

Register on January 5, 2000 (65 FR 348). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 20, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 8, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.
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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 736, 738, 740, 742, 756, 762, 770, and 774

[Docket No. 000207028-0028-01]

RIN 0694-AC02

Editorial Clarifications and Revisions to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to make certain editorial revisions and clarifications.

DATES: This rule is effective March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to make certain editorial revisions and clarifications. Specifically, this rule makes the following corrections and clarifications:

(1) In paragraph 736.2(b)(5)—General Prohibition Five, a typographical error is corrected by changing the word “of” to “or”.

(2) In paragraph 736.2(b)(8)(i)—General Prohibition Eight (Unloading and

shipping in transit), a clarification is made to the scope of this prohibition by adding the phrase “or unless such an export or reexport is eligible to such a country of transit without a license”.

(3) In paragraph 738.3(a)(2)(ii), ECCNs 0A989, 1C355, and 1C995 are added to the list of unique entries, while ECCNs 0A986 and 1A005 are removed from the list of unique entries. These entries do not require you to consult the Country Chart to determine whether a license is required.

(4) In paragraph 740.7(d)(5)(iii), the reference to the Arms Control and Disarmament Agency (ACDA) is removed. This reflects the merging of the ACDA with the State Department effective April 1, 1999.

(5) In Supplement No. 1 to part 740, Country Group B, an error is corrected in the spelling of Antigua.

(6) Supplement No. 3 to part 740 is removed and reserved. This change conforms with the January 14, 2000 rule amending the EAR with respect to encryption items.

(7) In paragraph 742.7(a)(1), ECCN 0A987 is added to the list describing the ECCNs controlled under CC Column 1. This change conforms with the April 13, 1999 rule amending the EAR with respect to firearms exports.

(8) In paragraph 742.10(b)(1), a description of the denial policy for Sudan of technology for the production of Chemical Weapons Convention (CWC) Schedules 2 and 3 chemicals controlled under ECCN 1E355 is added. This change conforms with May 18, 1999 rule amending the EAR to implement the CWC.

(9)–(10) In paragraph 756.2(b)(1) (Appeals), a correction is made to the room number where appeals are filed.

(11) In paragraph 762.2(b) (Recordkeeping), additional record retention references are added to reflect new annual report and end-use certificate requirements under the CWC. This change conforms with the May 18, 1999 rule amending the EAR to implement the CWC.

(12) In paragraph 770.3(b) (Interpretations), references to section 740.8 are corrected to refer to the appropriate references to section 740.13.

(13) In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, the reference to MT controls (Missile Technology) in the Reason for Control section is removed from Export Control Classification Number (ECCN) 1C216. This ECCN is only controlled for NP (Nuclear Nonproliferation) and AT (Anti-terrorism) reasons.

(14) In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, corrections are made to the heading and License Requirements sections of ECCN 1E001. Specifically, ECCN 1A102 is removed from the ECCN heading. ECCN 1A005 is added to the ECCN heading and the NS (National Security) controls section. This change conforms with the Wassenaar Arrangement. In addition, ECCNs 1B225, 1C230, 1C231, 1C233, and 1C234 are removed from the NS controls section. These ECCNs are appropriately referenced in the NP controls section of ECCN 1E001.

(15) In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, ECCN 3A002 is amended by revising “3A202” in Related Controls and N.B. to read “3A292”. This correction reflects the August 5, 1997 removal of ECCN 3A202 and creation of ECCN 3A292 on the Commerce Control List.

(16) In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, ECCN 6A002 is amended by adding the phrase “Equipment in Number” to the “Unit” paragraph in the List of Items Controlled section. This corrects an inadvertent omission from the March 25, 1996 rule simplifying the EAR.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President’s notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121) and August 13, 1999 (64 FR 44101).

Rule Making Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0088, 0694-0114,

and 0694–0117. There are neither additions nor subtractions to these collections due to this rule.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR Part 736, 738, 742, 770, and 774

Exports, Foreign trade.

15 CFR Part 740

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

15 CFR Part 756

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements, Penalties.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 736, 738, 740, 742, 748, 756, 762, 770, and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

1. The authority citations for 15 CFR Parts 736, 748 and 770 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999);

2. The authority citation for 15 CFR 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); 18 U.S.C. 2510 *et seq.*; 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; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999);

3. The authority citation for 15 CFR Part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

4. The authority citation for 15 CFR Part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 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. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

5. The authority citation for 15 CFR parts 756 and 762 are revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

6. The authority citation for 15 CFR 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); 18 U.S.C. 2510 *et seq.*; 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; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

PART 736—[AMENDED]

7. Section 736.2 is amended:

a. By revising the phrase “end-user of end-use” in paragraph (b)(5) to read “end-user or end-use”; and

b. By revising paragraph (b)(8)(i) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(8) * * *

(i) *Unlading and shipping in transit.*

You may not export or reexport an item through or transit through a country listed in paragraph (b)(8)(ii) of this section unless a License Exception or license authorizes such an export or reexport directly to such a country of transit, or unless such an export or reexport is eligible to such a country of transit without a license.

* * * * *

PART 738—[AMENDED]

§ 738.3 [Amended]

8. Section 738.3 is amended by revising the phrase “*ECCNs 0A986, 0A988, 0B986, 1A005, 2A994, 2D994, and 2E994.*” in paragraph (a)(2)(ii) to read “*ECCNs 0A988, 0A989, 0B986, 1C355, 1C995, 2A994, 2D994, and 2E994.*”

PART 740—[AMENDED]

§ 740.7 [Amended]

9. Section 740.7 is amended by revising the phrase “Departments of Defense, Energy, State, and the Arms Control and Disarmament Agency (ACDA)” in paragraph (d)(5)(iii) to read “Departments of Defense, Energy, and State”.

10. Supplement No. 1 to part 740, Country Group B, is amended by revising “Antiqua” to read “Antigua”.

11. Supplement No. 3 to part 740 is removed and reserved.

PART 742—[AMENDED]

§ 742.7 [Amended]

12. Section 742.7 is amended by revising the phrase “0A985, 0E984” in paragraph (a)(1) to read “0A985, 0A987, 0E984”.

§ 742.10 [Amended]

13. Section 742.10 is amended by adding paragraph (b)(1)(viii) to read as follows:

742.10 Anti-terrorism: Sudan.

* * * * *

(b) * * *

(1) * * *

(viii) Technology for the production of Chemical Weapons Convention

(CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.
* * * * *

PART 756—[AMENDED]

§ 756.2 [Amended]

14.–15. Section 756.2 is amended by revising “Room H–3886C” in paragraph (b)(1) to read “Room 3898”.

PART 762—[AMENDED]

§ 762.2 [Amended]

16. Section 762.2 is amended by revising paragraphs (b)(37) and (b)(38) and adding paragraphs (b)(39) and (b)(40) to read as follows:

§ 762.2 Records to be retained.

- (b) * * *
- (37) § 743.1, Wassenaar reports;
- (38) § 748.14, Exports of firearms;
- (39) § 745.1, Annual reports; and
- (40) § 745.2, End-use certificates.

PART 770—[AMENDED]

§ 770.3 [Amended]

17. § 770.3 is amended by revising the phrase “operating technology and

software described in § 740.8(a) of the EAR; sales technology described in § 740.8(b) of the EAR; and software updates described in § 740.8(c)” in paragraph (b) to read “operating technology and software described in § 740.13(a) of the EAR; sales technology described in § 740.13(b) of the EAR; and software updates described in § 740.13(c)”.

PART 774—[AMENDED]

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

18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, is amended:

- a. By revising the License Requirements section for ECCN 1C216; and
- b. By revising the entry heading and License Requirements section for ECCN 1E001, as follows:

1C216 Maraging Steel, Other Than That Controlled by 1C116, Capable of an Ultimate Tensile Strength of 2,050 MPa or More, at 293 K (20° C), Except Forms in Which no Linear Dimension Exceeds 75 mm

License Requirements

Reason for Control: NP, AT.

Control(s)	Country chart
NP applies to entire entry.	NP Column 1.
AT applies to entire entry.	AT Column 1.

* * * * *

1E001 “Technology” According to the General Technology Note for the “Development” or “Production” of Items Controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A005, 1B or 1C (Except 1C355, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C992, and 1C995)

License Requirements

Reason for Control: NS, MT, NP, CB, AT.

Control(s)	Country chart
NS applies to “technology” for items controlled by 1A001.b and .c, 1A002, 1A003, 1A005, 1B001 to 1B003, 1B018, 1C001 to 1C010, or 1C018.	NS Column 1.
MT applies to “technology” for items controlled by 1B001, 1B101, 1B115, 1B116, 1B117, 1C001, 1C007, 1C101, 1C107, 1C011, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	MT Column 1.
NP applies to “technology” for items controlled by 1A002, 1B001, 1B101, 1B201, 1B225 to 1B232, 1C001, 1C010, 1C202, 1C210, 1C216, 1C225 to 1C234, 1C236 to 1C238 for NP reasons.	NP Column 1.
CB applies to “technology” for items controlled by 1C351, 1C352, 1C353, or 1C354	CB Column 1.
CB applies to “technology” for materials controlled by 1C350	CB Column 2.
AT applies to entire entry	AT Column 1.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.
* * * * *

19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A002 is amended by revising the List of Items Controlled section, to read as follows:

3A002 General Purpose Electronic Equipment, as Follows (See List of Items Controlled)

* * * * *

List of Items Controlled

Unit: Number.

Related Controls: See also 3A292 and 3A992.

Related Definitions: N/A.

Items:

a. Recording equipment, as follows, and specially designed test tape therefor:

a.1. Analog instrumentation magnetic tape recorders, including those permitting the recording of digital signals (e.g., using a high density digital recording (HDDR) module), having any of the following:

a.1.a. A bandwidth exceeding 4 MHz per electronic channel or track;

a.1.b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; or

a.1.c. A time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of less than ± 0.1 µs;

Note: Analog magnetic tape recorders specially designed for civilian video purposes are not considered to be instrumentation tape recorders.

a.2. Digital video magnetic tape recorders having a maximum digital

interface transfer rate exceeding 360 Mbit/s;

Note: 3A002.a.2 does not control digital video magnetic tape recorders specially designed for television recording using a signal format, which may include a compressed signal format, standardized or recommended by the ITU, the IEC, the SMPTE, the EBU or the IEEE for civil television applications.

a.3. Digital instrumentation magnetic tape data recorders employing helical scan techniques or fixed head techniques, having any of the following:

a.3.a. A maximum digital interface transfer rate exceeding 175 Mbit/s; or

a.3.b. Being “space qualified”;

Note: 3A002.a.3 does not control analog magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

a.4. Equipment, having a maximum digital interface transfer rate exceeding 175 Mbit/s, designed to convert digital

video magnetic tape recorders for use as digital instrumentation data recorders;

a.5. Waveform digitizers and transient recorders having all of the following:

N.B.: See also 3A292.

a.5.a. Digitizing rates equal to or more than 200 million samples per second and a resolution of 10 bits or more; *and*

a.5.b. A continuous throughput of 2 Gbit/s or more;

Technical Note: For those instruments with a parallel bus architecture, the continuous throughput rate is the highest word rate multiplied by the number of bits in a word. Continuous throughput is the fastest data rate the instrument can output to mass storage without the loss of any information while sustaining the sampling rate and analog-to-digital conversion.

b. "Frequency synthesizer", "assemblies" having a "frequency switching time" from one selected frequency to another of less than 1 ms;

c. "Signal analyzers", as follows:

c.1. "Signal analyzers" capable of analyzing frequencies exceeding 31 GHz;

c.2. "Dynamic signal analyzers" having a "real-time bandwidth" exceeding 25.6 kHz;

Note: 3A002.c.2 does not control those "dynamic signal analyzers" using only constant percentage bandwidth filters (also known as octave or fractional octave filters).

Technical Note: Constant percentage bandwidth filters are also known as octave or fractional octave filters.

d. Frequency synthesized signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

d.1. A maximum synthesized frequency exceeding 31 GHz;

d.2. A "frequency switching time" from one selected frequency to another of less than 1 ms; *or*

d.3. A single sideband (SSB) phase noise better than $-(126 + 20 \log_{10} F - 20 \log_{10} f)$ in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Note: 3A002.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analyzers with a maximum operating frequency exceeding 40 GHz;

f. Microwave test receivers having all of the following:

f.1. A maximum operating frequency exceeding 40 GHz; *and*

f.2. Being capable of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having any of the following:

g.1. Long-term stability (aging) less (better) than 1×10^{-11} /month; *or*

g.2. Being "space qualified".

Note: 3A002.g.1 does not control non-"space qualified" rubidium standards.

20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A002 is amended by revising the List of Items Controlled section, to read as follows:

6A002 Optical Sensors

* * * * *

List of Items Controlled

Unit: Equipment in number; parts and accessories in \$ value.

Related Controls: See also 6A102, 6A202, and 6A992.

Related Definitions: 1.) "Image intensifiers" defined in 6A002.a.2 and "focal plane arrays" defined in 6A002.a.3 specially designed, modified, or configured for military use and not part of civil equipment are subject to the export licensing authority of U.S. Department of State, Office of Defense Trade Controls (22 CFR part 121). 2.) "Space qualified" "monospectral imaging sensors", and "multispectral imaging sensors" defined in 6A002.b, and "space-qualified" "focal plane arrays" defined in 6A002.e, specially designed or modified for items on the U.S. Munitions List are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121).

Items:

a. Optical detectors, as follows:

Note: 6A002.a does not control germanium or silicon photodevices.

a.1. "Space-qualified" solid-state detectors, as follows:

a.1.a. "Space-qualified" solid-state detectors, having all of the following:

a.1.a.1. A peak response in the wavelength range exceeding 10 nm but not exceeding 300 nm; *and*

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b. "Space-qualified" solid-state detectors, having all of the following:

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; *and*

a.1.b.2. A response "time constant" of 95 ns or less;

a.1.c. "Space-qualified" solid-state detectors having a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.2. Image intensifier tubes and specially designed components therefor, as follows:

a.2.a. Image intensifier tubes having all of the following:

a.2.a.1. A peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm;

a.2.a.2. A microchannel plate for electron image amplification with a hole pitch (center-to-center spacing) of 15 μ m or less; *and*

a.2.a.3. Photocathodes, as follows:

a.2.a.3.a. S-20, S-25 or multialkali photocathodes with a luminous sensitivity exceeding 240 μ A/lm;

a.2.a.3.b. GaAs or GaInAs photocathodes; *or*

a.2.a.3.c. Other III-V compound semiconductor photocathodes;

Note: 6A002.a.2.a.3.c does not control compound semiconductor photocathodes with a maximum radiant sensitivity of 10 mA/W or less.

a.2.b. Specially designed components, as follows:

a.2.b.1. Microchannel plates having a hole pitch (center-to-center spacing) of 15 μ m or less;

a.2.b.2. GaAs or GaInAs photocathodes;

a.2.b.3. Other III-V compound semiconductor photocathodes;

Note: 6A002.a.2.b.3 does not control compound semiconductor photocathodes with a maximum radiant sensitivity of 10 mA/W or less.

a.3. Non-"space-qualified" "focal plane arrays", as follows:

Technical Note: Linear or two-dimensional multi-element detector arrays are referred to as "focal plane arrays".

Notes: 1. 6A002.a.3 includes photoconductive arrays and photovoltaic arrays.

2. 6A002.a.3 does not control silicon "focal plane arrays", multi-element (not to exceed 16 elements) encapsulated photoconductive cells or pyroelectric detectors using any of the following:

a. Lead sulphide;

b. Triglycine sulphate and variants;

c. Lead-lanthanum-zirconium titanate and variants;

d. Lithium tantalate;

e. Polyvinylidene fluoride and variants;

f. Strontium barium niobate and variants;

or

g. Lead selenide.

a.3.a. Non-"space-qualified" "focal plane arrays", having all of the following:

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm but not exceeding 1,050 nm; *and*

a.3.a.2. A response "time constant" of less than 0.5 ns;

a.3.b. Non-"space-qualified" "focal plane arrays", having all of the following:

a.3.b.1. Individual elements with a peak response in the wavelength range

exceeding 1,050 nm but not exceeding 1,200 nm; *and*

a.3.b.2. A response "time constant" of 95 ns or less;

a.3.c. Non-"space-qualified" "focal plane arrays", having individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm.

b. "Monospectral imaging sensors" and "multispectral imaging sensors" designed for remote sensing applications, having any of the following:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 μ r (microradians); *or*

b.2. Being specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm and having all the following:

b.2.a. Providing output imaging data in digital format; *and*

b.2.b. Being any of the following:

b.2.b.1. "Space-qualified"; *or*

b.2.b.2. Designed for airborne operation, using other than silicon detectors, and having an IFOV of less than 2.5 mr (milliradians).

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating any of the following:

c.1. Image intensifier tubes having the characteristics listed in 6A002.a.2.a; *or*

c.2. "Focal plane arrays" having the characteristics listed in 6A002.a.3.

Technical Note: "Direct view" refers to imaging equipment, operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically or by any other means.

Note: 6A002.c does not control the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use.

d. Special support components for optical sensors, as follows:

d.1. "Space-qualified" cryocoolers;

d.2. Non-"space-qualified"

cryocoolers, having a cooling source temperature below 218 K (-55° C), as follows:

d.2.a. Closed cycle type with a specified Mean-Time-To-Failure (MTTF), or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers having bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive.

e. "Space qualified" "focal plane arrays" having more than 2,048 elements per array and having a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm.

Dated: March 9, 2000.

R. Roger Majak,

Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 756 and 766

[Docket No. 000306060-0060-01

RIN 0694-AC16

Revision to the Export Administration Regulations; Administrative Enforcement Proceedings

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by amending its regulations on administrative enforcement proceedings. Specifically, this rule amends the EAR by providing that, notwithstanding certain circumstances, when determining whether to deny the export privileges of a person convicted of violating certain laws, BXA will give prior notice of this administrative action and an opportunity for that person to make written comments to BXA stating why a denial is not appropriate. This rule further clarifies the scope of the export privileges which may be denied. In addition, it clarifies in part 756 of the EAR that these administrative procedures are subject to the appeals procedures described in that part.

DATES: This rule is effective March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Kirsten Mortimer, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION: In 1985, the Export Administration Act (EAA) was amended to add subsection 11(h), which provided that, at the discretion of the Secretary of Commerce, no person who has been convicted of a violation of certain designated statutes shall be eligible to apply for or use any export license for a period of up to 10 years from the date of the conviction. The designated statutes include the EAA or any regulation, license, authorization or order issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act; section 4(b) of the Internal Security Act of 1950; 18 U.S.C. sections 793, 794 or 798, and section 38 of the Arms Export Control Act. The Secretary may also revoke any export license under this Act in which such person has an interest at the time of the conviction. BXA uses this denial authority to protect U.S. national security and foreign policy interests.

Section 766.25(a) provides that "the Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny permission to apply for or use any license, including any License Exception, to any person who has been convicted of a violation of the" aforementioned designated statutes. This rule amends section 766.25(b) of the EAR by providing that, unless exceptional circumstances exist, BXA will notify a person convicted of one of the designated statutes that BXA is going to issue an order denying that person's export privileges and giving that person an opportunity to make written submission to BXA regarding BXA's proposed denial. This rule further clarifies that the export privileges that may be denied in any such order, include, but are not limited, to applying for, obtaining, or using any license, License Exception, or export control document; or participating in or benefiting in any way from any export or export-related transaction subject to the EAR.

Section 756.1(a) states, in pertinent part, that actions taken under part 766 of the EAR are not subject to the appeals procedures described in part 756. This rule amends section 756.1(a)(2) to provide that an appeal from an action taken under section 766.25 shall be subject to the appeals procedures in part 756.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive