

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Parts 730 and 744**

[Docket No. 120124063-0261-01]

RIN 0694-AF55

**Updated Statements of Legal Authority To Reflect Continuation of Emergency Declared in Executive Orders 12947 and 13224****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

**SUMMARY:** This rule updates the Code of Federal Regulations (CFR) legal authority citations for the Export Administration Regulations (EAR) to replace citations to the President's Notice of January 13, 2011, *Continuation of the National Emergency with Respect to Terrorists Who Threaten to Disrupt the Middle East Peace Process*, with citations to the President's Notice of January 12, 2012, and add citations to the President's Notice of September 21, 2011, *Continuation of the National Emergency With Respect to Persons Who Commit, Threaten to Commit, or Support Terrorism*. These notices are the most recent such annual Presidential notices on those subjects. BIS is making these changes to keep the CFR's legal authority citations for the EAR current.

**DATES:** *Effective Date:* February 22, 2012.

**FOR FURTHER INFORMATION CONTACT:** William Arvin, Regulatory Policy Division, Bureau of Industry and Security, telephone: (202) 482-2440.

**SUPPLEMENTARY INFORMATION:****Addition of Citation to the Notice of January 19, 2012**

In Executive Order 12947 of January 13, 1995 (60 FR 5079, 3 CFR, 1995 Comp., p. 356), the President declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy and economy of the United States posed by grave acts of violence committed by terrorists who threaten to disrupt the Middle East process. On August 20, 1998, by Executive Order 13099 (63 FR 45167, 3 CFR, 1998 Comp., p. 208), the President modified the Annex to Executive Order 12947 to identify four additional persons who threaten to disrupt the Middle East peace process. On February 16, 2005, by Executive Order 13372, the President clarified the steps taken in Executive Order 12947. The national emergency declared in

Executive Order 12947 has been continued in effect through successive annual presidential notices.

The authority for Parts 730 and 744 of the EAR (15 CFR parts 730 and 744) rests in part on Executive Order 12947, as amended and clarified, and on the successive annual notices continuing the emergency declared in that Executive Order. This rule revises the authority citation paragraphs in those parts of the CFR to add a citation to the notice of January 19, 2012, which is the most recent such annual Presidential notice, and to remove the citation to the notice of January 13, 2011 on the same topic.

**Addition of Citation to the Notice of September 21, 2011**

On September 23, 2001, by Executive Order 13224, the President declared a national emergency with respect to persons who commit, threaten to commit, or support terrorism, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). The President took this action to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks on September 11, 2001.

The authority for Parts 730 and 744 of the EAR (15 CFR parts 730 and 744) rests in part on Executive Order 13224 and on the successive annual notices continuing the emergency declared in that Executive Order. This rule revises the authority citation paragraphs in those parts of the CFR to cite the notice of September 21, 2011, which is the most recent such annual Presidential notice.

BIS is making the two revisions described in this rule so that Title 15 of the Code of Federal Regulations will cite the current authorities for the parts mentioned above. This rule is purely procedural and makes no changes other than to revise CFR authority citations paragraphs. It does not change the text of any section of the EAR, nor does it alter any right, obligation or prohibition that applies to any person under the EAR.

**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). This rule does not impose any regulatory burden on the public and is consistent with the goals of Executive Order 13563. This rule has been determined not to be a significant rule for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule does not involve any collection of information.

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

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(3)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. This rule only updates legal authority citations and is nondiscretionary. This rule does not alter any right, obligation or prohibition that applies to any person under the EAR. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

**List of Subjects****15 CFR Part 730**

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

**15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, the EAR (15 CFR parts 730-774) is amended as follows:

**PART 730—[AMENDED]**

■ 1. The authority citation for 15 CFR part 730 is revised 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. 2151 note; 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. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011); Notice of September 21, 2011, 76 FR 59001 (September 22, 2011); Notice of November 9, 2011, 76 FR 70319 (November 10, 2011); Notice of January 19, 2012, 77 FR 3067 (January 20, 2012).

## PART 744—[AMENDED]

- 2. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011); Notice of September 21, 2011, 76 FR 59001 (September 22, 2011); Notice of November 9, 2011, 76 FR 70319 (November 10, 2011); Notice of January 19, 2012, 77 FR 3067 (January 20, 2012).

Dated: February 14, 2012.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Chapter II

#### Acceptance of ASTM F963-11 as a Mandatory Consumer Product Safety Standard

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Acceptance of standard.

**SUMMARY:** The Consumer Product Safety Commission (“CPSC,” Commission,” or “we”) is announcing that we have accepted the revised ASTM F963-11 standard titled, *Standard Consumer Safety Specifications for Toy Safety*. Pursuant to section 106 of the Consumer Product Safety Improvement Act of 2008, ASTM F963-11 will become a mandatory consumer product safety standard effective June 12, 2012.

**DATES:** ASTM F963-11 will become effective on June 12, 2012.

#### FOR FURTHER INFORMATION CONTACT:

Jonathan Midgett, Ph.D., Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Suite 600, Bethesda, MD 20814; telephone (301) 504-7692; email [jmidgett@cpsc.gov](mailto:jmidgett@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

On February 10, 2009, section 106(a) of the Consumer Product Safety Improvement Act of 2008, (CPSIA), Public Law 110-314, made the provisions of ASTM F963-07, *Standard Consumer Safety Specifications for Toy Safety* (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute) mandatory consumer product safety standards under section 9 of the Consumer Product Safety Act (CPSA). On May 13, 2009, the Commission accepted ASTM International (formerly the American Society for Testing and Materials) (ASTM) proposed revisions to the standard, by accepting ASTM F963-08 (except for the removal of section 4.27 of ASTM F963-07, which covers toy chests). The requirements of ASTM F963-08 became effective on August 16, 2009, except for section 4.27 (toy chests) of ASTM F963-07, which was already in effect.

On December 15, 2011, ASTM officially proposed revisions to the existing standard for Commission consideration, by submitting ASTM F963-11, *Standard Consumer Safety Specifications for Toy Safety*. ASTM proposes replacing ASTM F963-08 with the revised ASTM F963-11 version.

Section 106(g) of the CPSIA provides that, upon ASTM notifying the Commission of proposed revisions to ASTM F963, the Commission must incorporate the revisions into the consumer product safety rule, unless within 90 days of receiving the notice, the Commission notifies ASTM that it has determined that the proposed revisions do not improve the safety of the consumer product(s) covered by the standard. If the Commission so notifies ASTM regarding a proposed revision of the standard, the existing standard remains in effect, regardless of the proposed revision. If the Commission does not object to the proposed revisions, the revised standard becomes effective 180 days after the date that ASTM notifies the Commission of the revision.

The Commission has determined that the proposed revisions in ASTM F963-11 improve the safety of the consumer products covered by the standard. Therefore, although the CPSIA does not require us to issue a notice in the **Federal Register** announcing our decision, we are, through this notice, announcing that the CPSC accepts the revisions as mandatory consumer product safety standards. ASTM F963-11 will become effective as a mandatory consumer product safety standard on June 12, 2012. However, because ASTM F963-11 does not reincorporate section 4.27 (toy chests) of ASTM F963-07, that provision from ASTM F963-07 regarding toy chests remains in effect.

Dated: February 15, 2012.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 2012-3990 Filed 2-21-12; 8:45 am]

**BILLING CODE 6355-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 275

[Release No. IA-3372; File No. S7-17-11]

RIN 3235-AK71

#### Investment Adviser Performance Compensation

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (“Commission” or “SEC”) is adopting amendments to the rule under the Investment Advisers Act of 1940 that permits investment advisers to charge performance based compensation to “qualified clients.” The amendments