740.14 Baggage (BAG).

(a) *Scope.* This License Exception authorizes individuals leaving the United States either temporarily (i.e., traveling) or longer-term (i.e., moving) and crew members of exporting or reexporting carriers to take to any destination, as personal baggage, the classes of commodities, software and technology described in this section.

(b) *Eligibility.* Individuals leaving the United States may export or reexport any of the following commodities or software for personal use of the individuals or members of their immediate families traveling with them to any destination or series of destinations. Individuals leaving the United States who are U.S. persons, as defined in paragraph (b)(4)(i), may export or reexport technology as a tool

of trade under paragraph (b)(4) for their personal use or for the personal use of members of their immediate families who are traveling or moving with them, provided they are also U.S. persons, as defined in paragraph (b)(4)(i), to any destination or series of destinations. Technology exports and reexports authorized under paragraph (b)(4) of this section may be made as actual shipments, transmissions, or releases. Individuals leaving the United States temporarily (i.e., traveling) must bring back items exported and reexported under this License Exception unless they consume the items abroad or are otherwise authorized to dispose of them under the EAR. Crew members may export or reexport only commodities and software described in paragraphs (b)(1) and (b)(2) of this section to any destination.

* * * * *

(4) *Tools of trade.* Usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers and also technology for use in the trade, occupation, employment, vocation, or hobby of the traveler or members of the household who are traveling or moving. For special provisions regarding encryption commodities and software subject to EI controls, see paragraph (f) of this section. For a special provision that specifies restrictions regarding the export or reexport of technology under this paragraph, see paragraph (h).

(i) For purposes of this paragraph (b), U.S. person is defined as follows: an individual who is a citizen of the United States, an individual who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(2) or an individual who is a protected individual as defined by 8 U.S.C. 1324b(a)(3).

(ii) [RESERVED]

(c) *Limits on eligibility.* The export of any item is limited or prohibited, if the kind or quantity is in excess of the limits described in this section. In addition, the items must be:

* * * * *

(h) *Special provision: restrictions for Export or Reexport of Technology.* This authorization for the export or reexport of technology under the tools of trade provisions of paragraph (b)(4) of this section may be used only if:

(1) The technology is to be used overseas solely by individuals or members of their immediate families traveling with them provided they are U.S. persons as defined in paragraph (b)(4)(i).

(2) The exporting or reexporting party and the recipient take adequate security precautions to protect against

unauthorized access to the technology while the technology is being transmitted and used overseas. Examples of security precautions to help prevent unauthorized access include the following:

(i) Use of secure connections, such as Virtual Private Network connections when accessing IT networks for e-mail and other business activities that involve the transmission and use of the technology authorized under this license exception;

(ii) Use of password systems on electronic devices that will store the technology authorized under this license exception; and

(iii) Use of personal firewalls on electronic devices that will store the technology authorized under this license exception.

(3) The technology authorized under these provisions may not be used for foreign production purposes or for technical assistance unless authorized by BIS;

(4) Any encryption item controlled under ECCN 5E002 is not exported or reexported to any destination listed in Country Group E:1 of Supplement No. 1 of this part.

PART 772—[AMENDED]

■ 4. The authority citation for 15 CFR 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 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

■ 5. Section 772.1 is amended by revising paragraph (b) in the definition of “U.S. person”, as set forth below:

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

* * * * *
 “U.S. person”.
 * * * * *

(b) See also §§ 740.9, 740.14 and parts 746 and 760 of the EAR for definitions of “U.S. person” that are specific to those parts.

* * * * *

Dated: December 7, 2007.

Matthew S. Borman,
 Deputy Assistant Secretary for Export Administration.

[FR Doc. E7-24077 Filed 12-11-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. CGD01-07-011]

RIN 1625-AA01

Anchorage Regulations; Edgcomb, ME, Sheepscot River

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard hereby establishes a general anchorage area in Edgcomb, Maine on the Sheepscot River. This action is necessary to facilitate safe navigation in that area and provide safe and secure anchorages. This action is intended to increase the safety of life and property in Edgcomb, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of vessel traffic and commerce.

DATES: This rule is effective January 11, 2008.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01-07-011, and are available for inspection or copying at Room 628, First Coast Guard District, 408 Atlantic Ave., Boston, MA 02110, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Mauro, Commander (dpw), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02110, Telephone (617) 223-8355, e-mail:

John.J.Mauro@uscg.mil.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 24, 2007, we published a notice of proposed rulemaking (NPRM) entitled “Anchorage Regulations; Edgcomb Maine, Sheepscot River” in the **Federal Register** (72 FR 29092). We received no comments on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

This rule is intended to reduce the risk of vessel collisions by creating a general anchorage area in Edgcomb, Maine adjacent to the current town mooring fields. This rule is designed to reserve approximately 15 anchorages for transient vessels visiting the area from May through October each year. The anchorage would accommodate both

sail and power vessels with a 3-to-12-foot draft.

The Coast Guard is designating the general anchorage area in accordance with 33 U.S.C. 471. The Coast Guard has defined the anchorage area contained herein with the advice and consent of the Army Corps of Engineers, Northeast, located at 696 Virginia Rd., Concord, MA 01742.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The anchorage area does not impede the passage of recreational or commercial vessels as it is not located in the primary channel of the Sheepscot River, and will therefore have a minimal economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please contact John J. Mauro, at the address listed in **ADDRESSES** above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The