

areas and safety areas by pedestrians and ground vehicles, including provisions identifying the consequences of noncompliance with the procedures by all persons;

* * * * *

(e) Ensure that all persons are trained on procedures required under paragraph (b) of this section prior to the initial performance of such duties and at least once every 12 consecutive calendar months, including consequences of noncompliance, prior to moving on foot, or operating a ground vehicle, in movement areas or safety areas; and

* * * * *

Issued in Washington, DC, on January 4, 2013.

Michael P. Huerta,
Acting Administrator.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 121113624-2624-01]

RIN 0694-AF82

Removal of Persons From the Entity List Based on Removal Request; Implementation of Entity List Annual Review Changes; and Implementation of Modifications and Corrections to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by removing two persons from the Entity List (Supplement No. 4 to Part 744), as the result of a request for removal submitted by these two persons. In addition, on the basis of the annual review conducted by the End User Review Committee, this rule amends the Entity List to remove two entries from the United Arab Emirates (U.A.E.). Finally, this rule modifies two existing entries to correct the scope of those entries, including removing a redundant entry that was inadvertently added in a final rule.

DATES: *Effective Date:* This rule is effective January 16, 2013.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce,

Phone: (202) 482-5991, Fax: (202) 482-3911, Email: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported, or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests, including terrorism and export control violations involving abuse of human rights. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is very limited. The license review policy for each entity is identified in the License Review Policy column on the Entity List and the availability of license exceptions is published in the **Federal Register** notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The End-user Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Removal From the Entity List

This rule implements a decision of the ERC to remove two persons, Laurence Mattiucci and Toulouse Air Spares SAS, both located in France, from the Entity List as a result of a successful request for removal from the Entity List. Based upon the review of the information provided in the removal request in accordance with § 744.16 (Procedure for requesting removal or modification of an Entity List entity), and after review by the ERC's member agencies, the ERC determined that these persons should be removed from the Entity List.

The ERC's decision to remove these two persons took into account their

cooperation with the U.S. Government, as well as their assurances of future compliance with the EAR. In accordance with § 744.16(c), the Deputy Assistant Secretary for Export Administration has sent written notification to these two persons, informing these entities of the ERC's decision to remove them from the Entity List. This final rule implements the decision to remove the following two persons from the Entity List:

France

(1) *Laurence Mattiucci*, 8 Rue de la Bruyere, 31120 Pinsaguel, Toulouse, France; and

(2) *Toulouse Air Spares SAS*, 8 Rue de la Bruyere, 31120 Pinsaguel, Toulouse, France.

Annual Review of the Entity List

This rule also amends the Entity List on the basis of the annual review of the Entity List conducted by the ERC, in accordance with the procedures outlined in Supplement No. 5 to part 744 (Procedures for End-User Review Committee Entity List Decisions). The changes from the annual review of the Entity List that are approved by the ERC are implemented in stages as the ERC completes its review of entities listed under different destinations on the Entity List. This rule implements the results of the annual review for entities located in the United Arab Emirates (U.A.E.). The entities located Armenia, Cyprus, France, and Iran were also reviewed by the ERC, but no additional changes are being made to those entries as a result of the annual review of the Entity List.

Removals From the Entity List on the Basis of Annual Reviews

This rule removes two entries from the Entity List on the basis of the annual review of the Entity List. The persons removed were determined to no longer meet the criteria for inclusion on the Entity List. Specifically, this rule implements the decision of the ERC to remove two persons located in the U.A.E., as follows:

United Arab Emirates

(1) *Abubakr Abuelazm*, Dubai, U.A.E., 500100; and

(1) *Advanced Technology General Trading Company*, a.k.a, Advanced Technologies Emirates FZ-LLC, Office #124 1st Floor, Building #3, Dell Building, Sheikh Zayed Road, Dubai Internet City, Dubai, U.A.E.

The removal of the above-referenced two entities on the basis of annual review of the Entity List, and the removal of the two entities referenced

above on the basis of a § 744.16 removal request that was approved by the ERC, eliminates the existing license requirements in Supplement No. 4 to part 744 for exports, reexports, and transfers (in-country) to these four entities. However, the removal of these four entities from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of an entity from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, “you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.” Additionally, these removals do not relieve persons of their obligation to apply for export, reexport, or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, “BIS’s ‘Know Your Customer’ Guidance and Red Flags,” when persons are involved in transactions that are subject to the EAR.

Modifications and Corrections to the Entity List

On October 9, 2012, BIS published a final rule, “Addition of Certain Persons to the Entity List” in the **Federal Register** (77 FR 61249). This rule amends the Entity List by revising one entry added on October 9 under Finland and by removing one redundant entry under Russia. Specifically, the spelling of the “Olkerboy Oy” entry under Finland is corrected to “Olkebor Oy” and the “Bolshaya Semenovskaya” entry under Russia is removed. This rule revises the Olkerboy Oy entry under Finland, as follows:

Finland

(1) *Olkebor Oy/Nurminen Oy*, 231B Vanha Porvoontie, Vantaa, Finland 01380.

This rule also removes the Bolshaya Semenovskaya entry under Russia:

Russia

(1) *Bolshaya Semenovskaya* 40/505, Moscow, Russia 107023; and *Ulitsa Metallurgov*, 29, Str. 1, Komnata Pravleni, Moscow, Russia 111401.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on

January 16, 2013, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 15, 2012, 77 FR 49699 (August 16, 2012), has continued the Export Administration Regulations 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. This rule has been determined to be not significant for purposes of Executive Order 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 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 regulation involves collections previously approved by the OMB under control numbers 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes for a manual or electronic submission. This rule does not alter any information collection requirements; therefore, total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to Jasmeet.K.Seehra@omb.eop.gov, or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in 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 comment, and a 30-day delay in effective date are inapplicable because this regulation involves a military or

foreign affairs function of the United States. (See 5 U.S.C. 553(a)(1)). The U.S. Government’s original basis for adding the entities affected by this rule to the Entity List was the entities’ involvement in activities contrary to U.S. national security or foreign policy interests. BIS implements this rule to further protect U.S. national security and foreign policy interests by preventing items from being exported, reexported or transferred (in-country) to these persons listed on the Entity List and by ensuring that potential transactions with individuals no longer listed on the Entity List are not turned away to the detriment of U.S. economic interests. If this rule were delayed to allow for notice and comment and a 30-day delay in effective date, there is a chance that certain exporters, reexporters, and persons making transfers (in-country) to this listed person may inadvertently export, reexport or transfer (in-country) to *Olkebor Oy/Nurminen Oy* because the exporter, reexporter or person making the transfer (in-country) did not realize the listed person was subject to the Entity List-based license requirement. There is also a chance an exporter, reexporter, or person making a transfer (in-country) may turn away a potential export, reexport, or transfer (in-country) because the customer remained a listed person on the Entity List after the ERC approved removal, thereby harming U.S. economic interests. The correction and removals provided in this rule may make clear that the persons are no longer subject to Entity List-based license requirements. For these reasons, there is a public interest that these changes be implemented as a final action. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues 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 January 19, 2012, 77 FR 3067 (January 20, 2012) Notice of August 15, 2012, 77 FR 49699 (August 16, 2012); Notice of September 11, 2012, 77 FR 56519 (September 12, 2012); Notice of November 1, 2012, 77 FR 66513 (November 5, 2012).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By removing under Finland the Finnish entity “Olkerboy Oy/Nurminen Oy”, and adding in alphabetical order, one Finnish entity for Olkebor Oy/Nurminen Oy”;

■ b. By removing under France, the two French entities: “Laurence Mattiucci, 8 Rue de la Bruyere, 31120 Pinsaguel, Toulouse, France.” and “Toulouse Air Spares SAS, 8 Rue de la Bruyere, 31120 Pinsaguel, Toulouse, France.”;

■ c. By removing under Russia, the Russian entity: “Bolshaya

Semenovskaya, 40/505, Moscow, Russia 107023; and Ulitsa Metallurgov, 29, Str. 1, Komnata Pravleni, Moscow, Russia 111401.”; and

■ d. By removing under United Arab Emirates, the two Emirati entities: “Abubakr Abuelazm, Dubai, U.A.E., 500100.” and “Advanced Technology General Trading Company, a.k.a, Advanced Technologies Emirates FZ—LLC, Office #124 1st Floor, Building #3, Dell Building, Sheikh Zayed Road, Dubai Internet City, Dubai, U.A.E.”

The addition reads as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
FINLAND				
*	*	*	*	*
	Olkebor Oy/Nurminen Oy, 231B Vanha Porvoontie, Vantaa, Finland 01380.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	77 FR 61256, 10/9/2012. 78 FR [INSERT FR PAGE NUMBER] 1/16/13.
*	*	*	*	*

Dated: January 10, 2013.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2013–00767 Filed 1–15–13; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 121220730–2730–01]

RIN 0694–AF84

Amendments to Existing Validated End User Authorizations: Advanced Micro Devices China, Inc., Lam Research Corporation, SK hynix Semiconductor (China) Ltd., and SK hynix Semiconductor (Wuxi) Ltd. in the People’s Republic of China; Clarification of Scope of Entries in Supplement

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the existing Authorization Validated End-User (VEU) listings for four VEU in the People’s Republic of China (PRC). Specifically, BIS amends Supplement

No. 7 to part 748 of the EAR to update VEU Advanced Micro Devices China Inc.’s (AMD China) current list of eligible destinations. BIS also amends the authorization of VEU Lam Research Corporation (Lam) by updating the addresses of ten eligible destinations and reformatting the list of Lam’s existing eligible destinations into groups associated with specific eligible items. BIS also updates the EAR to amend the addresses and lists of eligible items for VEU SK hynix Semiconductor (China) Ltd. and SK hynix Semiconductor (Wuxi) Ltd. Finally, BIS amends Supplement No. 7 to part 748 of the EAR to include language reminding exporters that the language in the Supplement does not supersede other requirements in the EAR.

These amendments to the authorizations of the named VEU are not the result of activities of concern. The respective changes were prompted by factors arising from the companies’ normal course of business or are being done at the request of the companies.

DATES: This rule is effective January 16, 2013.

FOR FURTHER INFORMATION CONTACT:

Karen Nies-Vogel, Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230; by telephone: (202) 482–5991, fax: (202) 482–3991, or email: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

Authorization Validated End-User

Validated end-users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEU, as well as the date they were so designated, and their respective eligible destinations and items are identified in Supplement No. 7 to part 748 of the EAR. Under the terms described in that supplement, VEU may obtain eligible items without an export license from BIS. Eligible items may include commodities, software, and technology, except those controlled for missile technology or crime control reasons.

VEUs are 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. BIS amended the EAR in a final rule on June 19, 2007 (72 FR 33646) to create Authorization VEU.