List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–134 DUGLE to VOAXA [New]

DUGLE	FIX	(Lat. 37°51′54″ N., long. 120°40′04″ W.)
TATOO	WP	(Lat. 38°19′42″ N., long. 117°16′50″ W.)
JULIK	FIX	(Lat. 39°09′11″ N., long. 112°31′33″ W.)
HERSH	WP	(Lat. 39°30′46″ N., long. 109°59′07″ W.)
VOAXA	FI	(Lat. 39°47′18″ N., long. 106°31′58″ W.)

Q–136 OAL to VOAXA [New]

OAL	VORTAC	(Lat. 38°00′12″ N., long. 117°46′14″ W.)
RUMPS	WP	(Lat. 38°07′10″ N., long. 117°16′15″ W.)
KATTS	WP	(Lat. 38°20′00″ N., long. 116°20′00″ W.)
WEEMN	WP	(Lat. 39°21′57″ N., long. 109°58′03″ W.)
VOAXA	FIX	(Lat. 39°47′18″ N., long. 106°31′58″ W.)

Q–138 ILA to ABR [New]

ILA	VORTAC	(Lat. 39°04′16″ N., long. 122°01′38″ W.)
FIMUV	WP	(Lat. 39°49′05″ N., long. 120°11′17″ W.)
JENSA	WP	(Lat. 40°11′36″ N., long. 119°13′27″ W.)
PUHGI	WP	(Lat. 40°47′38″ N., long. 117°45′32″ W.)
ROOHZ	WP	(Lat. 41°14′12″ N., long. 116°12′58″ W.)
PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
UROCO	WP	(Lat. 42°51′52″ N., long. 110°50′25″ W.)
RICCO	WP	(Lat. 43°48′29″ N., long. 107°02′30″ W.)
MOTLY	WP	(Lat. 44°45′50″ N., long. 102°25′43″ W.)
ABR	VOR/DME	(Lat. 45°25′02″ N., long. 098°22′07″ W.)

Q–121 PARZZ to TOUGH [New]

PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
PIH	VORTAC	(Lat. 42°52′13″ N., long. 112°39′08″ W.)
TOUGH	WP	(Lat. 46°13′58″ N., long. 105°12′52″ W.)

Q–123 PARZZ to COKEE [New]

PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
COKEE	WP	(Lat. 47°22′25″ N., long. 106°51′49″ W.)

Q–125 PARZZ to WLLES [New]

PARZZ	WP	(Lat. 41°36′15″ N., long. 115°02′10″ W.)
WLLES	WP	(Lat. 48°57′33″ N., long. 110°08′18″ W.)

Issued in Washington, DC, December 2, 2010.

Edith V. Parish,

Manager, Airspace Regulation and ATC Procedures Group.

[FR Doc. 2010–31002 Filed 12–8–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 738, 740, 743, 758, and 774

[Docket No. 100923470–0569–01]

RIN 0694–AF03

Export Control Modernization: Strategic Trade Authorization License Exception

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add a new license exception to the Export Administration Regulations (EAR). The exception would allow exports, reexports and transfers (in-country) of specified items to destinations that pose little risk of unauthorized use of those items. To provide assurance against diversion to unauthorized destinations, transactions under this license exception would be subject to notification, destination control statement and consignee statement requirements. This proposed 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 announced by the President in August 2009.

DATES: Comments must be received by BIS no later than February 7, 2011.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (*http://www.regulations.gov*). The regulations.gov ID for this rule is: BIS–2010–0038. Comments may also be

submitted via e-mail to *publiccomments.bis.doc.gov* or on paper to Regulatory Policy Division, Bureau of Industry and Security, Room 2705, U.S. Department of Commerce, Washington, DC 20230. Please refer to RIN 0694–AF03 in all comments and in the subject line of e-mail comments.

FOR FURTHER INFORMATION CONTACT: William Arvin, Regulatory Policy Division, Bureau of Industry and Security, *warvin@bis.doc.gov* or 202–482–2440.

SUPPLEMENTARY INFORMATION:

Background

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.,* October 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-lays-foundation-a-new-export-control-system-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 in each of the export control system's four component areas 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 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 walls around the most sensitive items in order to enhance national security.

A New License Exception To Begin a More Precise Focus

This proposed rule would implement one part of the reform initiative. It would revise licensing policies by creating a new license exception for transactions involving certain items subject to the Export Administration Regulations (EAR) to certain destinations. The new License Exception Strategic Trade Authorization (STA) would be in § 740.20 of the EAR.

The new license exception would authorize exports, reexports and transfers (in-country) to destinations that pose little risk of unauthorized uses, and for which U.S. national security and foreign policy justify authorizing transactions without the delay and expense of obtaining an export license. To provide safeguards against possible reexports to destinations that are not authorized under License Exception STA, where there is a greater risk of diversion to unauthorized end-uses, the license exception would also impose certain notification, destination control statement and consignee statement requirements. Use of this license exception would be optional. Parties would be free to use other license exceptions that would authorize a planned transaction or to apply for a license if they prefer to do so.

This license exception would be a step in the President's Export Control Reform Initiative. With its associated specific safeguards, this license exception would further focus export controls on the most critical national security priorities. The Administration will continue to work on other parts of the initiative, including implementing the control list criteria and transitioning the Commerce Control List (CCL) into a tiered structure to further target dual-use controls on the most sensitive items.

As described in the Notice of Inquiry the Department of Commerce entitled "Request for Public Comments on How the Descriptions of Items on the Commerce Control List Could be (1) More Clear and 'Positive' and (2) 'Tiered' based on Their (a) Significance and (b) Availability Outside of Certain Countries" issued simultaneously with this proposed rule, the Administration is continuing its review of items on the CCL to determine which paragraphs or subparagraphs within each Export Control Classification Number (ECCN) should be identified as within the scope of Tier 1, Tier 2, or Tier 3. Any items the Administration ultimately determines to be within the scope of Tier 1—*i.e.,* items that are critical to maintaining a military or intelligence advantage for the United States and almost exclusively available from the United States—will not be within the scope of License Exception STA. In particular, the Administration is focusing on whether items within the scope of the following ECCNs would, in whole or in part, not be eligible for License Exception STA: 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. The Administration's focus on these ECCNs includes a focus on whether the technology controls related to such items and other items, such as in ECCNs 9E003, 6E001 and 6E002, meet, in whole or in part, the Tier 1 criteria.

Specific License Exception Provisions

Scope

The license exception would apply 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, would not be eligible for License Exception STA.

Items on the Commerce Control List that are subject to the short supply (SS), surreptitious listening (SL), missile technology (MT) or chemical weapons (CW) reasons for control would not be eligible for License Exception STA because of various requirements imposed by statutes, treaties or U.S. implementation of international commitments. Items in ECCNs 0A981 and 0A983 also would not be eligible. Those two ECCNs apply to equipment designed for the execution of human beings and specially designed implements of torture. The human rights concerns associated with those items are sufficiently great to justify precluding use of License Exception STA. License Exception STA would also not affect the requirements for License Exception ENC in § 740.17 of the EAR.

License Exception STA

This license exception would encompass three different authorizations, based on the reason(s) for control underlying the license requirements that would apply to the item in the particular transaction at issue, the destination, the sensitivity of the item and the end-use. One authorization would allow items subject to any (or all) of seven reasons for control to go to 37 destinations. Another authorization would allow less sensitive items subject to only national security reasons for control to go to two additional destinations. The third authorization would allow less sensitive items subject to only national security reasons for control to go to 125 additional destinations for civil end-uses. National security-controlled items that are ineligible for the last two authorizations would be identified by the new "STA exclusion paragraphs" in the "License Exceptions" sections of 50 ECCN entries on the Commerce Control List. Thus, the STA exclusion serves the opposite function of a typical list-based license exception paragraph, such as those setting forth license exceptions LVS (§ 740.3) and GBS (§ 740.4), which identifies items that are eligible for a license exception.

Authorization for Items Controlled for Multiple Reasons to 37 Countries

If the only reason(s) for control that impose(s) a license requirement on the *transaction* is (are) national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); encryption items (EI); crime control (CC) (but not ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982); or significant items (SI), exports, reexports and transfers (in-country) to 37 destinations would be authorized. Two of the crime control ECCNs excluded from this authorization (0A981 and 0A983) involve human rights concerns of sufficient magnitude to justify exclusion. The other three excluded crime control ECCNs would continue to require a license to all destinations other than Canada.

Authorization for Less Sensitive National Security Items to 2 Additional Countries

If the only reason for control that imposes a license requirement on the *transaction* is national security (NS) and the item is not designated in the STA sensitive items exclusion paragraph in its ECCN, two destinations in addition to the 37 noted above would be authorized. The STA exclusion paragraphs closely track the Sensitive List of the Wassenaar Arrangement on Export Controls Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). This rule would add such paragraphs to 50 ECCNs.

Authorization for Less Sensitive National Security Items for Civil End-uses in 125 Additional Countries

If the only reason for control that imposes a license requirement on the *transaction* is national security (NS), the item that is the subject of the transaction is not designated by the STA exclusion paragraph in its ECCN and the item is being exported, reexported or transferred (in-country) for a civil end-use, 125 additional destinations would be authorized. Civil end-use is defined as an end-use that is not a military end-use as defined by § 744.21(f) or a proliferation activity described and prohibited by part 744 of the EAR.

Limitations on Subsequent Transactions That Apply to License Exception STA

Proposed § 740.20 would preclude use of License Exception APR paragraph (a) (§ 740.16(a)) for items that have been shipped pursuant to this License Exception STA.

Conditions That Apply to License Exception STA

Proposed § 740.20 would impose three conditions that would apply to transactions made pursuant to License Exception STA.

(1) Exporters would be required to furnish the consignee with the ECCN that applies to each item transferred under License Exception STA.

(2) Reexporters and transferors would be required to provide subsequent consignees with the ECCN provided by the exporter or prior reexporters or transferors.

(3) Exporters, reexporters and transferors would be required to 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 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 paragraph (a) of License Exception APR for the items;
- Agrees not to export, reexport or transfer these items to any destination, enduse or end-user prohibited by the EAR;
- Agrees that, for items subject to a civil end-use restriction, the only end-use of the items will be civil; and
- Agrees to provide copies of this document and all other export, reexport or transfer record (*i.e.,* the documents described in part 762 of the EAR) relevant to the items referenced in this statement to the U.S. Government as set forth in § 762.7.

(4) Exporters, reexporters and transferors using License Exception STA would be required to use a special destination control statement that applies to shipments made pursuant to License Exception STA. Like the destination control statement requirement that currently applies to most exports of items listed in specific entries on the Commerce Control List, the destination control statement that applies to License Exception STA would have to be placed on documents that accompany the shipment. Unlike the current destination control statement, this new destination control statement would apply to reexports and transfers (in-country) abroad. In addition to noting that the shipment is subject to the EAR and that any further disposition must be in accordance with those regulations, this new destination control statement would include the ECCN applicable to each item, explicitly state that the shipment is being made pursuant to License Exception STA and explicitly state that subsequent exports or reexports under paragraph (a) of License Exception APR are prohibited.

Addition of License Exception STA Exclusion Paragraphs to 50 ECCNs

As noted above, this rule adds such paragraphs to 50 ECCNs. The STA exclusion paragraphs, which closely track the Wassenaar Arrangement Sensitive List, designate certain items that would not be eligible for License Exception STA other than for the 37 destinations set forth in proposed § 740.20(c)(1).

Incidental Changes Necessary to Implement License Exception STA

Cross Reference to Wassenaar Arrangement Reporting Requirements

New § 740.20 would cross reference the Wassenaar Arrangement reporting requirements in § 743.1 of the EAR because Wassenaar Arrangement Sensitive List items exported pursuant to License Exception STA would be 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 proposed rule would revise 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)(i) 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)(i) of that section explains the "License Exception" paragraph of an ECCN. This proposed rule would revise 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 exclusion paragraphs signal that two authorizing paragraphs of License Exception STA 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 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 the 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 proposed rule would add License Exception STA to § 743.1.

Revision to § 758.6

Section 758.6 of the EAR imposes a destination control statement that applies to exports of all items subject to the EAR that are not classified as EAR99, *i.e.,* to all items that are not controlled under a specific entry on the Commerce Control List. This rule would add language to § 758.6 to alert readers that transactions authorized by License Exception STA are subject to the destination control statement found in § 740.20(d)(3).

Rulemaking Requirements

1. This rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

The proposed rule would affect 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, if implemented in final form, would have no material impact on the burden imposed by that collection because this rule would, in effect, merely replace 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 proposed requirement for exporters, reexporters and transferors to furnish ECCNs, to prepare and furnish a revised destination control statement and to obtain a statement of assurance from the consignee before shipping pursuant to the license exception that would be created by this rule. BIS expects the requirements are likely to increase the burden associated with control number 0694–0137 by about 3,200 hours (3,200 transactions @ 1 hour 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 Regulations of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities.

Number of Small Entities

Currently, BIS does not collect data on the size of entities that currently apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be impacted by this rule, it does acknowledge that this rule will impact some unknown number.

Economic Impact

BIS believes that this rule would reduce the costs to small entities because it would provide an alternative to existing license requirements. Small entities (and all other entities) would be able to choose to: (1) Comply with the safeguard provisions of the license exception that would be created by this rule; (2) continue to apply for licenses before engaging in the transactions that would be affected by this rule; or (3) use any other license exception in the EAR that authorizes a particular transaction.

BIS believes that in many instances, small entities will elect to comply with the safeguard provisions and use the license exception that would be created by this rule because they are likely to find doing so less costly than the requirements of applying for and obtaining an export license as is currently required for most transactions that would be affected by this rule.

Obtaining an export license requires submitting a detailed product description and the names, addresses and contact information about most parties to the transaction. Moreover, the applicant is unable to engage in the transaction until it receives approval from the government to do so and thus incurs the costs associated with uncertainty and delay before it can make a sale. In many instances, approval is granted only with conditions that may impose notification requirements or end-use restrictions. In some instances, the applicant must also obtain an import or end-user certificate from its proposed consignee, a document that the consignee must obtain from its government. In other instances, the applicant must obtain a written statement from the proposed consignee describing the transactions and providing assurance that it will not reship the items in violation of the EAR.

Under the license exception proposed in this rule, the party wishing to ship the item need not contact BIS prior to the shipment for export control purposes. Instead, that party would inform its proposed consignee of the description of the items being exported, the ECCN under which they are classified and a standard set of restrictions on further shipments of the

items. The party may proceed with the transaction once it has obtained from its consignee a statement that includes: (1) A written acknowledgement of the receipt of that information; (2) a commitment to comply with the EAR; and (3) a commitment to furnish information about the transaction to the United States Government upon request.

Exporters of certain items that are subject to national security export controls would be required to report the transaction to BIS after the export takes place if the item is exported to a destination that is not a member of the Wassenaar Arrangement. However, currently such exports must be made pursuant to either an existing license exception or as authorized by a license. If the export is made pursuant to an existing license exception, it is already subject to this post-shipment reporting requirement so exporters who switch from an existing license exception to this new license exception would incur no new or increased burden as a result of this post-shipment reporting requirement. If an export currently is made as authorized, the exporter who elects to use this new license exception would be exchanging the burden of applying for a license and waiting to learn the results for the burden of submitting a post-shipment report.

Conclusion

BIS is unable to determine whether there are a substantial number of small entities affected by this rule. However, the effect of this rule on all entities is not likely to be a significant economic impact. In some instances, parties shipping under the license exception that this rule would create would be required to obtain documents from their consignees that they are not currently required to obtain. In some instances, parties shipping under the license exception that this rule would create would be required to provide a post-shipment report that they are not currently required to provide. However, any increase in costs arising from those two requirements is likely to be offset by the fact that parties who elect to use License Exception STA would no longer be required to submit detailed information to the government in advance and wait for authorization before proceeding. Moreover the fact that parties may elect to: (1) Use the new License Exception STA that would be created by this rule, (2) use any existing license exception that authorizes the transaction, or (3) comply with existing license requirements provides substantial assurance that the safeguards requirements of the new license exception would not be applied except in instances in which the party that wishes to transfer the items believes that those safeguard procedures impose a lesser cost than does any available existing license exception or the existing license procedure.

For the reasons above, the Chief Counsel for Regulation certified that this rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects

15 CFR Parts 732, 740, and 758

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 proposed to be 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)(i) and (ii) 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. Add § 740.20 to read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

(a) *Introduction.* This section authorizes exports, reexports and transfers (in-country) in lieu of a license that would otherwise be required pursuant to part 742 of the EAR. In this section, the term "transaction" means exports, reexports *and* transfers (in-country).

(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 *transaction* 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.* (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 transaction involving an item controlled under ECCNs 0A981 or 0A983.

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

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

(c) *Authorizing paragraphs*—(1) *Transactions subject to multiple reasons for control.* Transactions 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); encryption items (EI); crime control (CC), but not ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982; and/or significant items (SI) are authorized for destinations in: 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, Ukraine and the United Kingdom.

(2) *Transactions subject to national security controls of lesser sensitivity.* Transactions 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 exclusion" paragraph in the ECCN that lists the item are authorized if:

(i) The destination is in Albania or Israel; *or*

(ii) The item is being exported, reexported or transferred (in-country) *for a civil end-use* and the destination is in Algeria, Andorra, Antigua and Barbuda, Armenia, Aruba, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Congo (Republic of the), Costa Rica, Djibouti, Dominica, Dominican Republic, East Timor, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Gabon, Gambia (The), Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hong Kong, India, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kosovo, Kuwait, Kyrgyzstan, Laos, Lesotho, Liechtenstein, Macedonia (Former Yugoslav Republic), Madagascar, Malawi, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nauru, Nepal, Netherlands Antilles, Nicaragua, Niger, Nigeria, Oman, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Rwanda, Saint Kitts & Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome & Principe, Saudi Arabia, Senegal, Seychelles, Singapore, Solomon Islands, South Africa, Surinam, Swaziland, Taiwan, Tajikistan, Tanzania, Thailand, Togo, Tonga, Trinidad & Tobago, Tunisia, Turkmenistan, Tuvalu, Uruguay, Uzbekistan, Vanuatu, Vatican City, Western Sahara and Zambia. For purposes of this section, civil end-use means an end-use other than a military end-use as defined in section 744.21(f) or a proliferation activity described and prohibited by part 744 of the EAR.

(d) *Conditions*—(1) *Requirement to furnish Export Control Classification Number.* (i) The exporter must furnish to the consignee the Export Control Classification Number of each item to be shipped pursuant to this section.

(ii) A reexporter or transferor must furnish to subsequent consignees the Export Control Classification Number, provided by the exporter or a prior reexporter or transferor, of each item to be shipped pursuant to this section.

(2) *Prior Consignee Statement.* The exporter, reexporter or 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.

[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 paragraph (a) of License Exception APR (15 CFR 740.16(a));

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

(v) Agrees that the items shipped pursuant to § 740.20(c)(1)(ii) will only be used in a civil end-use; and

(vi) Agrees to provide copies of this document and all other export, reexport or transfer record (*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) *Destination Control Statement.* The Destination Control Statement (DCS) must be entered by the exporter, reexporter or transferor on the invoice and on any other "export control document" that accompanies the shipment from its point of origin to the ultimate consignee or end-user for all export, reexports and transfers (in-country) made pursuant to License Exception STA. The person responsible for preparation of those documents is responsible for entry of the DCS. The DCS is required for all exports, reexports and transfers (in-country) made pursuant to this section. At a minimum, the DCS must state:

[INSERT NAME AND APPLICABLE ECCN FOR EACH ITEM INCLUDED IN THE SHIPMENT]

These commodities, technology or software are subject to the Export Administration Regulations (15 CFR 730–774) and were exported from the United States or reexported or transferred in accordance with License Exception Strategic Trade Authorization (STA). Any further reexport or transfer must be in accordance with the Export Administration Regulations. Paragraph (a) of License Exception APR (15 CFR 740.16(a)), which permits reexports from certain countries without additional U.S. Government authorization, may not be used as an authorization for any transactions involving these items.

(e) *Limitation on subsequent transactions.* If an item 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 paragraph (a) of License Exception APR (§ 740.16(a) of the EAR).

(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]

7. 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).

8. 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 758—[AMENDED]

9. The authority citation for part 758 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 758.6 is amended by adding a sentence at the end of the section to read as follows:

§ 758.6 Destination control statement.

* * * In addition to the destination control statement in this section, the destination control statement requirements of § 740.20(d)(3) of the EAR apply to exports, reexports and transfers (in-country) made pursuant to License Exception Strategic Trade Authorization (STA).

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 section, a new 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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in this entry.

* * * * *

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 section, a new 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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in this entry.

* * * * *

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 section, a new 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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 1C007.c or d.

* * * * *

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 section, a new License Exception STA paragraph to read as follows:

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

* * * * *

License Exceptions

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 1C010.c or d.

* * * * *

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 section, a new License Exception STA paragraph to read as follows:

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

* * * * *

License Exceptions

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in this entry.

* * * * *

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 section, a new 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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "software" for the "development" of organic "matrix", metal "matrix" or carbon "matrix" laminates or "composites" specified ECCN 1A002.

* * * * *

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 section, a new 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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 1E002.e or .f.

* * * * *

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 section, a new 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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

* * * * *

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

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 3A002.g.1.

* * * * *

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

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 3B001.a.2.

* * * * *

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

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "software" specially designed for the "development" or "production" of equipment specified by 3A002.g.1 or 3B001.a.2.

* * * * *

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

* * * * *

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

* * * * *

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

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any commodity in 4A001.a.2.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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).

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any commodity in 5A001.b.3 or b.5

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for 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 or b.5.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for 5D001.a for "software" specially designed for the "development" or "production" of equipment, functions or features, specified by ECCN 5A001.b.3 or .b.5; 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.

* * * * *

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

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for commodities in 6A001.a.1.b, 6A001.a.1.e or 6A001.a.2.

* * * * *

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

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for:

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.2.b; 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 6A002.a.2.b; or

2. "Focal plane arrays" having the characteristics listed in the description of 6A002.a.3; or

6A002.e.

* * * * *

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

* * * * *

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for: 6A003.b.3 and b.4.

* * * * *

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 (§ 740.20(c)(2)) of the EAR may not be used for any commodity in 6A004.c and d.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for 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 6.A006.a.2; or

6A006.d.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any commodity in 6A008.d, 6A008.h, 6A008.k or 6A008.l.3.

* * * * *

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: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any commodity in this entry.

* * * * *

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.

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "software" specially designed for the "development" or "production" of equipment specified by ECCNs 6A004.c, 6A004.d, 6A008.d, 6A008.h, 6A008.k, 6A008.1.3, or 6B008.

* * * * *

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).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for software in 6D003.a.

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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).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

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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

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

* * * * *

45. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 7, ECCN 7D002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

7D002 "Source code" for the "use" of any inertial navigation equipment, including inertial equipment not controlled by 7A003 or 7A004, or Attitude and Heading Reference Systems ('AHRS').

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any software in this entry.

* * * * *

46. 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

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for software in 7D003.a, b, c, d.1 to d.4 or d.7.

* * * * *

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

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

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

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

* * * * *

49. 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).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any commodity in 8A001.b, 8A001.c or 8A001.d.

* * * * *

50. 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).

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License Exceptions

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

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51. 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.

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

* * * * *

52. 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.

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any software in this entire entry.

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53. 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

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

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54. 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 section, a new License Exception STA paragraph to read as follows:

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

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for technology in 8E002.a.

* * * * *

55. 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 section, a new 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).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for commodities in 9B001.b

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56. 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 section, a new 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

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "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.

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57. 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 section, a new 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

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for "software" specially designed or modified for the "production" of equipment specified by 9B001.b.

* * * * *

58. 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 section, a new License Exception STA paragraph to read as follows:

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

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for software in 9D004.a and 9D004.c.

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59. 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 section, a new 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).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

* * * * *

60. 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 section, a new 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).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

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61. 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 section, a new License Exception STA paragraph to read as follows:

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

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License Exceptions

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

* * * * *

Dated: December 6, 2010.

Gary Locke,

Secretary of Commerce.

[FR Doc. 2010–30968 Filed 12–8–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 101112562–0577–01]

Commerce Control List: Revising Descriptions of Items and Foreign Availability

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advance notice proposed rulemaking.

SUMMARY: As part of the President's export control reform initiative, the Bureau of Industry and Security (BIS) seeks public comments on how the descriptions of items controlled on the Commerce Control List (CCL) of the Export Administration Regulations (EAR) could be more clear and positive and "tiered" in a manner consistent with the control criteria the Administration has developed as part of the reform effort. The request for comments on how items on the CCL could be tiered includes a request for comments on the degree to which a controlled item provides the United States with a critical, substantial, or significant military or intelligence advantage; and the availability of the item outside certain groups of countries.

DATES: Comments must be received by February 7, 2011.

ADDRESSES: Written comments on this notice of inquiry may be sent by e-mail to *publiccomments@bis.doc.gov.* Include "Notice of Inquiry—CCL" in the subject line of the message. Comments may also be submitted by mail or hand delivery to Timothy Mooney, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 1401 Constitution Avenue, NW., Room 2705, Washington, DC 20230, *ATTN:* Notice of Inquiry—CCL.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Regulatory Policy Division, Bureau of Industry and Security, *Telephone:* (202) 482–2440, *E-mail: tmooney@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

A core task of the Administration's Export Control Reform Initiative is to enhance national security by reviewing and revising, as necessary and to the extent permitted by law and regime obligations, the lists of items (*i.e.,* commodities, software, and technology) controlled for export and reexport so that they (1) are clearer and more "positive" in nature and (2) can more easily be screened into three tiers based upon a set of criteria. The Administration has developed a three-tiered set of criteria to help determine whether a license should be required or a license exception should be available to allow license-free export, reexport, or transfer (in-country) of a given item, with appropriate conditions, to various destinations. The three-tiered set of criteria has two primary elements—(a) the degree to which an item provides the United States with a military or intelligence advantage and (b) the availability of the item outside the United States, its close allies and multilateral export control regime partners.

1. Request for Comments on How To Make the CCL More Clear and "Positive"

a. Background—The Current Commerce Control List and the Reform Effort

The Commerce Control List (CCL), which is in Supplement No. 1 to part 774 of the Export Administration Regulations (EAR) (15 CFR part 774), is the list of items for which BIS controls the export, reexport, and transfer (in-country). The CCL's ten categories identify controlled items by five-character Export Control Classification Numbers (ECCNs). Items that are not listed on the CCL but are still "subject to the EAR" are designated as "EAR99" items.

Most items on the CCL are controlled in accordance with the United States' commitments to the four multilateral export control regimes, *i.e.,* the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers Group. Members of the regimes have the discretion to clarify the descriptions of regime-controlled items on their domestic control lists.

BIS also has items on the CCL that are controlled unilaterally by the United States, and thus generally has the authority to clarify the descriptions of those items. For purposes of this notice, a unilaterally controlled item is any item listed on the CCL that is not listed on a control list of one of the four multilateral export control regimes. These unilaterally controlled items are typically listed in the "900" series on the CCL, such as ECCNs 1C998 or 9A980, but many multilaterally controlled items (i.e., items listed in the ECCNs in the "000", "100", "200" and "300" series) also include reasons for control that are unilateral, such as an item in the "000" series that is controlled for national