

signed statement of another Census Bureau official witnessing the authority of the first.

(c) Requests for certification should be submitted on Form BC-1868(EF), Request for Official Certification, to the Census Bureau by fax, (301) 457-4714 or by e-mail, webmaster@census.gov. Form BC-1868(EF) is available on the Census Bureau's Web site at: <http://www.census.gov/mso/www/certification/>. A letter request—without Form BC-1868(EF)—will be accepted only if it contains the information necessary to complete a Form BC-1868(EF). No certification request will be processed without payment of the required fee.

Dated: August 21, 2002.

Charles Louis Kincannon,

Director, Bureau of the Census.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 736, 758, 764, 766 and 772

[Docket No. 020628162-2162-01]

RIN 0694-AC58

Revision to the Export Administration Regulations: Denied Persons List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule removes references in the Export Administration Regulations (EAR) to the “Denied Persons List” maintained by the Bureau of Industry and Security because the list is described, but not published, in the Code of Federal Regulations, and is not intended to be legally controlling. This rule also makes a format change in the template of the standard denial order published in the EAR.

EFFECTIVE DATE: This rule is effective August 26, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas W. Andrukonis, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Telephone: (202) 482-4255.

SUPPLEMENTARY INFORMATION:

Background

As described in section 764.3 of the Export Administration Regulations (15 CFR 764.3), the Bureau of Industry and Security (BIS) has the authority to issue an order that restricts the ability of

persons named in it to engage in export or reexport transactions of items subject to the Export Administration Regulations (EAR) and restricts their access to items subject to the regulations. These orders may also prohibit all persons from taking certain actions specified in the order because those actions could circumvent the restrictions imposed on the denied person by the order. BIS publishes notices of such orders in the **Federal Register** to provide notice to all persons of the provisions of the order. BIS maintains unofficial compilations of such denial orders, for the convenience of the public, in a “Denied Persons List” included in the unofficial version of the EAR and on a Web site. Because these compilations are not included in the Code of Federal Regulations, this rule removes references to the “Denied Persons List” from the EAR in parts 732, 736, 758, 764, 766 and 772. References to the “Denied Persons List” in part 752 of the EAR will be removed in a separate rule.

This rule also replaces the word “immediately” with “[date]” in the last sentence of the pro forma standard denial order, because a standard order need not be effective as of the date of signing. This rule does not change the scope of any order denying export privileges, nor does it change the rights or duties of any person with respect to the Export Administration Regulations.

Rulemaking 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 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, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule does not involve a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

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

4. Pursuant to 5 U.S.C. 553(b)(A), the provisions of the Administrative Procedure Act requiring a notice of proposed rulemaking and the opportunity for public comment are waived, because this regulation involves a rule of agency procedure. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Additionally, pursuant to 5 U.S.C. 553(d)(2), the 30 day delay in effectiveness is waived for the same reason. 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 William Arvin, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR Parts 732 and 758

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

15 CFR Parts 736 and 772

Exports, Foreign trade.

15 CFR Part 764

Administrative practice and procedure, Exports, Foreign trade, Law enforcement, Penalties.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Foreign trade.

Accordingly, parts 732, 736, 758, 764, 766 and 772 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

PART 732—[AMENDED]

1. The authority citation for 15 CFR part 732 is revised 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 14, 2002, 67 FR 53721, August 16, 2002.

2. Section 732.3 is amended by revising paragraph (g)(1) to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

* * * * *

(g) * * *

(1) Determine whether your transferee, ultimate end-user, any intermediate consignee, or any other party to a transaction is a person denied export privileges (see part 764 of the EAR). It is a violation of the EAR to

engage in any activity that violates the terms or conditions of a denial order. General Prohibition Four (Denial Orders) applies to all items subject to the EAR, *i.e.*, both items on the CCL and within EAR99.

* * * * *

PART 736—[AMENDED]

3. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

4. Section 736.2 is amended by revising paragraph (b)(4)(i) to read as follows:

§ 736.2 General Prohibitions and Determination of Applicability.

* * * * *

- (b) * * *
(4) * * *

(i) You may not take any action that is prohibited by a denial order issued under part 766 of the EAR, Administrative Enforcement Proceedings. These orders prohibit many actions in addition to direct exports by the person denied export privileges, including some transfers within a single country, either in the United States or abroad, by other persons. You are responsible for ensuring that any of your transactions in which a person who is denied export privileges is involved do not violate the terms of the order. Orders denying export privileges are published in the **Federal Register** when they are issued and are the legally controlling documents in accordance with their terms. BIS also maintains compilations of persons denied export privileges on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office. BIS may, on an exceptional basis, authorize activity otherwise prohibited by a denial order. See § 764.3(a)(2) of the EAR.

* * * * *

PART 758—[AMENDED]

5. The authority citation for 15 CFR part 758 is revised 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 14, 2002, 67 FR 53721, August 16, 2002.

6. Section 758.2 is amended by revising paragraph (c)(2) to read as follows:

§ 758.2 Automated Export System (AES).

* * * * *

- (c) * * *

(2) Applicants are denied persons; or

* * * * *

PART 764—[AMENDED]

7. The authority citation for 15 CFR part 764 is revised 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 14, 2002, 67 FR 53721, August 16, 2002.

8. Supplement No. 1 to Part 764 is amended by revising paragraph (a) (the undesignated paragraphs following paragraph (a) are unchanged), revising the heading and introductory text of paragraph (b), and revising the last sentence of the Supplement to read as follows:

SUPPLEMENT NO. 1 TO PART 764—STANDARD TERMS OF ORDERS DENYING EXPORT PRIVILEGES

(a) *General.* (1) Orders denying export privileges may be “standard” or “non-standard.” This Supplement specifies terms of the standard order denying export privilege with respect to denial orders issued after March 25, 1996. Denial orders issued prior to March 25, 1996 are to be construed, insofar as possible, as having the same scope and effect as the standard denial order. All denial orders are published in the **Federal Register**. The failure by any person to comply with any denial order is a violation of the Export Administration Regulations (EAR) (*see* § 764.2(k) of this part). BIS provides lists of denied persons on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office.

(2) Each denial order shall include:

- (i) The name and address of any denied persons and any related persons subject to the denial order;
- (ii) The basis for the denial order, such as final decision following charges of violation, settlement agreement, section 11(h) of the EAA, or temporary denial order request;

(iii) The period of denial, the effective date of the order, whether and for how long any portion of the denial of export privileges is suspended, and any conditions of probation; and

(iv) Whether any or all outstanding licenses issued under the EAR to the person(s) named in the denial order or

in which such person(s) has an interest, are suspended or revoked.

* * * * *

(b) Standard denial order terms. The following are the standard terms for imposing periods of export denial. Some orders also contain other terms, such as those that impose civil penalties, or that suspend all or part of the penalties or period of denial.

* * * * *

This order, which constitutes the final agency action in this matter, is effective [DATE].

9. Supplement No. 2 to Part 764 is removed.

PART 766—[AMENDED]

10. The authority citation for 15 CFR part 766 is revised 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 14, 2002, 67 FR 53721, August 16, 2002.

11. Section 766.25 is amended by revising paragraph (f) to read as follows:

§ 766.25 Administrative action denying export privileges.

* * * * *

(f) *Publication.* The orders denying export privileges under this section are published in the **Federal Register** when issued, and, for the convenience of the public, information about those orders may be included in compilations maintained by BIS on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office.

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PART 772—[AMENDED]

12. The authority citation for 15 CFR part 772 is revised 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 14, 2002, 67 FR 53721, August 16, 2002.

13. Section 772.1 is amended by removing the definition of “Denied Persons List.”

Dated: August 15, 2002.

James J. Jochum,

Assistant Secretary for Export Administration.

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