

of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057-3356; phone: 425-917-6447; fax: 425-917-6590; email: wayne.lockett@faa.gov.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; email me.boecom@boeing.com; Internet <https://www.myboeingfleet.com>. You may also review the referenced service information in the docket at www.regulations.gov (refer to Docket No. FAA-2012-0336). You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057-3356. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on April 5, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012-9177 Filed 4-16-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 110331231-1608-02]

RIN 0694-AF19

Revisions to Authorization Validated End-User Provisions: Requirement for Notice of Export, Reexport, or Transfer (In-Country) and Clarification Regarding Termination of Conditions on VEU Authorizations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) proposes to amend the Export Administration Regulations (EAR) by adding a requirement for persons shipping under

Authorization Validated End-User (VEU) to send written notice of such shipments to the recipient VEU. BIS further proposes to amend the EAR to clarify that when items subject to item-specific conditions under Authorization VEU no longer require a license for export or reexport or become eligible for shipment under a license exception, as set forth in the EAR, VEU's are no longer bound by the conditions associated with such items.

DATES: Comments must be received by no later than June 18, 2012.

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-2012-0005. Comments may also be submitted via email to publiccomments@bis.doc.gov or on paper to Regulatory Policy Division, Bureau of Industry and Security, Room 2099B, U.S. Department of Commerce, 14th St. and Pennsylvania Ave. NW., Washington, DC 20230. Please refer to RIN 0694-AF19 in all comments and in the subject line of email comments.

FOR FURTHER INFORMATION CONTACT: Karen H. Nies-Vogel, Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th St. and Pennsylvania Avenue NW., Washington, DC 20230; by telephone: (202) 482-5991, fax: (202) 482-3911, or email: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

Authorization Validated End-User (VEU)

BIS amended the EAR in a final rule on June 19, 2007 (72 FR 33646), to create a new authorization for "validated end-users" (VEUs) located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license.

VEUs may obtain eligible items that are on the Commerce Control List, which are identified in Supplement No. 7 to part 748 of the EAR, without having to wait for their suppliers to obtain export licenses from BIS. Eligible items may include commodities, software, and technology, except those controlled for missile technology or crime control reasons.

The VEU's listed in Supplement No. 7 to part 748 of the EAR were reviewed and approved by the U.S. Government in accordance with the provisions of section 748.15 and Supplement Nos. 8 and 9 to part 748 of the EAR. The End-User Review Committee (ERC), composed of representatives from the

Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for administering the VEU program. A unanimous vote by the ERC is required to authorize VEU status for a candidate or to add any eligible items to an existing authorization. A majority vote of the ERC is required to remove VEU authorization or to remove eligible items from an existing authorization.

In addition to U.S. exporters, Authorization VEU may be used in accordance with the provisions of the EAR by foreign reexporters and by persons transferring in-country. VEU's are subject to regular reviews by the U.S. Government to ensure that items shipped under Authorization VEU are used for civilian purposes. In addition, VEU's are subject to on-site reviews as warranted.

As of the date of this rule, pursuant to section 748.15(b) of the EAR, VEU's are located in the People's Republic of China (PRC) and India.

Amendments to Section 748.15 of the EAR

Prior Notification Requirement

Through this rule, BIS proposes amending the EAR by adding paragraph (g)—Notification requirement—to section 748.15—Authorization Validated End-User. The new paragraph (g) would require persons exporting, reexporting, or transferring (in-country) under Authorization VEU to send written notification to the recipient VEU with details about their shipment within seven days of the shipment. Details that would be required in the notification include a list of the contents of the shipment and the quantity of such items that have been or will be shipped to the respective VEU's under Authorization VEU, as well as a list of the applicable Export Control Classification Numbers (ECCNs) for items included in the shipment under Authorization VEU.

The purpose of this proposed new requirement is to enhance the ability of VEU's to comply with the requirements of the VEU program. This amendment to the EAR is not the result of non-compliance with VEU requirements by existing VEU's. Rather, BIS proposes making this change at the request of VEU's. Some VEU's have informed BIS that compliance is challenging when they receive items under multiple authorizations, but are unable to determine which authorization is used for each shipment, and thus determine which set of conditions applies to the items received in each shipment. Because items may be shipped to VEU's under different forms of authorization

(e.g., individual licenses, Special Comprehensive Licenses, and Authorization VEU), VEUs may receive items classified under the same ECCN but shipped under more than one form of authorization. In addition, each form of authorization may be accompanied by different conditions with which end-users must comply. With this amendment to the EAR, BIS intends to improve the ability of VEUs to determine which authorization their suppliers utilized. This will enable VEUs to better determine which set of conditions governs their use of the received item(s) more efficiently, thereby increasing the VEUs' compliance.

BIS is not mandating the form of communication (e.g., fax, email, letter) for the notification, but does require that it be in a written format. As noted above, the notification must be conveyed to the VEU within seven calendar days of shipment to the VEU. Exporters, reexporters and VEUs are required to maintain the notifications they receive pursuant to their recordkeeping requirements.

Clarification Regarding Termination of Conditions on VEU Authorizations

In addition, BIS proposes amending section 748.15—Authorization Validated End-User—by adding paragraph (h)—Termination of Conditions on VEU Authorizations. The new paragraph (h) clarifies that VEUs who are subject to item-specific conditions and have received items subject to such conditions under Authorization VEU would no longer be bound by the conditions associated with the items if the items no longer require a license for export or reexport to the PRC or India (depending on the VEU's location) or become eligible for shipment under a license exception to the destination. This proposed amendment would be the same, in effect, as existing section 750.7(i) (Terminating license conditions), which generally applies to exporters and reexporters who have shipped under license. In addition, a new paragraph (i) is added to section 748.15 to remind exporters that records requirements for shipments that were made under Authorization VEU prior to the removal of a license requirement or the availability of a license exception remain subject to the review requirements of paragraph (f)(2) of section 748.15 on and after the date that the license requirement was removed or the license exception became applicable.

Since August 21, 2001, the Export Administration Act has been in lapse

and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended most recently by the Notice of August 12, 2011 (76 FR 50661, August 16, 2011), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

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

2. Notwithstanding any other provisions of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This proposed rule involves information collections previously approved by the OMB under control number 0694-0088, "Multi-Purpose Application", which carries a burden hour estimate of 45.8 minutes to prepare and submit form B18-748, which involves requirements in connection with Authorization VEU. BIS revised the burden hour estimate shown for the 0694-0088 collection by two minutes to include the notification requirement proposed in this rule. This revision does not represent a significant increase in burden hours for submitting information under the collection. Also, the notification requirement proposed in this rule is not expected to result in an increase in license applications submitted to BIS should the agency issue the amendment to the EAR in a final rule subsequent to the close of the proposed rule comment period.

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

This proposed rule would affect exporters and reexporters shipping to VEUs, as well as persons making in-country transfers to VEUs, under Authorization VEU. Currently, BIS does not collect data on the size of entities that export, reexport, or transfer in-country under Authorization VEU. Although BIS is unable to estimate the number of small entities that would be affected by this rule, it does acknowledge that this rule will impact some unknown number.

Economic Impact

This proposed rule requires exporters and reexporters shipping to VEUs, as well as persons making in-country transfers to VEUs, under Authorization VEU to provide written notification to approved VEUs about VEU shipments. It would not require extensive efforts by exporters or reexporters, or persons making in-country transfers. The proposed action is designed to coincide with other standard communications that exporters and reexporters, regardless of size, provide to their customers or parties to the transaction regarding, among other things, the description of items, sales terms, and logistics. Specifically, this rule would require only that exporters and reexporters shipping eligible items under Authorization VEU to the finite number of approved VEUs at their "Eligible Destinations" in the PRC and India ensure that those VEUs are notified in writing within seven days of shipping such items under the Authorization. Practically, BIS does not anticipate that any significant amount of time or other resources would be used to perform the proposed required action. BIS estimates that the notification requirement proposed in this rule will increase the burden hour estimate by two minutes per respondent. Also, the notification requirement proposed in this rule is not expected to result in an increase in license applications submitted to BIS should the agency issue the amendment to the EAR in a final rule subsequent to the close of the proposed rule comment period.

The proposed requirement is intended to facilitate compliance with the EAR in general and Authorization VEU in particular. The proposed requirement

will facilitate the VEUs' ability to comply with the specific conditions placed on their qualifications as VEUs and distinguish those conditions from conditions placed on items received under other authorizations. This will enhance accountability and ensuring effective control of items shipped under Authorization VEU and other authorizations.

In addition, this action is likely to enhance the attractiveness of shipping "Eligible Items" under Authorization VEU for exporters and reexporters, or persons making in-country transfers. This potential benefit outweighs any perceived inconvenience to exporters and reexporters, or persons making in-country transfers, who ship under Authorization VEU, as they retain the option to ship under an individual validated license.

In this rule, BIS also proposes to amend section 748.15—Authorization Validated End-User—by adding paragraph (h)—Termination of Conditions on VEU Authorizations. This proposed amendment would clarify that VEUs who are subject to item-specific conditions and have received items subject to such conditions under Authorization VEU would no longer be bound by the conditions associated with the items if the items no longer require a license for export or reexport to the PRC or India (depending on the VEU's location) or become eligible for shipment under a license exception to the destination. This proposed amendment would be the same, in effect, as existing section 750.7(i) (Terminating license conditions), which generally applies to exporters and reexporters who have shipped under license.

For the reasons stated, the Chief Counsel for Regulation 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.

List of Subjects in 15 CFR Part 748

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

Accordingly, part 748 of the Export Administration Regulations (15 CFR parts 730–774) is proposed to be amended as follows:

PART 748—[AMENDED]

1. The authority citation for 15 CFR part 748 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, 2011 (76 FR 50661 (August 16, 2011)).

2. Section 748.15 is amended by adding paragraphs (g), (h) and (i) to read as follows:

§ 748.15 Authorization Validated End-User (VEU).

* * * * *

(g) Notification requirement.

Exporters and reexporters shipping under Authorization VEU and persons transferring (in-country) under Authorization VEU are required to provide the validated end-users to whom they are shipping notice of the shipment. Such notification must be conveyed to the VEU in writing and must include a list of the contents of the shipment and a list of the ECCNs under which the items in the shipment are classified, as well as a statement that the shipment is, will be, or was made pursuant to Authorization VEU. Notification must be made within seven calendar days of the export, reexport or transfer (in-country) to the VEU. Exporters, reexporters and VEUs are required to maintain the notifications they receive in accordance with their recordkeeping requirements.

(h) *Termination of Conditions on VEU Authorizations.* VEUs that are subject to item-specific conditions and have received items subject to such conditions under Authorization VEU are no longer bound by the conditions associated with the items if the items no longer require a license for export or reexport to the PRC or India, as applicable, or become eligible for shipment under a license exception to the destination. Termination of VEU conditions does not relieve a validated end-user of its responsibility for violations that occurred prior to the availability of a license exception or prior to the removal of license requirements.

(i) *Records.* Records of items that were shipped under Authorization VEU prior to the removal of a license requirement or the availability of a license exception remain subject to the review requirements of paragraph (f)(2) of this section on and after the date that the license requirement was removed or the license exception became applicable.

Dated: April 10, 2012.

Kevin J. Wolf,
Assistant Secretary for Export Administration.

[FR Doc. 2012–9237 Filed 4–16–12; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 46

[REG–136008–11]

RIN 1545–BK59

Fees on Health Insurance Policies and Self-Insured Plans for the Patient-Centered Outcomes Research Trust Fund

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that implement and provide guidance on the fees imposed by the Patient Protection and Affordable Care Act on issuers of certain health insurance policies and plan sponsors of certain self-insured health plans to fund the Patient-Centered Outcomes Research Trust Fund. These proposed regulations affect the issuers and plan sponsors that are directed to pay those fees. This document also contains a request for comments and provides notice of public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by July 16, 2012. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for Wednesday, August 8, 2012, at 10 a.m., must be received by July 30, 2012.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–136008–11), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–136008–11), Courier's Desk Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the IRS Internet site via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–136008–11). The public hearing will be held in the IRS Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Rebecca L. Baxter at (202) 622–3970 (regarding health insurance policies) or R. Lisa Mojiri-Azad at (202) 622–6080 (regarding self-insured health arrangements); concerning the submission of comments or the public hearing, Oluwafunmilayo (Funmi)

RECORD OF PUBLIC COMMENTS

NOTICE OF PROPOSED RULEMAKING: *Revisions to Authorization Validated End-User Provisions: Requirement for Notice of Export, Reexport, or Transfer (In-country) and Clarification Regarding Termination of Conditions on VEU Authorizations, 77 FR 22689 (April 17, 2012)*

Comments due June 18, 2012

No.	Source	Signer(s) of Comment	Date	Number of Pages
1.	ECWG	Christopher Szymanski Bertrand-Marc Allen	May 25, 2012	5
2.	The Boeing Company	Stephanie A. Reuer	June 13	2

May 25, 2012

Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
Room 2099B
14th St. and Pennsylvania Ave. NW.
Washington, DC 20230

Sent Via Email to:
publiccomments@bis.doc.gov

Re: Request for Public Comment on the Proposed Rule (Federal Register Notice on April 17, 2012): Revisions to Authorization Validated End-User Provisions (RIN 0694-AF19)

Dear Sir or Madam:

The Export Compliance Working Group (ECWG) of the American Chamber of Commerce in China (AmCham China) and American Chamber of Commerce in Shanghai (AmCham Shanghai) is pleased to submit comments in response to the U.S. Department of Commerce, Bureau of Industry and Security Proposed Rule revising authorization Validated End-User provisions. The ECWG in general and the six of our members that are Validated End-Users (VEUs) in particular, are supportive of the VEU authorization. Additionally, several of our member companies had specifically requested the changes contained in this proposed rule and we commend the Bureau of Industry and Security's (BIS) efforts to address their concerns in this proposed rule.

While the ECWG is very supportive of the intent of the rule, we believe that it, and the VEU program as a whole, would be greatly enhanced if BIS: (1) clarifies the purpose and scope of the notification requirement; (2) allows for greater flexibility in the timing of the notification; and (3) requires only a single notification for multiple shipments of the same item when the only authorization used to ship that item is VEU. In addition, members provided several general comments outside the scope of this rule that we believe would greatly enhance the usability and durability of the VEU program, such as: (1) afford VEU to countries in addition to China and India; and (2) provide a process to educate exporters on the benefits of using VEU for specific transactions. All of the recommendations above are further described below.

ABOUT THE ECWG

The ECWG is a group of companies dedicated to promoting high-tech trade between the US and China. Established in 2006, the core component of ECWG's effort has been to provide the US government information on technological availability within the Chinese

market. ECWG provides such information to assist the US government in making export control policy and licensing decisions. Based on the success and impact of this reporting, the ECWG in recent years expanded its efforts, adding compliance promotion and industry-government cooperation elements to its effort. Within the compliance promotion component of its work, ECWG communicates best practices and the importance of transparency and compliance in the export licensing decision-making process within the Chinese commercial marketplace -- to both US and Chinese ventures. ECWG's compliance advocacy aims to build an environment of increasing trade control reliability that will build trust between the US and China and improve the trade control climate between the two nations.

Our mission is to facilitate civilian high-tech trade between the US and China by: improving the export control environment so US companies maintain their competitive edge amongst global competitors; promoting a security and compliance culture within the trade community in China; and assisting US companies on keeping up with the changes in China import and export regulations.

PURPOSE AND SCOPE OF PRIOR NOTIFICATION REQUIREMENT

Purpose

In the section entitled "Amendments to Section 748.15 of the EAR, Prior Notification Requirement," BIS explained that the intent of this prior notification requirement is to "improve the ability of VEUs to determine which authorization their suppliers have utilized ... [enabling] VEUs to better determine which set of conditions governs their use of the received item(s) more efficiently, thereby increasing the VEUs' compliance."

The ECWG is concerned that this explanation could lead to confusion regarding BIS' expectations of the inventory management and record keeping requirements of VEU. We believe that this notification requirement will enable VEUs to determine the number of items that were shipped using VEU, but will not enable VEUs to distinguish between many identical items shipped under VEU, individual validated license (IVL), Special Comprehensive License (SCL), or license exception. For instance, parts and materials are often commingled within inventories, regardless of the authorization used to facilitate the transfer. It is impractical, and in many instances impossible (such as with quartz rings that contain no unique serial number), to differentiate between identical items that fall within the same stock-keeping unit (SKU). Some member companies have indicated that they ensure compliance with U.S. law by meeting the requirements of the most restrictive conditions associated with that SKU and keep track of the total quantity of items sent under a specific authorization through first-in-first-out (FIFO) and other standard inventory accounting methods.

The ECWG respectfully requests that BIS modify its explanation to make it clear that the use of VEU does not require that companies be able to distinguish between identical items

sent under VEU and other types of authorization.

Scope

Part § 748.15(g) of the proposed rule requires that “notification must be conveyed to the VEU in writing and must include a list of the contents of the shipment and a list of the ECCNs under which the items in the shipment are classified, as well as a statement that the shipment is, will be, or was made pursuant to Authorization VEU.” ECWG members have explained that a single shipment may contain items sent under multiple authorizations and would like BIS to clarify that this requirement only applies to the items actually shipped under VEU and not to all items listed in the shipment. That stated, we recommend the following modification: “notification must be conveyed to the VEU in writing for all items that that are, will be, or were shipped pursuant to Authorization VEU. This notification must include a list of the VEU authorized contents and a list of their respective ECCNs.”

TIMING OF NOTIFICATION REQUIREMENT

Part §748.15(g) of the proposed rule requires that “[n]otification must be made within seven calendar days of the export, reexport or transfer (in-country) to the VEU. Exporters, reexporters and VEU’s are required to maintain the notifications they receive in accordance with their recordkeeping requirements.”

In some instances, such as the transfer of technology authorized under VEU, the notification of the transfer may precede the transfer by more than seven days. The ECWG believes that allowing for early notification will provide greater flexibility for the exporter and VEU, while still meeting the spirit and intent of the notification requirement.

Furthermore, the ECWG requests that BIS recognize that compliance may be enhanced by allowing the exporter to consolidate reporting on multiple shipments at one time to the VEU. For example, exporters shipping controlled items *just-in-time* from a local bonded warehouse may ship a controlled item to a VEU once per day. Rather than requiring all notification within seven days of the specific shipment, we recommend that BIS allow the exporter to notify the VEU of all shipments made within that one-month time period.

To address these two concerns the ECWG recommends that BIS modify the timing of the requirement to, “no later than seven days after shipment or as mutually agreed in writing by both parties.” This will allow the parties to negotiate terms to maximize compliance benefits and minimize the associated burdens. To ensure transparency and verification of compliance, BIS could require that the terms of VEU notification be described in the certification required under §748.15(e), which currently states that “exporters or reexporters must obtain certifications from the validated end-user regarding end-use and compliance with VEU requirements.”

SINGLE NOTIFICATION OF MULTIPLE SHIPMENTS

Similarly to the above recommendation, the ECWG believes that in some instances, if mutually agreeable to the exporter and VEU, the exporter should only be required to provide a single notification for multiple shipments under VEU. This is particularly relevant for certain shipments/transfers of controlled technology in the design and/or development of a new product. For example, companies in the semiconductor industry will transfer the layout or design of their semiconductor in a Graphic Database System (GDS) file to a semiconductor foundry for semiconductor fabrication. In many instances the exporter will transfer the GDS file multiple times because the GDS file contains design flaws that were identified only after the transfer(s). The ECWG suggests that there is no net benefit to compliance and only additional burden associated with the requirement for exporters to notify the VEU multiple times in such instances. As described above, notification methods and requirements can be described in the certification letter provided by the VEU as required under §748.15(e).

GENERAL COMMENTS REGARDING VEU

In addition to the comments above regarding the proposed rule, ECWG members had additional comments regarding ways to improve and strengthen the VEU program that we respectfully submit to BIS for consideration.

First, the ECWG believes that VEU should be opened to additional countries. Many of our members believe that VEU would be of much greater benefit to them if it could be used to satisfy licensing requirements to other countries. This is especially the case in instances where a controlled item is assembled or integrated into another controlled item in a third country for export to China. Currently, some member companies must use other license mechanisms for the initial stage of the supply-chain and can only use VEU for the final delivery of the item to the End-User in China. These companies have indicated that a more global VEU authorization would enable them to greatly streamline their compliance and licensing requirements. Additionally, we believe that a greater number of participants in the program will help to further stabilize and publicize the VEU program, which in turn would encourage more companies in China to apply for and utilize their VEU authorization.

Second, the ECWG encourages BIS to further educate exporters on the use of VEU. Some ECWG members have indicated that some exporters are uncomfortable using the VEU authorization because they are unsure of how VEU satisfies their licensing requirements, such as in the case of transferring 5E002 ENC authorized technology to authorized VEUs in China. One member company explained that exporters have expressed some confusion regarding their additional reporting requirements when using VEU and that they were uncomfortable using VEU without direct guidance from BIS. For example, an exporter was uncertain whether the semiannual reporting required under §740.17(e) satisfies the reporting requirement found under §748.15(f) in instances where the U.S. technology is transferred from a third country. The ECWG believes that an increase in industry education on the use, benefits, and requirements of VEU, will address some of these areas of stated ambiguity and also have a direct correlation on the increase in utilization of VEU.

CONCLUSION

The ECWG thanks BIS for the opportunity to comment on this proposed rule. We are supportive of the VEU program and we appreciate BIS' efforts to further improve it.

With kindest regards,



Christopher Szymanski
Director of Export Compliance, SMIC China
Co-Chair ECWG



Bertrand-Marc Allen
President, Boeing China
Co-Chair ECWG

ECWG MEMBER COMPANIES:

Applied Materials*
Argosy International
Boeing*
Dow Chemical
General Electric (GE)*
Harper International
Honeywell
Hewlett Packard (HP)
HuaHong NEC*
Lam Research*
Rockwell Collins
Siemens
Semiconductor Manufacturing International Corporation (SMIC)*
Textron
Timken
United Technologies
Veeco

*Denotes VEU



The Boeing Company
1200 Wilson Blvd
Arlington, VA 22209-1989

June 13, 2012

Ms. Karen H. Nies-Vogel, Chair
End-User Review Committee
Bureau of Industry and Security
U.S. Department of Commerce
14th St. and Pennsylvania Avenue, NW
Washington DC 20230

**Subject: RIN 0694-AF19 - Revisions to Authorization Validated End-User Provisions:
Requirement for Notice of Export, Reexport or Transfer (In-Country) and
Clarification Regarding Termination of Conditions on VEU Authorizations**

Dear Ms. Nies-Vogel:

The Boeing Company welcomes the opportunity to comment on the proposed revisions to the Validated End-User (VEU) Authorization. We support these changes and recommend slight modifications below to one of the proposed changes in order to align the provision more closely with business processes.

Boeing Tianjin Composites (BTC), a joint venture between Boeing and China Aviation Industry Corporation (AVIC) located in Tianjin, China, is an authorized VEU company. BTC has acquired manufacturing equipment from U.S. suppliers using its VEU authorization. VEU has benefited both BTC and the supplier by allowing the purchase and supply of equipment to proceed without the additional leadtime issues often caused by potentially lengthy government approvals. This enables improved business and financial planning for both the supplier and the end user. Boeing believes that the conditions around VEU authorizations provide the appropriate level of controls while at the same time allowing U.S. exporters to operate efficiently.

As noted above, Boeing supports the proposed changes incorporated into this proposed rule. With respect to the new prior notification requirements under Part 748.15(g), we agree with the establishment of a new requirement for exporters to notify recipients within seven (7) days of shipment when using the VEU authorization, but we would like to offer three suggestions for clarification. We agree that this prior notification requirement would help VEU's more easily identify compliance responsibilities, especially for "mixed shipments" received under multiple authorizations. However, Boeing would recommend clarifying that this notification is only required for items exported under VEU, not for other items that may have been exported under other authorizations *along with VEU-authorized items*. Secondly, we suggest allowing a consolidated notice when multiple shipments occur within a short period, for example 30 days, to further reduce administrative burden without compromising compliance. Finally, clarifying that it would also be allowable for the notification to be made prior to shipment would be helpful.



Some exporters may find that this approach would better align with normal business export processes.

Based on our positive experience with the VEU, Boeing encourages BIS to consider expanding the program beyond China and India. As stated above, the program provides appropriate controls for entities that are trusted, civilian recipients of U.S. goods and technology. The ability to use this export mechanism not only when country specific EAR controls may not allow broad use of license exceptions, but also for items controlled for export to most destinations, would represent a needed adjustment of the regulatory burden on U.S. exporters who may have subsidiaries and/or long-standing and trusted relationships with civilian end-users in those destinations.

Thank you for considering these comments. Please do not hesitate to contact me should you have any questions or desire additional information. You can reach me by phone at 703-465-3505 or via e-mail at stephanie.a.reuer@boeing.com.

Sincerely,

A handwritten signature in cursive script that reads 'Stephanie A. Reuer'.

Stephanie A. Reuer
Director, Global Trade Controls