

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Parts 732, 738, 740, 743, and 774****[Docket No. 100923470–1230–03]****RIN 0694–AF03****Export Control Reform Initiative: Strategic Trade Authorization License Exception****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final Rule.

SUMMARY: This rule adds a new license exception to the Export Administration Regulations (EAR) that authorizes the export, reexport, and transfer (in-country) of specified items to destinations that pose relatively low risk that those items will be used for a purpose that license requirements are designed to prevent. Use of the exception is conditioned upon the creation and exchange by the parties to the transaction of notifications and statements designed to provide assurance against diversion of such items to other destinations. The exception is only relevant to exports, reexports, and transfers for which a license is required under the EAR. Thus, if the EAR do not impose an obligation to apply for and receive a license before exporting, reexporting, or transferring an item subject to the EAR, STA is not relevant to the transaction. The exception does not alter any of the General Prohibitions in the EAR against unlicensed exports, reexports, or transfers to proscribed end users, end uses, or destinations. This rule, has been cleared by several departments, including Defense, State, Homeland Security, and Justice. This rule is part of the Administration's Export Control Reform Initiative, undertaken as a result of the fundamental review of the U.S. export control system that the President announced in August 2009.

DATES: Effective date June 16, 2011.**FOR FURTHER INFORMATION CONTACT:** William Arvin, Regulatory Policy Division, Bureau of Industry and Security, william.arvin@bis.doc.gov or 202–482–2440.**SUPPLEMENTARY INFORMATION:****Background***The Administration's Export Control Reform Initiative*

In August 2009, the President directed a broad-based interagency review of the U.S. export control system with the goal

of strengthening national security and the competitiveness of key U.S. manufacturing and technology sectors by focusing on current threats and adapting to the changing economic and technological landscape. The review determined that the current export control system is overly complicated, contains too many redundancies, and, in trying to protect too much, diminishes our ability to focus our efforts on the most critical national security priorities. *See, e.g.*, August 30, 2010 press release by the White House, Office of the Press Secretary at <http://www.whitehouse.gov/the-press-office/2010/08/30/president-obama-laysfoundation-a-new-export-controlsystem-strengthen-n>. As a result, the Administration has begun the Export Control Reform Initiative, which will fundamentally reform the U.S. export control system. The Export Control Reform Initiative is designed to enhance U.S. national security and strengthen the United States' ability to counter threats such as the proliferation of weapons of mass destruction. The Administration determined that fundamental reform is needed with transformation to a single control list, a single licensing agency, a single information technology system, and a single primary enforcement coordination agency. The Administration is implementing the reform in three phases. The first two phases involve short- and medium-term adjustments to the current export control system, with a focus on establishing harmonized control lists and processes among the Departments of Commerce, State, and the Treasury to the extent practicable in order to build toward the third phase of the single control list, licensing agency, information technology system, and enforcement coordination agency. Under this approach, new criteria for determining what items need to be controlled and a common set of policies for determining when an export license is required will be implemented. The control list criteria will be based on transparent rules, which will reduce the uncertainty faced by our allies, U.S. industry, and its foreign partners, and will allow the government to erect higher enforcement walls around the most sensitive items in order to enhance national security.

A New License Exception as an Initial Step in Reform

License Exception Strategic Trade Authorization (STA) authorizes, with conditions, the export, reexport and transfer (in-country) of specified items to destinations that pose relatively low

risk of unauthorized uses. To safeguard against reexports to destinations that are not authorized under License Exception STA, License Exception STA imposes certain notification and consignee statement requirements. The exception does not alter any of the General Prohibitions in the EAR against exports, reexports, or transfers to proscribed end users, end uses, or destinations. Under the direction of the Office of Management and Budget, this rule was reviewed and cleared by the Departments of Defense, State, Energy, the Treasury, Homeland Security, and Justice.

The exception is only relevant to exports, reexports, and transfers for which a license is required under the EAR. Thus, if the EAR do not impose an obligation to apply for and receive a license before exporting, reexporting, or transferring an item subject to the EAR, STA is not relevant to the transaction. For exports, reexports, and transfers where STA is relevant, its use is optional. Parties may use other license exceptions that authorize a planned transaction or apply for a license if they prefer to do so.

On December 9, 2010, BIS issued a proposed rule (75 FR 76653) describing the proposed new License Exception STA that would be an initial step in the Export Control Reform Initiative. BIS received 41 submissions commenting on the proposed rule. They are available for review at: <http://www.regulations.gov> (ID # BIS–2010–0038) and on http://efoia.bis.doc.gov/pubcomm/records-of-comments/record_of_comments_sta.pdf. This final rule implements License Exception STA. It reflects review and analysis of the public comments. A summary of the comments and responses are provided below under "Review of Public Comments."

Summary of Changes in the Final Rule as Compared to the Proposed Rule

Releases of software source code and technology: Section 740.20 makes specific reference to releases within a single country of software source code and technology to foreign nationals and provides a different notification procedure than that required for exports, reexports and other in country transfers. These changes are in response to public comments. They are described below under the topic heading "review of public comments."

Clarification of terminology in § 740.20: The term "transactions" in § 740.20 has been replaced with the more explicit "exports, reexports and in country transfers" to avoid confusion that might otherwise arise when a single shipment or single sale includes some

items that are subject to License Exception STA and some that are not. Items in such shipment or sale that are not being exported, reexported or transferred pursuant to License Exception STA need not meet the requirements of License Exception STA.

Notification to consignee, consignee statement and destination control statement: The revised provisions of § 740.20(d) are based on consideration of the public's comments regarding the proposed notification requirements. The final rule retains the requirement to furnish to the consignee the ECCN of each item to be shipped to the consignee, but does not require that the ECCN be furnished for every successive shipment of the item at issue to the same consignee so long as the ECCN remains accurate. In addition, one consignee statement may be used for multiple shipments. The final rule, however, requires the exporter, reexporter, or transferor to keep a log or other written record that identifies each shipment made under License Exception STA and identifies the specific consignee statement that is associated with each shipment. In addition, the destination control statement described in the proposed rule is replaced with a more general notice requirement. The changes are described below under the topic heading "Final Rule Revisions to License Exception STA Safeguards." As revised, § 740.20(d) provides the proper assurances that items shipped under License Exception STA will remain within the group of low risk destinations without posing excessive and complex burdens on parties trading in items subject to the EAR.

STA paragraphs: Based on a suggestion in the public comments, the STA license exception paragraphs in 49 ECCNs have been revised to state more clearly that they apply only to the destinations listed in paragraph (c)(2) of § 740.20 and not to STA as a whole. This change is described below under the topic heading "review of public comments."

Removal of EI eligibility: Items controlled for encryption (EI) reasons are ineligible for License Exception STA, because of a determination that License Exception STA is not the appropriate approach to addressing the government interests in encryption export controls. Accordingly, BIS will address encryption-related aspects of the Export Control Reform Initiative separately.

Removal of pathogen and toxin eligibility: Items described in ECCNs 1C351.a, .b, .c, d.5, .d.6 or .e; 1C352; 1C353; 1C354; 1C360; 1E001 (for

1C351.a, .b, .c, .d.5, .d.6 or .e, 1C352, 1C353, 1C354 or 1C360) or in ECCN 1E351 may not be exported, reexported, or transferred under the authority of License Exception STA. The potential of these items to make a direct contribution to the creation of weapons of mass destruction and United States Government policy to deter the spread of chemical and biological weapons warrants excluding them from STA eligibility.

Items in ECCN 1C351.d.1, .2, .3, .4, .7, .8, .9, or .10 may be exported, reexported, or transferred under the authority of License Exception STA in quantities up to 100 milligrams of any one toxin per shipment and no more than six shipments may be sent to any one end user in any one calendar year. Unlike the items described in the previous paragraph, the items described in the ECCNs identified in this paragraph have more widespread commercial and medical applications and are not of a type that can be used to generate or grow large quantities of the toxin. The quantity and frequency cap in this aspect of STA is designed to allow for shipments under the exception to destinations of relatively low risk for appropriate end uses, but not allow for even the potential of unapproved stockpiling of such items in amounts that would create proliferation threats.

Modifications to License Exception GOV: Supplement No. 1 to § 740.11 is revised to remove the prohibition on use of License Exception GOV to export items controlled for chemical and biological weapons reasons (CB) to agencies of cooperating governments (as defined in § 740.11(b)(3)(ii) of the EAR) and to their embassies and consulates (as defined in § 740.11(b)(2)(iv) of the EAR) located in Country Group B (Supp. No. 1 to part 740 of the EAR). This change is needed to facilitate the export of pathogens and toxins to governments of cooperating countries to facilitate collaborative responses to outbreaks of disease, whether man-made or naturally occurring, in the absence of eligibility under License Exception STA as noted above.

Removal of certain gas turbine engine related software and technology eligibility: Section 740.20 is revised to make the following software and technology ineligible for license exception STA.

(A) License Exception STA may not be used for 9D001 or 9D002 "software" that is specially designed or modified for the "development" or "production" of:

- Components of engines controlled by ECCN 9A001 if such components incorporate any of the "technologies"

controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines), 9E003.h; or

- Equipment controlled by 9B001.

(B) License Exception STA may not be used for 9D001 "software" that is specially designed or modified for the "development" of "technology" controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h.

(C) License Exception STA may not be used for 9D004.f or 9D004.g "software".

(D) License Exception STA may not be used for 9E001 "technology" according to the General Technology Note for the "development" of 9A001.b engines or components of engines controlled by 9A001.b if such components incorporate:

- Any of the "technologies" controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h; or
- Any of the 9D001 or 9D002 software in paragraphs (A) or (B) above.

(E) License Exception STA may not be used for 9E002 "technology" according to the General Technology Note for the "production" of components of engines controlled by 9A001.b if such components incorporate any of the "technologies" controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines), 9E003.h.

(F) License Exception STA may not be used for "technology" in 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h.

A review of gas turbine engine technology has been unable to establish a satisfactory method of distinguishing the foregoing gas turbine engine technology and software that is within the scope of Tier 1 from such technology that is within the scope of Tier 2 (See 75 FR 76665, December 9, 2010 for an explanation of the Tier 1 and Tier 2 criteria). Accordingly, such technology and software may not be exported under the authority of License Exception STA.

Removal of Unneeded License Exception STA Paragraph From ECCN 7D002

License Exception STA paragraphs appeared in 50 ECCNs in the proposed rule. Those paragraphs identified items that may not be shipped under License Exception STA authorizing paragraph (c)(2) (§ 740.20(c)(2) of the EAR). In both

the proposed rule and this final rule the License Exception STA paragraphs in the ECCNs have no effect on authorizing paragraph (c)(1) of STA. Because software covered by ECCN 7D002 is controlled for missile technology reasons (MT), such software is ineligible for either authorizing paragraph (c)(1) or authorizing paragraph (c)(2) of License Exception STA. This final rule accordingly does not include a License Exception STA paragraph in ECCN 7D002.

Clarification of Applicability of Missile Technology Controls to ECCN 7E001 and 7E002

ECCNs 7E001 and 7E002 apply *inter alia* to technology for the development and production of equipment controlled by ECCNs 7A001, 7A002 and 7A003.d. ECCNs 7E001 and 7E002 impose a national security reason for control on all of the technology that they cover and apply a missile technology reason for control to technology for the development or production of equipment controlled for missile technology reasons. ECCNs 7A001, 7A002 and 7A003.d impose a national security reason for control on all of the equipment that they cover and impose a missile technology reason for control on such equipment if the equipment meets the parameters of ECCN 7A101, 7A102, or 7A103. That pattern is the reverse of the pattern that prevails in the Commerce Control List, where an item that is subject to an ECCN with a lower number as the third character generally would not also be subject to an ECCN with a higher number as the third character. To guard against the possibility that readers will, as a result of this unusual pattern, erroneously conclude that certain 7E001 and 7E002 technology is not subject to the missile technology reason for control, this rule adds a sentence to the license requirements sections of ECCN 7E001 and 7E002 reminding readers that technology for 7A001, 7A002 and 7A003.d equipment is subject to the missile technology reason for control if that equipment meets the parameters of 7A101, 7A102 or 7A103.

Revisions to Eligible Destinations and Removal of Civil End-Use Requirement

In this final rule, 36 countries are included in § 740.20(c)(1), which authorizes exports, reexports and in country transfers that are subject to multiple reasons for control. Eight destinations are included in § 740.20(c)(2), which authorizes export, reexports and in country transfers that are subject to national security reasons for control. The paragraph (c)(1)

destinations are: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. The paragraph (c)(2) destinations are: Albania, Hong Kong, India, Israel, Malta, Singapore, South Africa, and Taiwan. This final rule also removes the civil end use requirement that the proposed rule applied to destinations listed in paragraph (c)(2).

Preclusion of License Exception APR paragraph (b) in addition to paragraph (a): As published in the proposed rule, this final rule precludes use of License Exception APR paragraph (a) (§ 740.16(a) of the EAR) for items that have been shipped pursuant to License Exception STA. Also as published in the proposed rule, this final rule requires consignees in subsequent exports, reexports and in country transfers authorized by License Exception STA to acknowledge that preclusion. However, paragraph (b) of License Exception APR authorizes reexports to most of the destinations authorized by License Exception STA and does not require such notice. Thus, under the proposed rule, a party could receive via APR an item that previously had been shipped under STA and would be unaware of the preclusion. To remedy this inconsistent result, this final rule revises § 740.20 to preclude the use of License Exception APR paragraph (b) if an item previously has been shipped under License Exception STA and to add acknowledgement of that preclusion to the consignee statement required under License Exception STA.

Resolution of items under consideration for Tier 1.

The preamble to the proposed rule stated the U.S. Government was considering whether the following ECCNs, in whole or part: 0A919, 1A002, 3A001, 3A002, 3A003, 3A201, 3A228, 3A229, 3A232, 4A001, 4A003, 5A001, 6A001, 6A002, 6A003, 6A004, 6A005, 6A006, 7A001, 7A002, 7A003, 7A004, 7A006, 8A001, 8A018, 9A001, 9A004, 9A012 and 9A018 and the technology ECCNs related to them, met the Tier 1 criteria and thus would be excluded from the scope of License Exception STA. Commenters on the proposed rule addressed 1A002, 3A001, 6A001, 6A002, 6A003, 6A005, 7A004, 8A001, 9A001, 9A003, 9A004, 1E001, 6E002, and 9E003. Generally, those comments provided support that certain specific items covered by those ECCNs are

widely available from suppliers abroad, including suppliers in destinations not eligible to receive items under License Exception STA under the proposed rule.

Because planned export control tiers have not yet been established, nothing can formally be assigned to an export control tier at this time. However, after reviewing the public comments and consulting with other government agencies, BIS has concluded that the ECCNs, or portions thereof, that should be removed from the scope of STA at this time are those identified in § 740.20(b)(2) of this final rule.

Continuing efforts to improve export controls and refine License Exception STA.

As part of the President's Export Control Reform Initiative, the process of identifying the appropriate export control tier for each item on the Commerce Control List will continue. In addition, agencies will continue to study two specific issues related License Exception STA.

One issue is whether some "build to print technology" related to gas turbine engine components and controlled under ECCN 9E002 can be made eligible for License Exception STA while excluding more critical technology. In this instance, the term "build to print technology" refers to information that describes the physical and dimensional characteristics of a component, but does not reveal how to perform the processes that are used to produce a component with those physical and dimensional characteristics.

Another issue for further review is whether technology controlled under ECCN 2E003.f related to the application of certain coatings is, in whole or in part, appropriate for exclusion from License Exception STA.

Review of Public Comments

Public Comments

Some commenters remarked on the overall nature of License Exception STA. Many favored the concept in general and some noted that their own organizations likely would require fewer licenses as a result of STA. Others indicated that, as proposed, STA would provide little or no utility for their organizations. Some suggested specific changes or clarifications to STA or other steps that BIS could take in addition to or in lieu of License Exception STA. These ideas and BIS's responses are discussed below.

Comments related to the general utility and feasibility of License Exception STA.

Comment 1: Commenters' opinions were divided on the utility of STA.

Some believed that the license exception would substantially reduce the number of licenses needed by their organizations; others indicated that it would result in little or no change with respect to their transactions that are subject to the EAR.

Response: BIS recognizes that License Exception STA does not address all issues of public concern or even all issues that have been identified as pointing to a need for export control reform. As noted in the preamble to the proposed rule, License Exception STA is only one step in the Administration's Export Control Reform Initiative. Other measures will be needed to effect the remaining aspects of that initiative.

Comment 2: One commenter stated that STA provides no real benefit that is not already obtainable under License Exception GBS and that the latter lacks the documentation requirements and restrictions of STA. Several commenters indicated that they thought the restrictions and documentation requirements under STA would limit its utility.

Response: BIS agrees that parties who engage only in transactions that currently do not require licenses or that currently are eligible for License Exception GBS would not benefit from License Exception STA. A party may continue to use License Exception GBS to the extent the export at issue is within the scope of that exception. However, because License Exception STA is available for more ECCNs than is License Exception GBS, some parties will benefit from this new license exception.

Comment 3: Several commenters expressed concern that STA did not go far enough and cited unnamed "government officials" as having predicted that STA will replace GBS once the State and Commerce lists are merged.

Response: BIS currently has no plan to remove License Exception GBS from the EAR. Determining whether GBS will be needed in a regulatory scheme based on a single control list is premature and beyond the scope of the proposed rule.

Comment 4: Some commenters expressed concern that without broader license exceptions, BIS might be unable to handle the volume of licenses that it is likely to encounter once certain items are transferred from the United States Munitions List to the Commerce Control List. These commenters stated that although BIS's projection of License Exception STA replacing over 3,000 licenses annually is not insignificant, it is "not a large portion of the low risk licensing volume currently facing BIS." Finally, these commenters stated that

the State Department faced a 10,000 case backlog in 2007 and recommended that BIS proactively address potential increases in exports and minimize transaction-by-transaction authorization requirements in order to avoid a similar situation.

Response: BIS recognizes that a transfer of a large number of items from the United States Munitions List to the Commerce Control List could significantly increase BIS's workload and, without adequate preparation, could result in backlogs and delays. BIS is working to develop means for addressing those concerns. However, License Exception STA is intended to provide a more efficient method of shipping items currently subject to the EAR to destinations that present a relatively low risk of diversion. Concerns about future transfers of items from the United States Munitions List are beyond the scope of the proposed rule.

Comment 5: Some commenters on this topic proposed a range of changes to the EAR other than License Exception STA to address to the perceived need for fewer situations in which transaction-by-transaction authorization is required. Such proposals were: (i) Simply removing license requirements by removing X's from the boxes in the Country Chart table [Supp. No. 1 to part 738 of the EAR]; (ii) broadening the validated end-user program; (iii) creating an open general license similar to that used by the United Kingdom; and (iv) creating an intra-company transfer license that imposes fewer requirements on users than BIS's 2008 proposal on that subject.

Response: License Exception STA is intended as an initial step in a broad export control reform effort. It recognizes, consistent with U.S. international commitments, a limited group of destinations in which the risk of diversion to unauthorized destinations, parties or uses is low. It also imposes certain safeguards to provide reasonable assurance that items exported, reexported, or transferred pursuant to STA will not be diverted outside that group. Each of the types of proposed revisions noted above was considered. BIS ultimately determined that a license exception approach is the best way to address the goals of this aspect of the reform effort, which primarily include reducing the licensing burden with respect to exports to a limited group of destinations, consistent with U.S. international commitments, without a wholesale revision of the EAR, creating a method of notifying foreign consignees about the prohibitions on reexports outside such

destinations, avoiding unintentionally re-imposing previously removed controls, and creating records sufficient for monitoring and enforcement of parties' compliance with the conditions and obligations of STA.

Comments Regarding Clarity

Comment 6: One commenter stated that the effects of License Exception STA on encryption are unclear and asked whether License Exception ENC reporting requirements apply to an encryption item exported under License Exception STA.

Response: The final rule does not permit items controlled for encryption reasons to be exported, reexported or transferred under License Exception STA. Accordingly, any lack of clarity on this point that may have been present in the proposed rule need not be addressed in the final rule.

Comment 7: One commenter stated that BIS needs to make clear that items controlled for antiterrorism (AT) reasons are not excluded from STA. The commenter noted that a license is not required for AT reasons for any STA eligible destination.

Response: This commenter's observation about the lack of an AT license requirement for any STA eligible destination is correct with respect to destination-based license requirements (although Part 744 of the EAR may impose an AT license requirement for specific end uses or end users in any destination). Like other License Exceptions in the EAR, STA would be used only where a license requirement exists; if no license is required there is no need to consider STA or any other license exception. Although most ECCNs include antiterrorism as a reason for control, that reason for control currently imposes a license requirement for only five destinations, none of which is eligible for STA. Although the absence of a reference to antiterrorism controls in License Exception STA might cause some readers to conclude erroneously that *items* controlled for antiterrorism reasons may not be shipped under license exception STA, adding such a reference might cause some readers to conclude erroneously that exports, reexports, and in country transfers to which antiterrorism controls *do* apply may be consummated under License Exception STA. The latter error has greater potential for harm than the former. Therefore, BIS does not believe that a change to the regulatory text on this point is desirable.

Comments regarding deemed exports.

Comment 8: Two commenters addressed the applicability of License Exception STA to deemed exports. One

indicated that it read the proposed rule as permitting License Exception STA to be used for deemed exports but suggested that specific authorizing language be added to STA for clarity. Another stated that STA would be useful for deemed exports and would be useful for some exports to some foreign subsidiary employees.

Response: BIS's intent in publishing the proposed rule was for License Exception STA to authorize deemed exports. However, upon further review, BIS has concluded that the requirements to furnish ECCNs, to obtain a consignee statement, and to provide a destination control statement are not likely to be relevant or useful in deemed export situations, which typically involve an employer-employee relationship or researcher collaborations. Accordingly, this final rule changes § 740.20 to address deemed exports and reexports separately from other exports and reexports. Releases of source code and technology are explicitly authorized. The authorization paragraphs explicitly refer to nationals of the destinations listed therein. Deemed exports and reexports are therefore explicitly authorized under License Exception STA. The ECCN notification, consignee statement, and destination control statement requirements are replaced with a requirement that the releaser of the technology or source code notify the recipient of the restrictions on further release. The notification must either expressly inform the recipient that the EAR impose limits on further disclosure or must be in the form of an agreement in which the recipient agrees to limits on further disclosure. Any such agreement must impose limits that are equivalent to or more restrictive than all limits on further disclosure that are imposed by the EAR. The notification must be in writing. The notification may be in a separate document or included in a document such as a contract or a nondisclosure agreement. If the document has an expiration date, it must provide that the restrictions on disclosure do not expire.

Recommendation for new process for public input on eligible ECCNs for License Exception STA.

Comment 9: One commenter recognized that statutory restrictions and regime controls place some restrictions on BIS. That commenter, however, recommended that BIS state in the final rule that it will conduct regular reviews of ECCNs and set up a process whereby exporters could submit a request to BIS setting forth the reasons that a particular ECCN should be eligible for STA.

Response: BIS is reviewing the Commerce Control List as a whole as part of the Administration's Export Control Reform Initiative. In addition, the EAR (including the Commerce Control List) will be subject to the retrospective review requirements of Executive Order 13563. Those who wish to recommend any change to License Exception STA or any other provision of the EAR may do so in a number of ways, such as: informal contacts with BIS; contacting one of the technical advisory committees that advise BIS; or petitioning BIS for issuance, amendment or repeal of a rule, as contemplated by § 756.1(a)(1) of the EAR. Although always open to suggestions, BIS does not plan to set up a special process to receive proposed changes to License Exception STA.

Comment on end use restrictions in § 740.20(c)(2)(ii) in the proposed rule.

Comment 10: One commenter stated that by including the phrase "other than a military end use as defined in § 744.21 of the EAR" in the definition of "civil end use" in proposed § 740.20(c)(2)(ii), the proposed rule essentially took the China End Use Rule and applied the foreign policy behind that rule to a much larger group of countries even though many of those countries are not subject to the same foreign policy considerations as is China.

Response: Because the final rule does not include a civil end-use requirement, a discussion of whether the definition of civil end-use in § 744.21 is appropriate for STA is unnecessary.

Proposal to expand the scope of STA.

Comment 11: One commenter recommended that STA should be available for transactions where the exporter and consignee are the same organization.

Response: License Exception STA is available for transactions where the exporter and the consignee are the same organization, but only if they otherwise meet the requirements for use of the license exception.

Eligible destination comments.

Comment 12: Several commenters raised questions regarding the limitations on License Exception STA eligibility for certain countries.

Response: BIS has determined that for foreign policy reasons, the lists of destinations eligible for License Exception STA shall be limited to those destinations included in this final rule.

Eligible items comments.

Comment 13: Two commenters recommended that items controlled for missile technology reasons should be made eligible for License Exception STA under limited circumstances. One commenter stated that such items are

needed for use in public light water reactors. Another commenter stated that the eligibility of certain items, which are in Category 7 of the Commerce Control List, could be limited to equipment required for or in support of safety of flight.

Response: BIS does not have the discretion to include any item controlled for export for missile technology reasons in License Exception STA. Items are controlled on the Commerce Control List for missile technology reasons because they are listed in the Missile Technology Control Regime Annex. The exclusion of items on the Missile Technology Control Regime Annex is based on Section 6(l) of the Export Administration Act and the U.S. commitment to implement the Missile Technology Control Regime Guidelines.

Comment 14: One commenter stated that ECCNs 2B232 and 2E001 should be eligible for STA. The commenter noted that manufacturers in China and India make comparable products.

Response: ECCN 2B232 and the portion of 2E001 that addresses technology for the development of equipment controlled under 2B232 are controlled for nuclear proliferation reasons. Under both the proposed rule and this final rule, their License Exception STA eligibility is limited to the destinations in § 740.20(c)(1) for foreign policy reasons.

Comment 15: One commenter stated that it needs to ship items that are covered by ECCN 2B350 predominantly to Taiwan, Singapore, China and Israel. The commenter stated that it currently has about 100 licenses and that license requirements make it uncompetitive and cause it to lose business. This commenter asserted that similar parts made in South Korea can get a license in one to two weeks. A better approach than the proposed rule would be to allow less sensitive components to be exported without a license to more destinations.

Response: For such destinations as Taiwan, Singapore and Israel, which are destinations listed in § 740.20(c)(2), BIS proposed that License Exception STA may be used for transactions in which the only applicable reason for control is national security. ECCN 2B350 is controlled for chemical and biological weapons reasons. BIS has retained this limit in the final rule for foreign policy reasons.

Comment 16: One commenter stated that exclusion of CCL Category 3 and 4 items would limit the utility of License Exception STA.

Response: Commerce Control List Categories 3 and 4 are not excluded in

their entirety from STA. All or portions of some ECCNs in Categories 3 and 4 are excluded from eligibility to the eight destinations listed in § 740.20(c)(2) because they cover items on the Wassenaar Arrangement Sensitive List. This limitation on items eligible for export to destinations listed in § 740.20(c)(2) was included in the proposed rule, and BIS has concluded that retaining the rule's limit of eligibility for License Exception STA for these destinations to non-Sensitive List items is appropriate for foreign policy reasons.

Comment 17: One commenter stated that ECCN 6A002.a.2 and .a.3 should be eligible for § 740.20(c)(1) destinations.

Response: Under both the proposed rule and this final rule, ECCNs 6A002.a.2 and .a.3 are eligible for § 740.20(c)(1) destinations except for those portions of paragraph .a.3 that are subject to control for missile technology (MT) reasons. For the reason noted in the response to *Comment 13* above, BIS is not making MT controlled items eligible for License Exception STA. Portions of 6A002.a.2 and all of 6A002.a.3 are ineligible for § 740.20(a)(2) destinations because they are on the Wassenaar Arrangement Sensitive List.

Comment 18: Two commenters stated that ECCN 6A003.b should be eligible for the 127 destinations set forth in § 740.20(c)(2) of the proposed rule and one of those commenters also stated that ECCN 9A018.b should be eligible.

Response: The STA paragraph for ECCN 6A003 excludes all of paragraphs .b.3 and .b.4 from STA eligibility if the destination is one of the destinations in paragraph (c)(2) of the proposed rule (eight destinations in this final rule). BIS developed the STA paragraphs to provide a reasonable balance between the policy of excluding items on the Sensitive List from eligibility under § 740.20(c)(2) and the need to make the regulations as clear as possible within substantive policy constraints. Rewriting the STA paragraph in 6A003 to match exactly the Sensitive List would add significantly to the length and complexity of the entry while providing relatively little change in the scope of eligible transactions. Moreover, ECCN 6A003.b.3 and .b.4.b are also controlled for regional stability reasons. Thus, even if the STA paragraph in 6A003 were rewritten to match the text of the Sensitive List exactly, the items in 6A003.b.3 and .b.4.b would continue to be excluded from eligibility under § 740.20(c)(2) because of their regional stability control. ECCN 9A018.b is also subject to a regional stability control

and, consistent with the policy stated above, is not eligible for § 740.20(c)(2).

Comment 19: One commenter recommended that ECCN 6A001.a.2.d.1 (certain underwater heading sensors), .a.2.b.7 (certain towed hydrophone arrays) and .a.2.e.1 (certain bottom or bay cable systems) be made eligible for § 740.20(c)(2) destinations. Without such eligibility, the ability to use STA to send repair items to vessels in port is limited. These items do not require a license to go to destinations in Country Group A:1 (Supp. No. 1 to Part 740 of the EAR), which includes most of the destinations eligible under § 740.20(c)(1). This commenter stated that if License Exception STA results in the repeal of License Exception RPL, it would be at a disadvantage.

Response: This final rule excludes items listed on the Wassenaar Arrangement Sensitive List from destinations listed in § 740.20(c)(2). As set forth in the response to *Comment 16*, BIS has concluded that limiting these destinations to non-Sensitive List items is appropriate for foreign policy reasons. That said, BIS is not eliminating License Exception RPL. In addition, BIS can make one change to the 6A001 STA paragraph to track more accurately the Wassenaar Arrangement Sensitive List without adding undue length and complexity to the ECCN. Paragraph .a.2.a.4 is not on the Wassenaar Arrangement Sensitive List. Therefore, BIS is adding the phrase "except .a.2.a.4" immediately following the phrase "or 6A001.a.2 in the STA paragraph of the License Exception Section of ECCN 6A001."

Comment 20: One commenter recommended that items in ECCN 8A001.c (unmanned tethered submersible vehicles) be made eligible for § 740.20(c)(2). The commenter noted that such vehicles already do not require a license for most of the 37 destinations in proposed § 740.20(c)(1) and so STA would not affect the licensing burden for these items to any great degree. This commenter stated that allowing full STA eligibility for these items would be consistent with the Wassenaar Arrangement's best practices agreed to at the 2006 Wassenaar Arrangement plenary meeting, which allows license exceptions for sensitive list items. Other Wassenaar members allow exports without an individual license. For example the United Kingdom permits such exports under an open general license. The safeguards imposed by License Exception STA allow for sensitive list items to be controlled and monitored consistent with U.S. national security interests and regime obligations. These vehicles

cannot go far from their support vessel, cannot be preprogrammed and require considerable support equipment. In some cases a vessel or rig must be modified to handle the equipment and restored when the equipment is removed making diversion of such vehicles to military uses unlikely. Unmanned tethered submersible vehicles are not as sensitive from a national security perspective as untethered submersibles. Excluding 8A001.c unmanned tethered submersible vehicles while allowing 8A001.a manned tethered submersibles full STA treatment would be inconsistent.

Response: Notwithstanding the arguments made in the *Comment*, BIS has determined that retaining the limitation set forth in the proposed rule that STA authorization for Wassenaar Arrangement Sensitive List items (as 8A001.a items are) is available only to the destinations listed in § 740.20(c)(1) of this final rule is necessary for foreign policy reasons.

Comments on information and consignee statement requirements.

BIS received a number of comments on the proposed requirements to provide safeguards against diversion that were set forth in the proposed rule. Those safeguards are: the requirement to provide the consignee with the item description and ECCN; the requirement to obtain assurances from the consignee; and the requirement to furnish a special STA destination control statement. Some of the comments applied to the safeguards as a whole and others to specific safeguard measures.

Comments regarding the safeguards as a whole.

Comment 21: Some commenters stated that manufacturers already have processes in place to notify consignees not to reexport in violation of the EAR and to provide ECCNs and destination control statements or that language typically found in sales contracts and purchase order agreements is a more effective means of communicating compliance obligations.

Response: Although BIS encourages parties trading in items subject to the EAR to inform their customers of EAR requirements and responsibilities of parties to the transaction, in general the EAR do not require parties to do so. License Exception STA could not function in its intended manner unless all exporters, reexporters, transferors and consignees are aware of their specific responsibilities. Some form of mandatory notice is, therefore, necessary.

Comment 22: One commenter stated that the STA safeguards transferred

compliance responsibilities from the exporter to the consignee.

Response: BIS does not believe that the creation of License Exception STA or the specific safeguard requirements that STA imposes constitute a “transfer” of responsibilities from one party to another. All parties dealing with items that are subject to the EAR are responsible for compliance with those regulations. The safeguard requirements of License Exception STA are intended to place parties on notice of their responsibilities and to verify that they are aware of, and will comply with, such responsibilities.

Comments regarding the requirement to furnish the Export Control Classification Number.

Comment 23: Several commenters stated that the requirement to furnish an ECCN is unnecessary. The reasons those gave were: ECCNs are already provided on the invoice and air waybill; the EAR already require the ECCN at least for the initial export; the ECCN is required in the STA consignee statement; and it would be difficult for U.S. exporters to verify that foreign buyers pass ECCN information along to their customers.

Response: Although BIS encourages parties to notify their consignees of the EAR, compliance responsibilities, and other information that would aid compliance such as ECCNs, such activities are generally not required under the EAR. License Exception STA is intended to remove the burden of applying for a license in exports, reexports and in country transfers that are limited to certain destinations where there is a relatively low risk of diversion. Requiring that consignees be notified of the ECCN provides reasonable assurance that the consignee will be on notice that the item it is receiving is sensitive and that further distribution without a U.S. license must be restricted to the destinations for which no license is required, or for which STA or some other License Exception provides authorization.

The EAR do not require exporters to monitor the conduct of foreign buyers to verify that they pass on ECCN information to their customers. The EAR do, however, prohibit, among other things, selling, transferring, transporting or servicing items subject to the EAR with knowledge that a violation has, will, or is intended to take place with respect to that item.

Comment 24: One commenter asked who would be responsible if an erroneous ECCN is supplied and, as a result, the consignee reexports an item using License Exception STA in a transaction that is not authorized by STA. The commenter recommended

that the reexporter not be liable in such a case.

Response: BIS believes that the consignee should be able to place reasonable reliance on the ECCN furnished by its supplier in License Exception STA transactions. Accordingly, the final rule states that for purposes of determining reexport or transfer eligibility under STA, the consignee may rely on the ECCN provided to it by the party required to furnish the ECCN to the consignee unless the consignee “knows” that the ECCN is in error. The term “know” has the same meaning as the term “knowledge” in § 772.1 of the EAR.

Comments regarding the requirement to obtain consignee statement.

Comment 25: Several commenters proposed that one consignee statement be permitted for multiple transactions. Various proposals were to allow a single statement for a specific project, a specific contract, a specific time period or for all items to be shipped to that consignee under STA. One commenter suggested that License Exception STA as proposed actually allows for a single statement to cover multiple shipments but clarification is desirable.

Response: BIS agrees that a single consignee statement should be able to cover more than one transaction for the reasons provided by commenters and is revising the final rule to explicitly so state. These revisions are described more fully under the topic heading “Final Rule Revisions to License Exception STA Safeguards” below.

Comment 26: One commenter stated that the requirement for a consignee acknowledgement is in direct opposition to BIS’s statement that the eligible destinations are “low risk.”

Another commenter stated that the requirement for reexporters and transferors to obtain a statement from their consignees would impose a burden on a particular country’s exporters without providing additional safeguards to U.S. export controls because that country has stringent export controls based on the same multilateral regimes as the United States. Several commenters noted that foreign customers are often reluctant or unwilling to acknowledge U.S. jurisdiction and suggested that this requirement continues a perception that dealing with U.S. companies is difficult.

Response: An important purpose of the consignee statement is to ensure that the consignee is aware that the item has been shipped under a license exception that is limited to low risk destinations and agrees to take steps that will keep the item from leaving those destinations without authorization. It is integral to

the overall purpose of STA, which is to provide license exception shipments throughout a group of low risk destinations. Regime membership is a key part of the overall structure for export controls in an importing country. STA is based, in part, on that structure but focuses further on actual transactions to ensure controlled items are properly exported and reexported.

Comment 27: One commenter suggested that the requirement to obtain a consignee statement should not be needed for destinations in § 740.20(c)(2) because the eligible items are less sensitive than those available to destinations listed in § 740.20(c)(1). This commenter noted that BIS has ample existing means of identifying violations and enforcing STA restrictions, including post shipment verifications and placing violators on the Entity List.

Response: The purpose of the consignee statement is to make sure that the consignee is aware that the item has been shipped under a license exception that is limited to low risk destinations. It is integral to the overall purpose of STA, which is to provide license exception shipments throughout a group of low risk destinations. Although the items eligible to § 740.20(c)(2) destinations are less sensitive than those eligible to § 740.20(c)(1) destinations, the items are still sufficiently sensitive that obtaining the consignee’s acknowledgement of the limits of STA is necessary to provide reasonable assurance that the item will not be reexported beyond the low risk group of authorized destinations.

Comment 28: This commenter also suggested that if the consignee statement is retained, three specific provisions are unnecessary. First, the provision in which the consignee agrees not to export, reexport or transfer in violation of the EAR is not needed because it merely duplicates the requirements of the regulations. Second, consignees in § 740.20(c)(2) destinations should not be required to acknowledge that items shipped under STA may not subsequently be shipped under License Exception APR paragraph (a) because that paragraph does not authorize reexports from any § 740.20(c)(2) country. Third, the requirement to agree that items shipped under § 740.20(c)(2)(ii) [125 destinations in the proposed rule] may be used only in a civil end use is unneeded because it repeats a restriction in part 744 of the EAR and creates an unreasonable burden on all parties in a chain of transactions who are, in effect, agreeing not to incorporate the exported item into a United States Munitions List

defense article. This burden is particularly problematic for manufacturers of materials.

Response: License exception STA authorizes exports, reexports and in country transfers in sensitive items that otherwise would require a license. As such, requiring acknowledgement of the regulations that apply to the shipment is reasonable.

This commenter correctly notes that License Exception APR paragraph (a) does not directly authorize any reexport from a destination listed in § 740.20(c)(2). However License Exception STA does authorize reexports from places listed in § 740.20(c)(2) to destinations listed in § 740.20(c)(1) and License Exception APR paragraph (a) does authorize reexports from those (c)(1) destinations to other destinations that are not eligible for STA. For the safeguards of License Exception STA to function effectively, all reexporters must notify their consignees of the STA restrictions. The party in a § 740.20(c)(2) location will need to be on notice of the APR paragraph (a) restriction in order to be able to obtain the needed assurance from any party in a § 740.20(c)(1) destination to which it reexports.

Because this final rule removes the civil end use limitation from § 740.20(c)(2), the requirement to agree to that limitation is not needed and this final rule removes it from the consignee statement.

Comments regarding the destination control statement.

Comment 29: Some commenters objected to the special STA destination control statement, which under the proposed rule, the exporter, reexporter, or transferor would need to place on export control documents that accompany the shipment. The stated reasons for the objections were that the requirement would be superfluous to other EAR provisions, the cost and complexity of the requirements would discourage use of License Exception STA, and that a second destination control statement is not needed or would not be effective.

Response: After review of the comments and further consideration, BIS has concluded that some form of notice to the consignee that the items it is receiving are subject to STA is needed. However that notice need not take the form of a destination control statement. Accordingly, BIS is replacing the destination control statement requirement with the notice requirement that is described under the heading "Final Rule Revisions to License Exception STA Safeguards" below.

Final Rule Revisions to License Exception STA Safeguards.

The proposed requirements to furnish an ECCN, to obtain a consignee statement and to furnish a destination control statement were intended to operate in concert to provide assurance against diversions. To address the points raised by some of the commenters regarding those proposed requirements while maintaining their concerted nature, BIS is making the changes described below.

The final rule adds clarifying language to § 740.20(d)(1) and (2) stating that the Export Control Classification Number furnished to the consignee may be used for multiple shipments of the same item by a given exporter to a given consignee under License Exception STA so long as the information remains accurate. The final rule also provides that for purposes of determining reexport or transfer eligibility under STA, the consignee may rely on the ECCN provided to it by the party required to furnish the ECCN to the consignee unless the consignee knows that the ECCN is in error. The term "know" has the same meaning as the term "knowledge" in § 772.1 of the EAR.

The final rule revises § 740.20(d)(2) to provide that one consignee statement may be used for multiple shipments of the same item by the same exporter to the same consignee under License Exception STA provided descriptions of the item(s), ECCN(s) and names of the parties remain accurate. The final rule also removes the provision calling for the consignees' agreement that items shipped to certain destinations will be used only for civil end uses because the final rule does not impose a civil end use limitation. To facilitate verification of compliance with the consignee statement requirement, the final rule requires the exporter, reexporter, and transferor to maintain the specific consignee statement that is associated with each shipment and a log or other record that identifies each shipment made under License Exception STA and identifies the specific consignee statement that is associated with each shipment.

The final rule replaces the destination control statement with a requirement that the exporter, reexporter or transferor, as applicable, notify the consignee in writing that the shipment is made pursuant to License Exception STA. The notice must either specify which items are subject to License Exception STA or state that the entire shipment is made pursuant to License Exception STA. The notice must clearly identify the shipment to which it

applies. The written notice may be conveyed by paper documents or by electronic methods such as facsimile or email.

BIS believes that with these changes, the STA safeguards provide appropriate assurances that items shipped under License Exception STA will remain within the group of low risk destinations without placing excessive and complex burdens on parties trading items subject to the EAR.

Comments regarding the License Exception STA paragraphs.

Comment 30: The STA paragraphs, which appear in 49 ECCNs in this final rule, designate those ECCNs or portions thereof as ineligible for License Exception STA if the destination is listed in § 740.20(c)(2) of the EAR. Those exclusion paragraphs have no effect on the availability of STA for destinations listed in § 740.20(c)(1) of the EAR. Some commenters indicated that these exclusion paragraphs were confusing and would lead readers to conclude erroneously that the designated ECCNs or the designated portions were ineligible for License Exception STA for all destinations. In addition, some of the commenters appear to have misinterpreted the meaning of the STA exclusion paragraphs in exactly that manner. Commenters offered several suggestions to address this source of confusion.

One suggestion was to employ two STA paragraphs in each ECCN on the Commerce Control List, one paragraph would state whether STA is eligible for destinations listed in § 740.20(c)(1) and the other would state whether the License Exception is eligible for destinations listed in § 740.20(c)(2). Each paragraph would take into account all of the reasons for control in the ECCN and any other relevant factors including whether the item is on the Wassenaar Arrangement Sensitive List.

Another suggestion was to use some annotation in the STA paragraphs such as STA 1 for § 740.20(c)(1) and STA 2 for § 740.20(c)(2).

A third suggestion was to reference the number of destinations that are excluded by the paragraph.

A fourth suggestion was to create a matrix that would show the STA eligibility for each ECCN and destination.

Response: BIS has decided to adopt the third suggestion in this final rule. Because the number of destinations listed in § 740.20(c)(2) in the final rule is eight compared to 36 eligible destinations under § 740.20(c)(1), BIS believes that the best solution is to modify the STA paragraphs to reference the number of destinations in addition

to referencing the relevant STA eligibility paragraph, *i.e.* § 740.20(c)(1) or (c)(2).

Accordingly, the STA exclusion paragraphs in this final rule have the format: "License Exception STA may not be used to ship [list ineligible items] to any of the eight destinations listed in § 740.20(c)(2)." The words "or transmit" immediately follow the words "to ship" in software or technology ECCNs to be consistent with terminology used elsewhere in the EAR. BIS decided not to introduce STA paragraphs into every ECCN because ECCNs that include multiple reasons for control would require lengthy and complex STA paragraphs. This complexity would be compounded in the case of software and technology ECCNs in which one ECCN often encompasses not only multiple reasons for control but also references to multiple commodity ECCNs.

BIS decided not to adopt separate annotations such as STA1 and STA2 for the two authorizing paragraphs for two reasons. First, to be fully effective, this suggestion would require that the notations be in every ECCN, creating the same length and complexity issues noted above. Second, every License Exception paragraph in the Commerce Control List is designated by the symbol that is used to report shipments under that License Exception in the Automated Export System. All shipments under License Exception STA are to be reported under the symbol STA. Use of two different designators for a single license exception in the Commerce Control List could cause public confusion about the procedure for reporting License Exception STA shipments.

BIS decided not to attempt to describe STA eligibility in the form of a matrix because this technique also would produce an unduly complex document. Such a matrix would have to account for every destination in the world and every paragraph of every ECCN, making it far larger than the current Country Chart found at Supp. No. 1 to part 738 of the EAR. The STA paragraphs apply to only eight destinations and to 49 ECCNs. BIS believes that revising the STA paragraphs themselves is a more practical way to reduce the possibility of confusion pointed out by these commenters.

Specific License Exception Provisions Scope

The license exception applies only to Commerce Control List based license requirements. Transactions in which a license is required because of an end-use—such as a proliferation end use

described in part 744 of the EAR or a proscribed end user (such as a party on the Entity List in part 744 of the EAR)—or because the destination is subject to an embargo or special restrictions in part 746 of the EAR, are not eligible for License Exception STA. Items on the Commerce Control List that are subject to the encryption items (EI), short supply (SS), surreptitious listening (SL), missile technology (MT), or chemical weapons (CW) reasons for control are not eligible for License Exception STA because of various requirements imposed by statutes, treaties or U.S. implementation of international commitments. Items in ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982 are not eligible. Those ECCNs apply to equipment designed for the execution of human beings, specially designed implements of torture, law enforcement restraint devices, discharge type arms and devices designed to administer electric shocks and certain related technology. The human rights concerns associated with those items are sufficiently great to justify precluding use of License Exception STA.

Items in ECCNs 1C351.a, .b, .c, .d.5, .d.6 or .e; 1C352; 1C353; 1C354; 1C360; 1E001 (for 1C351.a, .b, .c, .d.5, .d.6 or .e, 1C352, 1C353, 1C354 or 1C360) or in ECCN 1E351 may not be shipped pursuant to License Exception STA because those ECCNs cover certain pathogens and toxins that have potential uses in developing chemical or biological weapons. Commodities in ECCN 1C351.d.1, .2, .3, .4, .7, .8, .9, or .10 are eligible for License Exception STA so long as the exports, reexports or transfers are limited to no more than 100 milligrams of any one toxin per shipment and no more than six shipments are sent to any one end user in any one calendar year.

License Exception STA may not be used for certain software and technology in Category 9 of the Commerce Control List as noted below.

(A) License Exception STA may not be used for 9D001 or 9D002 "software" that is specially designed or modified for the "development" or "production" of:

(1) Components of engines controlled by ECCN 9A001 if such components incorporate any of the "technologies" controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines), 9E003.h; or

(2) Equipment controlled by 9B001; or

(B) License Exception STA may not be used for 9D001 "software" that is specially designed or modified for the "development" of "technology" controlled by 9E003.a.1, 9E003.a.2,

9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h.

(C) License Exception STA may not be used for 9D004.f or 9D004.g "software".

(D) License Exception STA may not be used for 9E001 "technology" according to the General Technology Note for the "development" of 9A001.b engines or components of engines controlled by 9A001.b if such components incorporate:

(1) Any of the "technologies" controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h;

(2) Any of the 9D001 or 9D002 software in paragraphs (A) or (B) above.

(E) License Exception STA may not be used for 9E002 "technology" according to the General Technology Note for the "production" of components of engines controlled by 9A001.b if such components incorporate any of the "technologies" controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h.

(F) License Exception STA may not be used for "technology" in 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines), 9E003.h.

Authorizations.

This license exception provides two distinct authorizations. One authorization allows exports, reexports or in country transfers to which any (or all) of six reasons for control apply to go to 36 destinations. Another authorization allows less sensitive items where exports, reexports and in country transfers subject to only national security reasons for control to go to eight additional destinations. National security-controlled items that are ineligible for the latter authorization are identified by the new STA paragraphs in the "License Exceptions" sections of 49 ECCNs on the Commerce Control List. Thus, the STA exclusion paragraph serves the opposite function of a typical list-based license exception paragraph. The typical license exception paragraph in an ECCN identifies items that are eligible for a license exception rather than those that are ineligible.

Authorization for Items Controlled for Multiple Reasons to 36 Destinations.

If the only reason(s) for control that impose(s) a license requirement on the export, reexport or in country transfer is (are) national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); crime control (CC); or significant

items (SI), exports, reexports and transfers (in-country) to 36 destinations as well as releases within a single country of software source code and technology to nationals of the same 36 destinations are authorized, unless otherwise excluded from License Exception STA.

On April 29, 2011, the Under Secretary of Commerce for Industry and Security, pursuant to the authority delegated to him under section 6(n)(2) of the EAA, designated Argentina, Austria, Finland, Ireland, South Korea, Sweden, and Switzerland as eligible destinations for export and re-export of items controlled for crime control (CC), not including ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982, without a license under License Exception Strategic Trade Authorization.

Authorization for Less Sensitive National Security Items to Eight Additional Destinations.

If the only reason for control that imposes a license requirement on the export, reexport or in country transfer is national security (NS) and the item is not designated in the STA sensitive items exclusion paragraph in its ECCN, eight destinations (and nationals thereof) in addition to the 36 noted above are authorized. The STA exclusion paragraphs closely track the Sensitive List of the Wassenaar Arrangement. This rule adds such paragraphs to 49 ECCNs.

Limitations on Subsequent Use of License Exception APR.

Use of License Exception STA precludes subsequent use of License Exception APR paragraphs (a) and (b) (§ 740.16(a) and (b) of the EAR) for items shipped pursuant to License Exception STA.

Conditions That Apply to License Exception STA.

Section 740.20(d) imposes three conditions on exports, reexports and transfers and an alternative set of conditions on deemed exports and deemed reexports made pursuant to License Exception STA.

(1) Exporters must furnish the consignee with the ECCN that applies to each item transferred under License Exception STA. Reexporters and transferors must provide subsequent consignees with the ECCN provided by the exporter or by prior reexporters or transferors. The ECCN need be furnished to each consignee only once for each item to be shipped under License Exception STA. So long as the furnished ECCN remains accurate, it need not be furnished for subsequent shipments.

(2) Exporters, reexporters and transferors must obtain from their

consignees, prior to the shipment, a written statement identifying the items to be shipped and restating the ECCN(s) provided to the consignees by the exporters, reexporters or transferors. The exporter, reexporter and transferor must maintain the consignee's written statement as well as a log or other written record that identifies each shipment associated with a particular statement.

The statement must also acknowledge that the consignee:

- Is aware that items will be shipped pursuant to License Exception STA;
- Has been informed of the description of the items and their ECCN(s) by the exporter, reexporter or transferor;
- Understands that shipment pursuant to License Exception STA precludes subsequent use of paragraphs (a) or (b) of License Exception APR for the items;
- Agrees not to export, reexport or transfer these items to any destination, end use or end user prohibited by the EAR; and
- Agrees to produce copies of this document and all other export, reexport or transfer records (i.e., the documents described in part 762 of the EAR) relevant to the items referenced in this statement to the U.S. Government, upon request, as set forth in § 762.7.

(3) With each shipment under License Exception STA, the exporter (or reexporter or transferor as applicable) must notify the consignee in writing that the shipment is made pursuant to License Exception STA. The notice must either specify which items are subject to License Exception STA or state that the entire shipment is made pursuant to License Exception STA. The notice must clearly identify the shipment to which it refers. The written notice may be conveyed by paper documents or by electronic methods such as facsimile or email.

Recognizing that the foregoing requirements are not relevant or workable with respect to releases within a single country of software source code or technology to foreign nationals, § 740.20(d) imposes a different set of requirements on them. The releaser of the technology or source code must notify the recipient of the technology or source code of the restrictions on further release. The notification must either expressly inform the recipient that the EAR impose limits on further disclosure or must be in the form of an agreement in which the recipient agrees to limits on further disclosure. Any such agreement must impose limits that are equivalent to or more restrictive than all limits on further disclosure that are

imposed by the EAR. The notification must be in writing and a copy of it must be retained by the releaser and the recipient. The notification may be in a separate document or included in a document such as a contract or a nondisclosure agreement. If the document has an expiration date, it must provide that the restrictions on disclosure do not expire.

Addition of License Exception STA Paragraphs to 49 ECCNs.

This rule adds License Exception STA paragraphs to 49 ECCNs. These paragraphs, which closely track the Wassenaar Arrangement Sensitive List, designate certain items that are not eligible for License Exception STA to the eight destinations in § 740.20(c)(2).

Incidental Changes Necessary To Implement License Exception STA

Cross Reference to Wassenaar Arrangement Reporting Requirements

Section 740.20 cross references the Wassenaar Arrangement reporting requirements in § 743.1 of the EAR because Wassenaar Arrangement Sensitive List items exported to Wassenaar Arrangement non-members pursuant to License Exception STA are subject to the reporting requirements of § 743.1.

Revisions to § 732.4

Section 732.4 of the EAR explains how to identify and use license exceptions. This rule revises that section to note the License Exception STA exclusion paragraphs in ECCNs and to add License Exception STA to the list of license exceptions that are subject to the Wassenaar Arrangement reporting requirements of § 743.1 of the EAR.

Revision to § 738.2(d)(2)(ii) Explaining the Use of the License Exception STA Exclusion Paragraphs in ECCNs

Section 738.2 of the EAR explains the workings of the Commerce Control List, and paragraph (d)(2)(ii) of that section explains the "License Exception" paragraph of an ECCN. This rule revises that paragraph to explain the role of the STA exclusion paragraphs, which is different from that of the other license exception paragraphs that appear in ECCNs. The other license exception paragraphs signal eligibility to use a license exception and the limits of that eligibility. The STA paragraphs identify items for which the second of the two authorizing paragraphs of License Exception STA (*i.e.*, § 740.20(c)(2)) may not be used.

Revision to § 743.1 Wassenaar Arrangement Reporting

Wassenaar Arrangement member states, including the United States, are required to report to the Wassenaar Arrangement exports of Wassenaar Arrangement Sensitive List items to non-member states for which a license was not issued. Section 743.1 of the EAR requires exporters using certain license exceptions for such exports to report the export to BIS. The information reported by the exporters is used to compile a report that the United States submits to the Wassenaar Arrangement. To enable the United States to meet its reporting obligations to the Wassenaar Arrangement, this rule adds a reference to License Exception STA in § 743.1. The reporting requirement in § 743.1 is based on exports of Wassenaar Arrangement Sensitive List items to non-Wassenaar member states. The only non-Wassenaar member state to which License Exception STA authorizes Wassenaar Arrangement Sensitive List items is Iceland, a country with which the United States has a relatively small volume of trade. Therefore, BIS believes that this rule will not have any material impact on volume of reports required by § 743.1.

Other Incidental Changes

The restriction on using license exceptions for items controlled for crime controlled reasons is modified by adding a paragraph to § 740.2 exempting transactions authorized by License Exception STA from the restriction.

The prohibition on using License Exception GOV to export or reexport items controlled for chemical or biological weapons (CB) to the agencies of cooperating governments (as defined in § 740.11(b)(3)(ii) of the EAR) and certain diplomatic and consular missions of cooperating governments (as defined in § 740.11(b)(2)(iv) of the EAR) is removed by revisions to paragraphs (a)(2) and (b)(2) of Supplement No. 1 to § 740.11 for the reasons noted above.

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, distribute 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 designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

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. The rule affects a collection of information approved by OMB under control number 0607–0152 (the Automated Export System or AES). That collection is administered by the Census Bureau. For most exports of items subject to the EAR, the export license number, a license exception symbol or the designator NLR (no license required) must be entered into AES. BIS believes that this rule will have no material impact on the burden imposed by that collection because this rule merely replaces an existing requirement to enter the license number with a requirement to enter a license exception symbol instead. This rule also amends a collection of information approved by OMB under control number 0694–0137 (License Exemptions and Exclusions). This control number is being amended to add the requirement for exporters, reexporters and transferors to furnish ECCNs, to obtain a statement of assurance from the consignee before shipping pursuant to the license exception and to notify the consignee of shipments pursuant to the License Exception and the requirement to maintain records identifying shipments associated with each statement created by this rule (safeguards requirements). BIS expects the safeguards requirements are likely to increase the burden associated with control number 0694–0137 by about 3,387 hours (2,903 instances of complying with transactions subject to the safeguards requirements @ 1 hour and 10 minutes each). BIS believes that, in most instances, this new burden will be wholly or partially offset by a reduction in burden under control number 0694–0088 (Simplified Network Application Processing System) which authorizes, among other things, export license applications.

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

4. The Chief Counsel for Regulation of the Department of Commerce has

certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. The basis for that certification was published in the preamble to the proposed rule and is not repeated here. BIS received no comments regarding the certification. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

5. The Department finds that there is good cause to exempt this rule from the requirement of 5 U.S.C. 553(d) to publish a substantive rule not less than 30 days before its effective date. This rule creates an exception to some export license requirements and requires users of that exception to provide certain information to their consignees and to obtain certain assurances from their consignees. In doing so, this rule allows international trade transactions to proceed without the delay needed to obtain a license. Such delays give international customers an incentive to purchase foreign made products and reduce the competitiveness of American made products in the marketplace. Moreover, this rule does not require any person to use the new license exception that it creates. Any person may continue to use any other license exceptions that exist or may continue to apply for licenses. Thus no person is required to alter existing practices as a result of this rule. Because a delayed effective date would continue a disincentive to purchase American products and an immediate effective date would not require a change in existing practices, any delay in implementation would not be in the public interest.

List of Subjects

15 CFR Parts 732 and 740

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

15 CFR Part 738

Exports.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 732—[AMENDED]

■ 1. The authority citation for part 732 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

■ 2. Section 732.4 is amended by:

- a. Adding two sentences immediately following the existing third sentence in paragraph (b)(3)(iii); and
- b. Revising paragraph (b)(3)(iv) to read as follows:

§ 732.4 Steps regarding License Exceptions.

* * * * *

(b) * * *

(iii) * * * Some ECCNs contain License Exception STA exclusion paragraphs. Those paragraphs delineate items excluded from the License Exception STA provisions in § 740.20(c)(2) of the EAR. * * *

(iv) If you are exporting under License Exceptions GBS, CIV, LVS, STA, APP, TSR or GOV, you should review § 743.1 of the EAR to determine the applicability of certain reporting requirements.

* * * * *

PART 738—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 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; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

■ 4. Section 738.2 is amended by adding two sentences immediately following the existing third sentence in paragraph (d)(2)(ii) to read as follows:

§ 738.2 Commerce Control List structure.

* * * * *

(d) * * *

(2) * * *

(ii) * * * Some ECCNs have License Exception STA exclusion paragraphs. These paragraphs identify items for which the License Exception STA provisions in § 740.20(c)(2) of the EAR may not be used, but do not otherwise affect License Exception STA availability. * * *

* * * * *

PART 740—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 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 12, 2010, 75 FR 50681 (August 16, 2010).

■ 6. Section 740.2 is amended by revising paragraphs (a)(4)(ii) and (iii) and by adding paragraph (a)(4)(iv) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(4) * * *

(ii) Authorized by § 740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. government);

(iii) Authorized by § 740.14(e) of the EAR (certain shotguns and shotgun shells for personal use); or

(iv) Authorized by § 740.20 of the EAR (License Exception STA).

* * * * *

■ 7. Supplement No. 1 to § 740.11 is amended by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 740.11 Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station (GOV).

* * * * *

Supplement No. 1 to § 740.11—Additional Restrictions on Use of License Exception GOV

(a) * * *

(2) Items identified on the Commerce Control List as controlled for missile technology (MT) or nuclear nonproliferation (NP) reasons;

* * * * *

(b) * * *

(2) Items identified on the Commerce Control List as controlled for missile technology (MT) or nuclear nonproliferation (NP) reasons;

* * * * *

■ 8. Add § 740.20 to read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

(a) *Introduction.* This section authorizes exports, reexports and in country transfers, including releases within a single country of software source code and technology to foreign nationals in lieu of a license that would otherwise be required pursuant to part 742 of the EAR.

(b) *Requirements and Limitations—*(1) *Requirements for Using License Exception STA.* (i) All of the reasons for control that impose a part 742 license

requirement on the *export, reexport or in country transfer* must be addressed in at least one authorizing paragraph of this section.

(ii) The party using License Exception STA must comply with all of the requirements in paragraph (d) of this section.

(2) *Limitations on Use of License Exception STA.* The prohibitions and limits of this paragraph (b)(2) apply notwithstanding the authorizations in paragraph (c) of this section.

(i) License Exception STA may not be used in lieu of any license requirement imposed by “Part 744—Control Policy: End User and End Use Based” or by “Part 746—Embargoes and Other Special Controls” of the EAR.

(ii) License Exception STA may not be used for any item controlled under ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982.

(iii) License Exception STA may not be used for any item that is controlled for reason of encryption items (EI), short supply (SS), surreptitious listening (SL), missile technology (MT) or chemical weapons (CW).

(iv) License Exception STA may not be used for any item identified on the CCL as being subject to the exclusive export control jurisdiction of another agency, such as the Department of State, the Department of Energy, or the Nuclear Regulatory Commission.

(v) License Exception STA may not be used for any item controlled by ECCNs 1C351.a, .b, .c, .d.5, .d.6 or .e; 1C352; 1C353; 1C354; 1C360; 1E001 (for 1C351.a, .b, .c, .d.5, .d.6 or .e, 1C352, 1C353, 1C354 or 1C360) or ECCN 1E351.

(vi) Toxins controlled by ECCN 1C351.d.1, .2, .3, .4, .7, .8, .9, and .10 are authorized to destinations in paragraph (c)(1) of this section under License Exception STA subject to the following limits. For purposes of this paragraph all ECCN 1C351.d.1, .2, .3, .4, .7, .8, .9, or .10 toxins sent from one exporter, reexporter or transferor to one end user on the same day constitute one shipment.

(A) The maximum amount of any one toxin in any one shipment may not exceed 100 milligrams.

(B) No exporter, reexporter or transferor may send more than six shipments of any one toxin to any one end user in a single calendar year.

(vii) Commerce Control List Category 9 limitations on use of License Exception STA.

(A) License Exception STA may not be used for 9D001 or 9D002 “software” that is specially designed or modified for the “development” or “production” of:

(1) Components of engines controlled by ECCN 9A001 if such components incorporate any of the “technologies” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines), 9E003.h; or

(2) Equipment controlled by 9B001.

(B) License Exception STA may not be used for 9D001 “software” that is specially designed or modified for the “development” of “technology” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h.

(C) License Exception STA may not be used for 9D004.f or 9D004.g “software”.

(D) License Exception STA may not be used for 9E001 “technology” according to the General Technology Note for the “development” of 9A001.b engines or components of engines controlled by 9A001.b if such components incorporate:

(1) Any of the “technologies” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h;

(2) Any of the 9D001 or 9D002 software in paragraphs (b)(2)(viii)(A) or (B) of this section.

(E) License Exception STA may not be used for 9E002 “technology” according to the General Technology Note for the “production” of components of engines controlled by 9A001.b if such components incorporate any of the “technologies” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) 9E003.h.

(F) License Exception STA may not be used for “technology” in 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) 9E003.h.

(c) *Authorizing paragraphs*—(1) *Multiple reasons for control.* Exports, reexports, and in country transfers in which the only applicable reason(s) for control is (are) national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); crime control (CC), and/or significant items (SI) are authorized for destinations in or nationals of Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden,

Switzerland, Turkey, or the United Kingdom.

(2) *Controls of lesser sensitivity.* Exports, reexports and in country transfers in which the only applicable reason for control *is* national security (NS) and the *item* being exported, reexported or transferred (in country) *is not* designated in the STA paragraph in the License Exception section of the ECCN that lists the item are authorized for destinations in or nationals of Albania, Hong Kong, India, Israel, Malta, Singapore, South Africa, or Taiwan.

(d) *Conditions*—(1) *Requirement to furnish Export Control Classification Number.* (i) The exporter must furnish to the consignee the ECCN of each item to be shipped pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same exporter makes an additional shipment of the same item, if the information remains accurate at the time of the additional shipment.

(ii) A reexporter or transferor must furnish to subsequent consignees the ECCN, provided by the exporter or a prior reexporter or transferor, of each item to be shipped pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same reexporter or transferor makes an additional shipment of the same item, if the information remains accurate at the time of the additional shipment.

(iii) For purposes of determining reexport or transfer eligibility under this section, the consignee may rely on the ECCN provided to it by the party required to furnish the ECCN under paragraph (d)(1)(i) or (ii) of this section unless the consignee knows that the ECCN is incorrect or has changed. The word “knows” has the same meaning as the term “knowledge” in § 772.1 of the EAR.

(2) *Prior Consignee Statement.* The exporter, reexporter and transferor must obtain the following statement in writing from its consignee prior to shipping the item and must retain the statement in accordance with part 762 of the EAR. One statement may be used for multiple shipments of the same items between the same parties so long as the party names, the description(s) of the item(s) and the ECCNs are correct. The exporter, reexporter, and transferor must maintain a log or other record that identifies each shipment made pursuant to this section and the specific consignee statement that is associated with each shipment.

[INSERT NAME OF CONSIGNEE]:

(i) Is aware that [INSERT DESCRIPTION AND APPLICABLE ECCNS OF ITEMS TO BE SHIPPED] will be shipped pursuant to License Exception Strategic Trade Authorization (STA) in § 740.20 of the United States Export Administration Regulations (15 CFR 740.20);

(ii) Has been informed of the ECCNs noted above by [INSERT NAME OF EXPORTER, REEXPORTER OR TRANSFEROR];

(iii) Understands that items shipped pursuant to License Exception STA may not subsequently be reexported pursuant to paragraphs (a) or (b) of License Exception APR (15 CFR 740.16(a) or (b));

(iv) Agrees not to export, reexport or transfer these items to any destination, use or user prohibited by the United States Export Administration Regulations; and

(v) Agrees to provide copies of this document and all other export, reexport or transfer records (*i.e.*, the documents described in 15 CFR part 762) relevant to the items referenced in this statement to the U.S. Government as set forth in 15 CFR 762.7.

(3) *Notification to consignee of STA shipment.* With each shipment under License Exception STA, the exporter (or reexporter or transferor as applicable), must notify the consignee in writing that the shipment is made pursuant to License Exception STA. The notice must either specify which items are subject to License Exception STA or state that the entire shipment is made pursuant to License Exception STA. The notice must clearly identify the shipment to which it applies. The written notice may be conveyed by paper documents or by electronic methods such as facsimile or email.

(4) *Requirements for releases of software source code or technology within a single country.* Instead of the requirement of paragraphs (d)(1) through (d)(3) of this section, the party releasing software source code or technology to a national of a country listed in paragraph (c)(1) or (c)(2) of this section must notify the recipient of the software source code or technology of the restrictions upon further release of the software source code or technology. The notification must either expressly inform the recipient that the EAR impose limits on further disclosure or must be in the form of an agreement in which the recipient agrees to limits on further disclosure. Any such agreement must impose limits that are equivalent to or more restrictive than all limits on further disclosure that are imposed by

the EAR. The notification must be in writing and a copy of it must be retained by the party making the release and the recipient of the release. The notification may be in a separate document or included in a document such as a contract or a nondisclosure agreement. If the document has an expiration date, it must provide that the restrictions on disclosure do not expire.

(e) *Limitation on subsequent exports, reexports or in country transfers.* If a commodity has been exported, reexported or transferred in-country pursuant to this section, it may not be subsequently exported, reexported or transferred in-country pursuant to paragraphs (a) or (b) of License Exception APR (§ 740.16(a) or (b) of the EAR). Paragraphs (a) and (b) of License Exception APR do not authorize exports of software or technology.

(f) *Applicability of Wassenaar Arrangement reporting requirements.* See § 743.1 of the EAR for special reporting requirements that apply to some exports made pursuant to this section.

PART 743—[AMENDED]

■ 9. The authority citation for part 743 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 12, 2010, 75 FR 50681 (August 16, 2010).

■ 10. Section 743.1 is amended by adding a paragraph (b)(4) to read as follows:

§ 743.1 Wassenaar Arrangement.

* * * * *

(b) * * *

(4) Exports authorized under License Exception STA (See § 740.20 of the EAR).

* * * * *

PART 774—[AMENDED]

■ 11. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 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; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

■ 12. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1A002 is amended by adding at the end of the License Exception STA paragraph to read as follows:

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

* * * * *

1A002 “Composite” structures or laminates, having any of the following (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any item in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 13. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1C001 is amended by adding at the end of the License Exception STA paragraph to read as follows:

1C001 Materials specially designed for use as absorbers of electromagnetic waves, or intrinsically conductive polymers, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any item in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 14. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1C007 is amended by adding at the end of the License Exception STA paragraph to read as follows:

1C007 Ceramic base materials, non-“composite” ceramic materials, ceramic-“matrix” “composite” materials and precursor materials, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any item in 1C007.c or d to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 15. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1C010 is amended by adding at the end of the License Exception STA paragraph to read as follows:

1C010 “Fibrous or filamentary materials” as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any item in 1C010.c or d to any

of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 16. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1C012 is amended by adding at the end of the License Exception STA paragraph to read as follows:

1C012 Materials, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any item in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 17. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1D002 is amended by adding at the end of the License Exception STA paragraph to read as follows:

1D002 “Software” for the “development” of organic “matrix”, metal “matrix” or carbon “matrix” laminates or “composites”.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “software” for the “development” of organic “matrix”, metal “matrix” or carbon “matrix” laminates or “composites” specified in ECCN 1A002 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 18. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1, ECCN 1E001 is amended by adding at the end of the License Exception STA paragraph to read as follows:

1E001 “Technology” according to the General Technology Note for the “development” or “production” of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A006.b, 1A007, 1A008, 1A101, 1B (except 1B999), or 1C (except 1C355, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C995 to 1C999).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “technology” according to the General Technology Note for the “development” or “production” of equipment and materials specified by ECCNs 1A002, 1C001, 1C007.c or d, 1C010.c or d or 1C012 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 19. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1,

ECCN 1E002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

1E002 Other "technology" as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any item in 1E002.e or .f to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 20. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2, ECCN 2D001 is amended by adding at the end of the License Exception STA paragraph to read as follows:

2D001 "Software", other than that controlled by 2D002, specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A001 or 2B001 to 2B009.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit "software", other than that specified by ECCN 2D002, specially designed for the "development" or "production" of equipment as follows: ECCN 2B001 entire entry; or "Numerically controlled" or manual machine tools as specified in 2B003 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 21. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2, ECCN 2E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

2E001 "Technology" according to the General Technology Note for the "development" of equipment or "software" controlled by 2A (except 2A983, 2A984, 2A991, or 2A994), 2B (except 2B991, 2B993, 2B996, 2B997, or 2B998), or 2D (except 2D983, 2D984, 2D991, 2D992, or 2D994).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit "technology" according to the General Technology Note for the "development" of "software" specified in the License Exception STA paragraph in the License Exception section of ECCN 2D001 or for the "development" of equipment as follows: ECCN 2B001 entire entry; or "Numerically controlled" or manual machine tools as specified in 2B003 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 22. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2, ECCN 2E002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

2E002 "Technology" according to the General Technology Note for the "production" of equipment controlled by 2A (except 2A983, 2A984, 2A991, or 2A994), or 2B (except 2B991, 2B993, 2B996, 2B997, or 2B998).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit "technology" according to the General Technology Note for the "production" of equipment as follows: ECCN 2B001 entire entry; or "Numerically controlled" or manual machine tools as specified in 2B003 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 23. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3A002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

3A002 General purpose electronic equipment and accessories therefor, as follows (see List of Items Controlled).

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship any item in 3A002.g.1 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 24. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3B001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

3B001 Equipment for the manufacturing of semiconductor devices or materials, as follows (see List of Items Controlled) and specially designed components and accessories therefor.

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship any item in 3B001.a.2 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 25. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3D001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

3D001 "Software" specially designed for the "development" or "production" of equipment controlled by 3A001.b to 3A002.g or 3B (except 3B991 and 3B992).

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship or transmit "software" specially designed for the "development" or "production" of equipment specified by 3A002.g.1 or 3B001.a.2 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 26. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3, ECCN 3E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

3E001 "Technology" according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 3A (except 3A292, 3A980, 3A981, 3A991 3A992, or 3A999), 3B (except 3B991 or 3B992) or 3C (except 3C992).

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship or transmit "technology" according to the General Technology Note for the "development" or "production" of equipment specified by ECCNs 3A002.g.1 or 3B001.a.2 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 27. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 4, ECCN 4A001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

4A001 Electronic computers and related equipment, having any of the following (see List of Items Controlled), and "electronic assemblies" and specially designed components therefor.

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship any commodity in 4A001.a.2 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 28. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 4, ECCN 4D001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

4D001 "Software" as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit "software" specially designed for the "development" or "production" of equipment specified by ECCN 4A001.a.2 or for the "development" or "production" of "digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 0.5 Weighted TeraFLOPS (WT) to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 29. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 4, ECCN 4E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

4E001 "Technology" as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit "technology" according to the General Technology Note for the "development" or "production" of any of the following equipment or "software": a. Equipment specified by ECCN 4A001.a.2; b. "Digital computers" having an 'Adjusted Peak Performance' ('APP') exceeding 0.5 Weighted TeraFLOPS (WT); or c. "software" specified in the License Exception STA paragraph found in the License Exception section of ECCN 4D001 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

■ 30. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5A001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

5A001 Telecommunications systems, equipment, components and accessories, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any commodity in 5A001.b.3, .b.5 or .h to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 31. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5B001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

5B001 Telecommunication test, inspection and production equipment, components and accessories, as follows (See List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship 5B001.a equipment and specially designed components or accessories therefor, specially designed for the "development", "production" or "use" of equipment, functions or features specified by in ECCN 5A001.b.3, .b.5 or .h to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 32. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5D001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

5D001 "Software" as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit 5D001.a "software" specially designed for the "development" or "production" of equipment, functions or features, specified by ECCN 5A001.b.3, .b.5 or .h; and for 5D001.b. for "software" specially designed or modified to support "technology" specified by the STA paragraph in the License Exception section of ECCN 5E001 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 33. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

5E001 "Technology" as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit "technology" according to the General Technology Note for the "development" or "production" of equipment, functions or features specified by 5A001.b.3, .b.5 or .h; or for "software" in 5D001.a that is specified in the STA paragraph in the License Exception section of ECCN 5D001 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 34. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6A001 Acoustic systems, equipment and components, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship commodities in 6A001.a.1.b, 6A001.a.1.e or 6A001.a.2 (except .a.2.a.4) to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 35. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A002 is amended by revising the ECCN heading and by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6A002 Optical sensors or equipment and components therefore, as follows (see List of Items Controlled).

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship any commodity in: 6A002.a.1.a, b. or c; or 6A002.a.2.a in which the photocathode in described in 6A002.a.2.a 3.a is a Multialkali photocathode (e.g., S-20 and S-25) having a luminous sensitivity exceeding 700 µA/lm; or 6A002.a.3; or 6A002.b; or 6A002.c "Direct view" imaging equipment incorporating any of the following:

1. Image intensifier tubes having the characteristics listed in the description of 6A002.a.2.a earlier in this STA paragraph of License Exception section to this ECCN; or
2. "Focal plane arrays" having the characteristics listed in the description of 6A002.a.3; or 6A002.e to any of the eight destinations listed in § 740.20(c)(2) of the EAR

* * * * *

■ 36. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A003 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6A003 Cameras.

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship any commodity in 6A003.b.3 or b.4 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 37. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A004 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6A004 Optical equipment and components, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: Paragraph (c)(2) of License Exception STA may not be used to ship any commodity in 6A004.c or .d to any of the eight destinations in § 740.20(c)(2) of the EAR.

* * * * *

■ 38. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A006 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6A006 “Magnetometers”, “magnetic gradiometers”, “intrinsic magnetic gradiometers”, “underwater electric field sensors”, “compensation systems”, and specially designed components therefor, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any commodity in:

6A006.a.1; or

6A006.a.2; or

6A006.c.1 “Magnetic gradiometers” using multiple “magnetometers” specified by 6A006.a.1 or 6A006.a.2; or 6A006.d or .e (only for underwater receivers incorporating magnetometers specified in 6A006.a.1 or 6A006.a.2) to any of the eight destinations listed in § 740.20(c)(2) of the EAR

* * * * *

■ 39. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A008 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6A008 Radar systems, equipment and assemblies, having any of the following (see List of Items Controlled), and specially designed components therefor.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any commodity in 6A008.d, 6A008.h or 6A008.k to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 40. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6B008 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6B008 Pulse radar cross-section measurement systems having transmit pulse widths of 100 ns or less, and specially designed components therefor.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any commodity in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 41. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6D001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6D001 “Software” specially designed for the “development” or “production” of equipment controlled by 6A004, 6A005, 6A008 or 6B008.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “software” specially designed for the “development” or “production” of equipment specified by ECCNs 6A004.c, 6A004.d, 6A008.d, 6A008.h, 6A008.k, or 6B008 to any of the eight destinations listed in § 740.20(c)(2) of the EAR

* * * * *

■ 42. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6D003 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6D003 Other “software” as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship transmit software in 6D003.a to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 43. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6E001 “Technology” according to the General Technology Note for the “development” of equipment, materials or “software” controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, or 6A998), 6B (except 6B995), 6C (except 6C992 or 6C994), or 6D (except 6D991, 6D992, or 6D993).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any technology in

this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 44. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6E002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

6E002 “Technology” according to the General Technology Note for the “production” of equipment or materials controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (except 6B995) or 6C (except 6C992 or 6C994).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “technology” according to the General Technology Note for the “production” of equipment specified in the STA exclusion paragraphs found in the License Exception sections of by ECCNs 6A001, 6A002, 6A003, 6A004, 6A006, 6A008, or 6B008 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 45. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7D003 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

7D003 Other “software” as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit software in 7D003.a, b, c, d.1 to d.4 or d.7 to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 46. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7E001 is amended by:

■ a. Revising the MT paragraph in the License Requirements section; and

■ b. Adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

7E001 “Technology” according to the General Technology Note for the “development” of equipment or “software”, controlled by 7A (except 7A994), 7B (except 7B994) or 7D (except 7D994).

License Requirements

* * * * *

Controls	Country chart
* * * * *	* *
<p>MT applies to technology for equipment controlled for MT reasons. MT <i>does not</i> apply to “technology” for equipment controlled by 7A008. MT <i>does</i> apply to “technology” for equipment specified in 7A001, 7A002 or 7A003.d that meets or exceeds parameters of 7A101, 7A102 or 7A103.</p>	<p>MT Column 1.</p>
* * * * *	* *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any technology in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 47. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7E002 is amended by:

■ a. Revising the MT paragraph in the License Requirements section; and

■ b. Adding at the end of the License Exception section, a new License

Exception STA paragraph to read as follows:

7E002 “Technology” according to the General Technology Note for the “production” of equipment controlled by 7A (except 7A994) or 7B (except 7B994).

License Requirements

* * * * *

Controls	Country chart
* * * * *	* *
<p>MT applies to technology for equipment controlled for MT reasons. MT <i>does not</i> apply to “technology” for equipment controlled by 7A008. MT <i>does</i> apply to “technology” for equipment specified in 7A001, 7A002 or 7A003.d that meets or exceeds parameters of 7A101, 7A102 or 7A103.</p>	<p>MT Column 1.</p>
* * * * *	* *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any technology in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 48. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8A001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

8A001 Submersible vehicles and surface vessels, as follows (see List of Items Controlled).

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship any commodity in 8A001.b, 8A001.c or 8A001.d to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 49. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8A002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

8A002 Marine systems, equipment and components, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship any commodity in 8A002.b, h, j, o.3, or p to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 50. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8D001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

8D001 “Software” specially designed or modified for the “development”, “production” or “use” of equipment or materials, controlled by 8A (except 8A018 or 8A992), 8B or 8C.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “software” specially designed for the “development” or “production” of equipment in 8A001.b, 8A001.c, 8A001.d, 8A002.b, 8A002.h, 8A002.j, 8A002.o.3 or 8A002.p to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 51. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8D002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

8D002 Specific “software” specially designed or modified for the “development”, “production”, repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction.

* * * * *

License Exceptions

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STA: License Exception STA may not be used to ship or transmit any software in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 52. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

8E001 “Technology” according to the General Technology Note for the “development” or “production” of equipment or materials, controlled by 8A (except 8A018 or 8A992), 8B or 8C.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “technology” according to the General Technology Note for the “development” or “production” of equipment specified by 8A001.b, 8A001.c, 8A001.d, 8A002.b, 8A002.h, 8A002.j, 8A002.o.3 or 8A002.p to any of the eight

destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 53. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8E002 is amended by adding at the end of the License Exception STA paragraph to read as follows:

8E002 Other “technology” as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit technology in 8E002.a to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 54. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9B001 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9B001 Equipment, tooling and fixtures, specially designed for manufacturing gas turbine blades, vanes or tip shroud castings, as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship commodities in 9B001.b to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 55. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9D001 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9D001 “Software” specially designed or modified for the “development” of equipment or “technology”, controlled by 9A (except 9A018, 9A990 or 9A991), 9B (except 9B990 or 9B991) or 9E003.

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “software” specially designed or modified for the “development”

of equipment or “technology”, specified by ECCNs 9B001.b. or 9E003.a.1, 9E003.a.2 to a.5, 9E003.a.8, or 9E003.h to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 56. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9D002 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9D002 “Software” specially designed or modified for the “production” of equipment controlled by 9A (except 9A018, 9A990, or 9A991) or 9B (except 9B990 or 9B991).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit “software” specially designed or modified for the “production” of equipment specified by 9B001.b to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 57. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9D004 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9D004 Other “software” as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit software in 9D004.a and 9D004.c to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 58. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9E001 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9E001 “Technology” according to the General Technology Note for the “development” of equipment or “software”, controlled by 9A001.b, 9A004 to 9A012, 9B (except 9B990 or 9B991), or 9D (except 9D990 or 9D991).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any technology in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 59. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9E002 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9E002 “Technology” according to the General Technology Note for the “production” of equipment controlled by 9A001.b, 9A004 to 9A011 or 9B (except 9B990 or 9B991).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any technology in this entry to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

■ 60. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9E003 is amended by adding at the end of the License Exception STA paragraph to read as follows:

9E003 Other “technology” as follows (see List of Items Controlled).

* * * * *

License Exceptions

* * * * *

STA: License Exception STA may not be used to ship or transmit any technology in 9E003.a.1, 9E003.a.2 to a.5, 9E003.a.8, or 9E003.h to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

* * * * *

Dated: June 8, 2011.

Gary Locke,

Secretary of Commerce.

[FR Doc. 2011-14705 Filed 6-15-11; 8:45 am]

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