

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Middlesboro—Bell County.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 740

[Docket No. 0612242560–7024–01]

RIN 0694–AD93

Country Group C: Destinations of Diversion Concern

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Commerce's Bureau of Industry and Security (BIS) is considering amendments to the Export Administration Regulations (EAR) to further the national security interests of the United States by designating Country Group C for countries that are "Destinations of Diversion Concern." This amendment would establish license requirements for exports and reexports to countries that represent a concern for the diversion of items subject to the EAR. BIS by this notice requests comments on Country Group C.

DATES: Comments are due no later than close of business March 12, 2007.

ADDRESSES: Comments should be sent to publiccomments@bis.doc.gov, fax (202) 482–3355, or to Regulatory Policy Division, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, Washington, DC 20230. Please refer to regulatory identification number (RIN) 0694–AD93 in all comments, and in the subject line of e-mail comments. Comments on the collection of information should be sent to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Telephone (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce seeks to address the threat to national security caused by the illicit transshipment, reexport, and diversion in international trade of items subject to the EAR. Through government-to-government and government-to-industry outreach, the Department of Commerce encourages transshipment countries to strengthen their international export control practices.

This effort includes both government-to-government cooperation and U.S. Government cooperation and information-sharing with the private sector. To strengthen government-to-government cooperation, the Department of Commerce has worked with its counterpart agencies to: (1) Develop or strengthen export control regimes, (2) promote information and data exchanges, and (3) strengthen cooperation and facilitate enforcement. Specific initiatives to develop export control capabilities have included technical assistance in the areas of legal framework and licensing procedures and practices, enforcement training, and industry outreach. To strengthen cooperation and facilitate enforcement, the Department of Commerce has posted export control attachés to serve as liaisons in many of these areas, and has sought agreements and other government-to-government cooperation in certain destinations.

The Department of Commerce has also concentrated on outreach to key companies involved in forwarding, processing, and transporting goods through transshipment points, *i.e.*, freight forwarders, integrators, air cargo carriers, and shipping lines. The Department of Commerce has sought to enhance cooperation with these private sector entities via informal meetings, the establishment of communication channels to facilitate information sharing, the establishment and sharing of "best practices," and by working with the foreign trade zone board to address transshipment issues.

The diversion of items subject to the EAR could augment the capabilities of terrorists and state sponsors of terrorism, and significantly undermine international counterproliferation efforts. The illegal diversion of such items could also compromise the effectiveness of U.S. export control laws. In recent years, diversions have contributed to a number of major cases involving the violation of U.S. export control laws for dual-use goods.

Request for Comment

Consideration of designating Country Group C to identify "Destinations of Diversion Concern" is part of the Department of Commerce's effort to strengthen the trade compliance and export control systems of countries that are transshipment hubs. By working to strengthen those systems, the Department of Commerce seeks to enhance international security and confidence in international trade flows. Country Group C would identify those countries of diversion concern, based on certain criteria including, but not limited to:

- Transit and transshipment volume;
- Inadequate export/reexport controls;
- Demonstrated inability to control diversion activities in this destination;
- Government not directly involved in diversion activities; and
- Government unwilling or unable to cooperate with the U.S. in interdiction efforts.

As a result of being placed into Country Group C, the licensing policy would likely change for items going to any country designated as a "Destination of Diversion Concern." Such changes could include changes in License Exception eligibility (Part 740 of the EAR), License Requirements and Licensing Policy (Part 742 of the EAR), and End-User and End-Use Based Controls (Part 744 of the EAR). The result of these changes could mean that more license applications might be required; more stringent license review policies might be implemented, which could result in less approvals or more conditions on licenses; authorizations may be delayed because of increased end-user checks; or authorizations may decrease because of diversion risks for such countries.

Rulemaking Requirements

This advance notice of proposed rulemaking rule has been determined to be significant for purposes of E.O. 12866.

Christopher A. Padilla,

Assistant Secretary for Export Administration.

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