



DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 744 and 746

[Docket No. 240308-0076]

RIN 0694-AI82

Export Administration Regulations End-User Controls: Imposition of Restrictions on Certain Persons Identified on the List of Specially Designated Nationals and Blocked Persons (SDN List)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) makes changes to the end-user controls of the Export Administration Regulations (EAR) to add end-user controls, and in certain cases expand existing end-user controls, on certain persons identified on the List of Specially Designated Nationals and Blocked Persons (SDN List) maintained by the Department of the Treasury's Office of Foreign Assets Control (OFAC).

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For questions on this final rule, contact W. Collmann Griffin, Senior Policy Advisor, International Policy Office, Bureau of Industry and Security, Department of Commerce, Phone: 202-482-1430, E-mail: william.griffin@bis.doc.gov
For emails, include "EAR requirements for SDNs" in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Government has a number of list-based tools to restrict economic activities of individuals and entities to protect U.S. national security or foreign policy interests. BIS employs

end-user controls under the Export Administration Regulations (EAR), 15 CFR parts 730-774, including the Entity List (Supplement No. 4 to part 744 of the EAR), to impose license requirements for the export, reexport, and transfer (in-country) of items subject to the EAR. End-user requirements and Entity List additions allow for the monitoring of items subject to the EAR, including less-sensitive items. In the context of the Entity List, BIS maintains stringent license review policies and restrictions on the use of EAR license exceptions specific to each listed entity.

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) maintains the List of Specially Designated Nationals and Blocked Persons (SDN List) to identify persons whose property or interests in property that are or come within the United States or in the possession or control of U.S. persons, wherever located, are blocked (see appendix A to 31 CFR chapter V and <https://www.treas.gov/sdn>). These targeted economic sanctions tools enable the U.S. Government to escalate economic pressure and promote deterrence while mitigating unintended economic effects on the United States and our partners and allies.

After reviewing categories of end users and global activities that implicate both financial and export control concerns, BIS has determined to implement EAR license requirements for all items subject to the EAR for all persons blocked under eleven OFAC-administered sanctions programs. BIS will also continue to apply license requirements involving all items subject to the EAR in connection with persons sanctioned under three OFAC-administered sanctions programs. The EAR restrictions involving these fourteen OFAC-administered sanctions programs serve as a force multiplier and complement OFAC's blocking sanctions, which prohibit all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated or blocked persons, unless authorized by a general or specific license issued by OFAC, or exempt.

The imposition of these EAR license requirements for exports, reexports, and transfers (in-country) allows for the EAR controls to act as a backstop for activities over which OFAC

does not exercise jurisdiction, including deemed exports and deemed reexports, and for reexports and transfers (in-country) that would otherwise not involve U.S. persons (*e.g.*, U.S. financial institutions). Notably, the new license requirements allow for controls on items outside the United States, complementing the existing authority in many OFAC programs to impose blocking sanctions on persons who materially assist, sponsor, or provide financial, material, or technological support for, or goods or services to or in support of, SDNs, even outside of U.S. jurisdiction.

In this final rule, persons blocked under fourteen OFAC sanctions programs will be subject to stringent export controls under the EAR. Each program is listed below with the corresponding sanctions authority and program code or “identifier,” arranged by thematic program to assist understanding.

Related to Russia’s invasion of Ukraine:

- Belarus Sanctions Regulations, 31 CFR part 548; Executive Order 13405 (OFAC program code or “identifier” [BELARUS]);
- Executive Order 14038 ([BELARUS-EO14038]);
- Russian Harmful Foreign Activities Sanctions Regulations 31 CFR part 587; Executive Order 14024 [RUSSIA-EO14024];
- Executive Order 13660 ([UKRAINE-EO13660]);
- Executive Order 13661 ([UKRAINE-EO13661]);
- Executive Order 13662 [UKRAINE-EO13662]; *and*
- Executive Order 13685 ([UKRAINE-EO13685]).

Related to terrorism:

- Foreign Terrorist Organizations Sanctions Regulations, 31 CFR part 597 [FTO]; *and*
- Global Terrorism Sanctions Regulations, 31 CFR part 594 [SDGT].

Related to WMD:

- Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544 [NPWMD].

Related to narcotics trafficking or other criminal networks:

- Executive Order 14059 [ILLICIT DRUGS-EO14059];
- Narcotics Trafficking Sanctions Regulations, 31 CFR part 536 [SDNT];
- Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598 [SDNTK]; *and*
- Transnational Criminal Organizations Sanctions Regulations, 31 CFR part 590; Executive Order 13581 [TCO].

See *Program Tag Definitions for OFAC Sanctions Lists* for additional information:

<https://ofac.treasury.gov/specially-designated-nationals-list-sdn-list/program-tag-definitions-for-ofac-sanctions-lists>.

Prior to this final rule, persons designated under two of these fourteen OFAC-administered sanctions programs (*i.e.*, [ILLICIT DRUGS-EO14059] and [TCO]) were not subject to restrictions under the EAR. Persons designated under the other twelve programs were already subject to comprehensive export controls under part 744 provisions, or under provisions in parts 740 or 746 of the EAR. As described below under sections II and III, this final rule expands certain of these part 744 provisions and revises part 744 to feature a comprehensive, consolidated provision that references all fourteen OFAC-administered sanctions programs. It also consolidates the relevant export control restrictions from part 740 and 746 under this new provision in part 744.

The EAR, prior to this final rule, imposed licensing restrictions on export, reexport, and transfer (in-country) transactions involving all items subject to the EAR in which persons blocked under three OFAC-administered sanctions programs — [FTO], [SDGT], and [NPWMD] — served as parties to the transaction. This rule eliminates the three applicable underlying sections in part 744 and adds their contents to a consolidated single section under § 744.8.

In addition, prior to this final rule, the EAR imposed licensing restrictions on exports, reexports, and transfers (in-country) of ‘luxury goods’ in which persons blocked under seven of these OFAC administered sanctions programs — [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], and [UKRAINE-EO13685] — served as parties to the transaction. This final rule expands the license requirement to all items subject to the EAR and moves the relevant regulatory contents from current § 746.10(a)(2) into a consolidated single section of the EAR under § 744.8.

Prior to this final rule, the EAR also imposed restrictions on the availability of license exceptions for transactions involving certain items in which persons blocked under two of these OFAC-administered sanctions programs, [SDNT] and [SDNTK], served as parties to the transaction. This final rule restricts such license exception availability further by adding a license requirement for all items subject to the EAR when a person blocked pursuant to these two programs is a party to the transaction and places the substantive regulatory contents in a consolidated single section of the EAR under § 744.8.

BIS will continue its regular coordination with OFAC to impose restrictions on persons designated under other OFAC blocking or sanctions programs in cases in which BIS determines that its export controls would be an effective tool to complement OFAC’s sanctions programs. All interested parties may consult the Commerce Department-maintained Consolidated Screening List (CSL), available to the public at <https://www.trade.gov/consolidated-screening-list>, as a single-search portal to identify individuals and entities who appear on lists maintained by the Departments of Commerce, the Treasury, and State.

This final rule also makes several structural and technical changes to part 744 and removes four end-user control provisions under part 744 of the EAR that are either outdated or obsolete in light of changes made to other federal authorities.

Specifically, this final rule:

A. Imposes end-user controls under the EAR involving persons identified on

OFAC's SDN List under eleven categories with the following identifiers: [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], [UKRAINE-EO13685], [ILLCIT DRUGS-EO14059], [SDNT], [SDNTK], and [TCO].

B. Consolidates into a single section the contents of several part 744 SDN-related end-user provisions under the EAR. Prior to this final rule, part 744 included five separate sections involving SDNs designated in or pursuant to several specified Executive Orders (E.O.s). This final rule consolidates the contents of those five sections and the eleven new SDN-related restrictions so that all of the SDN-related end-user controls in part 744 will be in the same section. As part of this regulatory action, BIS removes from the EAR two provisions: one provision involving a terminated E.O. that had targeted Specially Designated Terrorists (SDTs) and a second provision involving Iraq that does not address current policy concerns under the EAR.

C. Removes two end-user control provisions in part 744 of the EAR that are no longer needed because of the existence of a broader end-user control in § 744.11 that allows BIS to impose restrictions on entities acting contrary to the national security or foreign policy interests of the United States.

II. Expansion of SDN-related end-user controls under the EAR

A. Persons designated on SDN List with the identifiers [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685]

1. Export controls implemented against Russia and Belarus

In response to Russia's February 2022 invasion of Ukraine, BIS imposed extensive sanctions on Russia under the EAR as part of the final rule, "Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)" (the Russia Sanctions Rule) (87 FR 12226, March 3, 2022). To address Belarus's complicity in the invasion, BIS

imposed similar sanctions on Belarus under the EAR in a final rule, “Implementation of Sanctions Against Belarus” (“Belarus Sanctions Rule”) (87 FR 13048, March 6, 2022). During the last two years, BIS has published a number of additional final rules strengthening the export controls on Russia and Belarus, including measures undertaken in coordination with U.S. allies and partners.

Most recently, in a January 2024 rule, “Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls,” BIS strengthened its sanctions under the EAR against Russia and Belarus, including by expanding the scope of the EAR’s Russian and Belarusian Industry Sector Sanctions, expanding the EAR’s Russia/Belarus foreign direct product rule to cover certain EAR99 antennas, antenna reflectors, and parts thereof, and other actions to prohibit exports or reexports of military and spacecraft-related items to Russia and Belarus (89 FR 4804, January 25, 2024). The Department of Commerce took these actions to enhance the effectiveness of its controls on these two countries and to better align them with those implemented by U.S. allies and partners.

2. Designations made pursuant to E.O.s 13405, 13660, 13661, 13662, 13685, 14024, and 14038 and BIS actions to complement such designations

OFAC has taken action to address Russia’s February 2022 invasion of Ukraine, including adding various persons to OFAC’s SDN List pursuant to E.O. 13405, 13660, 13661, 13662, 13685, 14024, and 14038. Persons who are blocked pursuant to one of these seven E.O.s are designated on the SDN List with the identifier [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685] (see <http://www.treas.gov/sdn>).

In this rule, in order to complement the designations made under E.O. 13405, 13660, 13661, 13662, 13685, 14024, or 14038, BIS amends the EAR to revise § 744.8 to impose a license requirement for all exports, reexports, or transfers (in-country) of items subject to the

EAR when a person designated under one of these seven E.O.s is a party to the transaction as defined in § 748.5(c) through (f). In particular, these new EAR license requirements under § 744.8 will apply to any reexport or transfer (in-country) transaction that is not subject to regulation by OFAC, including due to the fact that the transaction does not involve U.S. persons or the U.S. financial system, thereby ensuring that the U.S. Government can restrict such activity. These new license requirements will apply broadly to all items subject to the EAR. There will also be a prohibition on the use of any license exceptions, although as specified in new § 744.8(a)(2), the EAR authorization requirements will take into account OFAC general licenses and exemptions to ensure consistency, and a restrictive presumption of denial review policy will apply to license applications involving these persons as parties to the transaction.

These EAR changes will limit these persons' access to items subject to the EAR, regardless of their source. Also, these actions will advance the U.S. national security and foreign policy objectives set forth in E.O. 13405, 13660, 13661, 13662, 13685, 14024, and 14038, and build upon the policy objectives set forth in the Russia Sanctions rules and in the Belarus Sanctions rules as described above. This rule is part of a set of larger U.S. Government and partner and allied country actions intended to increase the financial, economic, and strategic consequences of Russia's further invasion of Ukraine and Belarus's substantial enabling of such invasion, and Russia's ongoing military aggression in Ukraine during the past two years.

In order to avoid duplication, if OFAC issues a general license or specific license that authorizes a transaction with or involving a person blocked under the applicable OFAC regulations and included on the SDN List with the identifier [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685] or such transaction is otherwise exempt from OFAC's regulations, then no additional BIS authorization is required for exports, reexports, or transfers (in-country) of any item subject to the EAR when that person is a party to the transaction as defined in § 748.5(c) through (f), provided that a license would otherwise only be required under

§ 744.8. A BIS license would still be required for exports, reexports, or transfers (in-country) that implicate other parts of the EAR, including parts 742 and 746, as well as supplement no. 4 to part 744 or other end-use or end-user controls. For example, an entity with the SDN List identifier [RUSSIA-EO14024] would be subject to the license requirements under § 744.8 but could also be listed on the Entity List in supplement no. 4 to part 744. If the entity were listed on the Entity List, a party seeking to make an export, reexport, or transfer (in-country) would have to overcome the additional EAR license requirements. Alternatively, if the item were highly controlled, such as a “600 series” military item, the party seeking to make an export, reexport, or transfer (in-country) would have to overcome Commerce Control List (CCL)-based license requirements in addition to requirements set forth in § 744.8.

BIS estimates new license requirements under § 744.8 for persons included on the SDN List with the identifier [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685] will result in an additional five license applications being submitted to BIS annually.

B. Persons designated on the SDN List with [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], or [TCO] identifiers related to narcotics or criminal activities

OFAC has taken various actions to address narcotics or other criminal activities, including by adding various persons to the SDN List with the identifiers [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], or [TCO].

This final rule adds persons designated on the SDN List with the following identifiers to § 744.8 of the EAR: [ILLICIT DRUGS-EO14059] (persons designated pursuant to E.O. 14059); [SDNT] (persons designated pursuant to the Narcotics Trafficking Sanctions Regulations, 31 CFR part 536); [SDNTK] (persons designated pursuant to the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598); and [TCO] (persons designated pursuant to the Transnational Criminal Organizations Sanctions Regulations, 31 CFR part 590 and E.O. 13581). Consistent with these SDN-related end-user controls, § 744.8, as revised and consolidated by this

final rule, will impose license requirements for all items subject to the EAR, restrict the availability of all license exceptions, and specify a presumption of denial license review policy.

This rule removes and reserves § 740.2(a)(22) as a conforming change to the addition of two of these SDN List identifiers to § 744.8. Due to the fact that § 744.8 will include a restriction on the use of EAR license exceptions for export, reexport, and transfer (in-country) transactions involving all items subject to the EAR, § 740.2(a)(22) is no longer needed.

Prior to this final rule, the SDN identifiers [SDNT] and [SDNTK] were included in a general restriction on the use of license exceptions under § 740.2(a)(22) for certain items. This general restriction specified that the export, reexport, or transfer (in-country) of any item classified under a 0x5zz Export Control Classification Number (ECCN) (*i.e.*, firearms and related items) could not be authorized under an EAR license exception when a party to the transaction was designated on the SDN List with one of these identifiers. Because persons designated on the SDN List with these identifiers were involved in narcotics or other criminal activities, BIS had restricted the use of all EAR license exceptions for the firearms and related items controlled under the 0x5zz ECCNs to protect U.S. national security and foreign policy interests. Due to the fact that there is a worldwide license requirement under the EAR for firearms, BIS did not impose a license requirement under part 744 for transactions involving persons on the SDN List with these identifiers who are parties to the transaction, and instead relied on the CCL-based license requirements and related license review policies.

BIS has determined that the license requirements for export, reexport, and transfer (in-country) transactions in which persons designated on the SDN List with the identifiers [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], or [TCO] are parties to the transaction should be expanded from CCL-based requirements to all items subject to the EAR to further protect U.S. national security and foreign policy interests. In order to avoid duplication, U.S. persons are not required to seek separate BIS authorization for an export, reexport, or transfer (in-country) of any item subject to both the EAR and OFAC's regulations when a person identified in § 744.8 is a

party to the transaction as defined in § 748.5(c) through (f). Therefore, if OFAC authorizes an export from the United States or an export, reexport, or transfer (in-country) by a U.S. person to a person identified in § 744.8, no separate BIS authorization is required.

BIS estimates new license requirements under § 744.8 for transactions in which persons designated on the SDN List with the identifiers [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], or [TCO] are parties to the transaction will result in an additional 15 license applications being submitted to BIS annually.

III. Consolidation of the SDN-related end-user controls under the EAR

A. Increasing use and expansion of end-user controls

The increasing use of end-use and end-user controls under the EAR has led to an expansion of the number of sections under part 744, “Control Policy: End User and End-Use Based.” For example, there are five sections similarly structured in part 744 that prior to this final rule imposed restrictions on certain persons designated on the SDN List. This rule simplifies part 744 by combining these sections into a single section that will specify the requirements under the EAR and by adding the eleven new SDN identifiers described above under section II to the same consolidated section. This streamlining and restructuring will reduce the compliance burden on parties because it will be easier to review one consolidated SDN-related section instead of fourteen separate SDN-related sections.

This final rule removes and reserves § 744.13, relating to persons identified on the SDN List with the [SDT] identifier, which OFAC no longer uses. The now-obsolete [SDT] restrictions in § 744.13 are related to E.O. 12947 of January 23, 1995, which was revoked on September 9, 2019, by E.O. 13886. E.O. 13886 also modified E.O. 13224, which underlies the Global Terrorism Sanctions Regulations (31 CFR part 594) referenced in § 744.12. The existing [SDT] SDNs were re-designated as [SDGT] SDNs upon E.O. 12947’s revocation. This final rule also does not include the restrictions related to SDNs with the [IRAQ2] identifier under § 744.18 as part of the consolidation under revised § 744.8 because the vast majority of these natural

persons or entities are either dead or no longer in existence, and they remain designated as SDNs primarily for purposes of blocking financial assets. Therefore, these additional EAR requirements are no longer needed.

B. Consolidation of EAR controls involving items destined for certain persons designated on the SDN List

1. Overview of the consolidated controls.

In part 744, this final rule removes and reserves §§ 744.12, 744.13, 744.14, and 744.18. For §§ 744.12 and 744.14, this final rule adds the substance of these controls to the revised § 744.8. This final rule does not add the controls under § 744.13 or under § 744.18 for the reasons described above under section III.A.

In § 744.8, this final rule revises this section, including the heading, to reflect the consolidation of §§ 744.12 and 744.14 therein. This final rule additionally makes certain clarifying changes to § 744.8, including clarifying that the specified EAR requirements apply to transfers (in-country) and that OFAC general licenses remain available for entities that are otherwise subject to these license requirements under § 744.8.

Also in § 744.8, this rule expands the end-user controls under part 744 to extend the controls to transactions featuring as a party to the transaction a person designated on the SDN List with the identifiers [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685] as described under section II.A, and with the identifiers [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], or [TCO] as described under section II.B of this final rule.

2. Comparison of the original and consolidated EAR controls for SDNs under part 744.

The EAR imposes license requirements, license review policies, and restrictions on the use of license exceptions under certain sections of part 744 of the EAR for transactions featuring as a party to the transaction certain persons designated on the SDN List with specified identifiers, as described in section III.B.1.

Table 1 identifies these EAR restrictions prior to this final rule and the corresponding EAR section for these end-user requirements under § 744.8, as revised. Because of the number of sections this final rule removes and consolidates under part 744, BIS includes Table 1 to assist the exporting community’s understanding of these changes.

Table 2 identifies the eleven new SDN List identifiers ([BELARUS], [ILLICIT DRUGS-EO14059], [RUSSIA-EO14024], [SDNT], [SDNTK], [TCO], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], and [UKRAINE-EO13685]) that this final rule adds to the end-user requirements under part 744 of the EAR. BIS includes Table 2 to assist the exporting community’s understanding of these changes, including specifying the requirements in place prior to this final rule and the new and expanded requirements under this final rule.

Table 1: Existing SDN List identifiers that require a license for all items subject to the EAR that are being consolidated into § 744.8 or are otherwise being removed from the EAR

| Program Identifier: | Sanctions Program | OFAC Sanctions List: | EAR section prior to this final rule | New EAR section in this final rule |
|----------------------------|--|-----------------------------|---|---|
| Terrorism-related | | | | |
| [FTO] | Foreign Terrorist Organizations Sanctions Regulations, 31 CFR part 597 | SDN | § 744.14 | § 744.8 |
| [SDGT] | Global Terrorism Sanctions Regulations, 31 CFR part 594 | SDN | § 744.12 | § 744.8 |
| *[SDT] | Terrorism Regulations, 31 CFR part 595 | N/A | § 744.13 | N/A, because this identifier is no longer used. |
| WMD related | | | | |

| | | | | |
|--------------|---|-----|----------|--|
| [NPWMD] | Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544 | SDN | § 744.8 | § 744.8 |
| Iraq related | | | | |
| *[IRAQ2] | E.O. 13315; E.O. 13350 | SDN | § 744.18 | N/A, because the vast majority of these persons or entities are either dead or otherwise no longer in existence. |

* Denotes SDN List identifiers that are being removed from part 744 license requirements in this final rule.

Some of the SDN List identifiers in Table 2 are new to the EAR and others were previously subject to EAR license requirements or other restrictions that are being expanded in this final rule with the additions of these SDN List identifiers to § 744.8.

Table 2: SDN List identifiers added to § 744.8

| Program Identifier: | Sanctions Program | OFAC Sanctions List: | EAR section prior to this final rule | New EAR section in this final rule |
|---|--------------------------|-----------------------------|---|---|
| Related to Russia’s invasion of Ukraine | | | | |
| [BELARUS] | 31 CFR Part 548 | SDN | § 746.10, which required a license for ‘luxury goods’ identified in supplement no. 5 to part 746. | § 744.8 |
| [BELARUS-EO14038] | 31 CFR Part 548 | SDN | § 746.10, which required a license for ‘luxury goods’ | § 744.8 |

| | | | | |
|-------------------|---|-----|---|---------|
| | | | identified in supplement no. 5 to part 746. | |
| [RUSSIA-EO14024] | Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587; E.O. 14024 | SDN | § 746.10, which required a license for ‘luxury goods’ identified in supplement no. 5 to part 746. | § 744.8 |
| [UKRAINE-EO13660] | 31 CFR Part 589 | SDN | § 746.10, which required a license for ‘luxury goods’ identified in supplement no. 5 to part 746. | § 744.8 |
| [UKRAINE-EO13661] | 31 CFR Part 589 | SDN | § 746.10, which required a license for ‘luxury goods’ identified in supplement no. 5 to part 746. | § 744.8 |
| [UKRAINE-EO13662] | 31 CFR Part 589 | SDN | § 746.10, which required a license for ‘luxury goods’ identified in supplement no. 5 to part 746. | § 744.8 |
| [UKRAINE-EO13685] | 31 CFR Part 589 | SDN | § 746.10, which required a license for ‘luxury goods’ identified in supplement no. 5 to part 746. | § 744.8 |

| Related to narcotics trafficking or other criminal networks | | | | |
|---|---|-----|--|---------|
| [ILLICIT DRUGS- EO14059] | 31 CFR Part 599 | SDN | N/A (new SDN List-related identifier) | § 744.8 |
| [SDNT] | Narcotics Trafficking Sanctions Regulations, 31 CFR part 536 | SDN | § 740.2(a)(22), which restricted the use of license exceptions for 0x5zz items, but did not impose additional license requirements for these persons. This final rule removes paragraph (a)(22) because it will be addressed under § 744.8. | § 744.8 |
| [SDNTK] | Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598 | SDN | § 740.2(a)(22), which restricted the use of license exceptions for 0x5zz items but did not impose additional license requirements for these persons. This final rule removes paragraph (a)(22) because it will be addressed under § 744.8. | § 744.8 |

| | | | | |
|-------|---|-----|--|---------|
| [TCO] | Transnational Criminal Organizations Sanctions Regulations, 31 CFR part 590; Executive Order 13581 | SDN | N/A (new SDN List-related identifier). | § 744.8 |
|-------|---|-----|--|---------|

IV. Removal of two end-user control sections under the EAR

Section 744.11 (License requirements that apply to entities acting or at significant risk of acting contrary to the national security or foreign policy interests of the United States), provides a basis for BIS to impose license requirements by adding persons to the Entity List who have been involved, are involved, or pose a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States. Other sections of parts 744 (*e.g.*, § 744.3, relating to activities of concern involving missile technology) and 746 are also used to add persons to the Entity List. The substantive criteria set forth in two sections of part 744, §§ 744.10 (Restrictions on certain entities in Russia) and 744.20 (License requirements that apply to certain sanctioned entities), are duplicative of § 744.11 and/or other provisions in parts 744 and 746), which provide sufficient authority to add to the Entity List persons meeting the criteria set forth in those two sections. Therefore, this final rule removes and reserves §§ 744.10 and 744.20.

This final rule will reduce by two the number of sections that exporters, reexports, and transferors will need to review in part 744. Taking into account the additional four sections that this final rule removes as part of the consolidation of the SDN restrictions under § 744.8, as described under section III above, as well as the removal of the outdated SDN-related sections §§ 744.13 and 744.18, these changes will result in the removal of a total of six sections from part

744, making the end-user controls under part 744 simpler (thereby facilitating compliance) and more effective while continuing to serve to protect and advance U.S. national security and foreign policy interests.

V. Amendments to the EAR

In § 740.2, this final rule removes and reserves paragraph (a)(22) from the EAR because its restrictions on certain SDNs have been moved to the broader end-user restrictions under § 744.8.

In § 744.1, this final rule revises paragraph (a)(1) (*Introduction*), to remove references to §§ 744.12, 744.13, 744.14, and 744.18, and makes changes to the reference to § 744.8 to reflect that this section will now be the single section in part 744 that specifies end-user license requirements for export, reexport, and transfer (in-country) transactions involving certain SDNs. This final rule also removes the sentences referencing §§ 744.18 and 744.20, which are simultaneously being removed from the EAR. As a conforming change, this final rule revises the sentence that references § 744.7 to add the term “transfer (in-country)” for consistency with the requirements in § 744.7. For clarification purposes, this final rule revises the section that references § 744.19 to add the term “transfer (in-country).” In the sentence that specifies that these sections of part 744 include license review policies for export license applications submitted as required by these sections, this final rule adds the phrase “reexport, and in-country transfer,” because the license requirements of part 744 extend to reexports and transfers (in-country). In the sentence that refers to § 744.21, this final rule makes updates for consistency with the existing requirements under § 744.21 for Russia and Belarus, which are different than those for the other countries identified in § 744.21.

In § 744.7(b)(2) (*Exports to U.S. or Canadian Airline’s Installation or Agent*), this final rule adds the phrase “reexports, and transfers (in-country)” for clarity. This addition is consistent with the agency’s longstanding position that this paragraph is available for reexports and transfers (in-country). In § 744.8 (Restrictions on exports and reexports to persons designated

pursuant to E.O. 13382 – blocking property of weapons of mass destruction proliferators and their supporters), this final rule revises this section heading to now read as “Restrictions on exports, reexports, and transfers (in-country) when certain persons designated on the List of Specially Designated Nationals and Blocked Persons (SDN List) are a party to the transaction” to reflect the broadened scope of this revised section.

Paragraph (a)(1) (Scope) defines the scope of the revised § 744.8. The final rule revises § 744.8 to impose EAR license requirements, specify license review policies, and set forth restrictions on the use of license exceptions for exports, reexports, and transfers (in-country) when a person who is designated on the SDN List with any of the following identifiers is a party to the transaction as described in § 748.5(c) through (f): [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], [UKRAINE-EO13685], [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], and [TCO].

Paragraph (a)(1) will also include a sentence specifying that these persons are set forth in appendix A to 31 CFR chapter V and on OFAC’s website at <https://www.treas.gov/sdn> to assist exporters, reexporters, and transferors in identifying these persons. This final rule adds a new note 1 to paragraph (a)(1) to include a cross reference to direct the public to the OFAC website for *Program Tag Definitions for OFAC Sanctions Lists* for additional background rather than carrying over the background information from the underlying part 744 SDN-related sections.

Paragraph (a)(2) specifies the relationship between BIS and OFAC for these part 744 requirements specified under § 744.8. Paragraph (a)(2) clarifies that these EAR controls supplement and strengthen the sanctions that are imposed by OFAC on these SDNs to better ensure that U.S. national security and foreign policy interests are protected in the case of export, reexport, and transfer (in-country) transactions involving items subject to the EAR. Paragraph (a)(2) includes a sentence identifying the most likely scenarios in which the OFAC regulations generally would not apply but the EAR controls would. This final rule also includes a sentence at the end of paragraph (a)(2) to specify that in order to avoid imposing a dual licensing

requirement, the EAR authorization requirements specified in this section do not require a separate EAR authorization if the activities are authorized under an OFAC specific or general license or are exempted under OFAC's regulations.

This final rule adds one note to paragraph (a). New note 2 clarifies that the Entity List in supplement no. 4 to part 744 includes certain persons that have also been designated on the SDN List. This note includes a cross reference to § 744.11 and supplement no. 4 to part 744 for requirements and related license review policies for these entities, which take precedence over those set forth in § 744.8. BIS also clarifies in new note 1 that BIS requires an EAR authorization as specified in the license requirement column on the Entity List for these persons regardless of whether the export, reexport, or transfer (in-country) is authorized under an OFAC specific or general license.

In § 744.8(b) (*License requirements*), this final rule specifies that unless the export, reexport, or transfer (in-country) is authorized under an OFAC specific or general license or exempt under OFAC's regulations, a license is required under the EAR for the export, reexport, or transfer (in-country) of any item "subject to the EAR" when a person who is designated on OFAC's SDN List with any of the following identifiers is a party to the transaction as described in § 748.5(c) through (f): [BELARUS], [BELARUS-EO14038], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], [UKRAINE-EO13685], [ILLICIT DRUGS-EO14059], [SDNT], [SDNTK], and [TCO]. This rule also adds one sentence at the end of paragraph (b) to specify that a BIS license is not required for transactions described in this paragraph that would have otherwise met all of the terms and conditions of an OFAC general license if the transactions had been subject to OFAC jurisdiction.

In § 744.8(c) (*License exceptions*), this final rule specifies that no license exceptions may overcome the license requirements in this section, except in the case of entities that are also listed on the Entity List in supplement no. 4 to part 744 and for which certain license exceptions

are available. In such circumstances, the specified license exceptions may overcome the license requirements of this section and supplement no. 4 to part 744 that would otherwise apply.

In § 744.8(d) (*License review policy*), this final rule specifies that applications for licenses required by this section will be subject to a presumption of denial review policy, except when note 1 to paragraph (a) is applicable. When note 1 to paragraph (a)(1) is applicable, the license review policy under the Entity List entry for that person would take precedence. This final rule also includes a cross reference in paragraph (d) to direct exporters, reexporters, and transferors to consult OFAC concerning transactions subject to OFAC licensing requirements.

In § 744.8(e) (*Violations*), this final rule includes, in streamlined form, information included prior to this final rule regarding violations of the EAR. Specifically, paragraph (e)(1) states that any export, reexport, or transfer (in-country) by a U.S. person of any item subject both to the EAR and OFAC's regulations and not authorized by OFAC when a person identified in paragraph (a)(1) is a party to the transaction as defined in § 748.5(c) through (f) constitutes a violation of the EAR. This final rule also adds one sentence to clarify that this paragraph does not apply to entities identified under both this section and on the Entity List in supplement no. 4 to part 744. EAR violations involving entities identified under both this section and the Entity List, will be addressed pursuant to §§ 744.11 and 744.16.

This final rule adds paragraph (e)(2) to specify that any export, reexport, or transfer (in-country) by a U.S. person of any item subject to the EAR that is not subject to OFAC's regulations and not authorized by BIS when a person identified in paragraph (a)(1) is a party to the transaction as defined in § 748.5(c) through (f) constitutes a violation of the EAR. Paragraph (e)(2) also specifies that any export from abroad, reexport, or transfer (in-country) by a non-U.S. person of any item subject to the EAR and not authorized by BIS when a person identified in paragraph (a)(1) is a party to the transaction as defined in § 748.5(c) through (f) constitutes a violation of the EAR.

This final rule also includes a note 3 to § 744.8 to specify that this section does not implement, construe, or limit the scope of any criminal statute, including but not limited to 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including but not limited to 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A. This note is included for consistency with previous SDN-related restrictions under part 744 of the EAR.

In part 744, this final rule removes and reserves §§ 744.12 and 744.14 as conforming changes to the consolidation under § 744.8 of the requirements previously specified in those sections. Also in part 744, this final rule removes and reserves §§ 744.10, 744.13, 744.18, and 744.20 because these sections are no longer needed.

In § 746.10 ('Luxury goods' sanctions against Russia and Belarus and Russian and Belarusian oligarchs and malign actors), this final rule revises paragraph (a)(2) to remove the license requirement and include a cross reference to § 744.8 of the EAR for additional license requirements for persons designated on OFAC's SDN List with the identifier [BELARUS-EO14038], [BELARUS], [RUSSIA-EO14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685]. The license requirement under § 744.8 is for all items subject to the EAR, which includes all 'luxury goods' identified in supplement no. 5 to part 746. This rule adds to § 746.10 a cross reference to the expanded license requirements under § 744.8 to alert exporters, reexporters, and transferors to the fact that persons with these SDN identifiers remain subject to a license requirement (expanded in scope by this rule) under § 744.8.

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or

transfer (in-country), on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) provided the export, reexport, or transfer (in-country) is completed no later than on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by Executive Orders 12866, 13563, and 14094, which 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 (*e.g.*, potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This final rule is considered a “significant regulatory action” under sec. 3(f) 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 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 rule involves the following OMB-approved collections of information subject to the PRA: 0694-0088, “Multi-Purpose Application,” which carries a burden hour estimate of 29.6 minutes for a manual or electronic submission; 0694-0096 “Five Year Records Retention Period,” which carries a burden hour estimate of less than one minute;

and 0607-0152 “Automated Export System (AES) Program,” which carries a burden hour estimate of three minutes per electronic submission. This rule changes the respondent burden under these control numbers by increasing the estimated number of submissions by twenty, which is not expected to exceed the current approved estimates.

3. This rule does not contain policies with federalism implications as that term is defined in E.O. 13132.

4. Pursuant to section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. 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. Accordingly, no Final Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects

15 CFR Part 740

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

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 740, 744 and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 740 – LICENSE EXCEPTIONS

1. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *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.

2. Section 740.2 is amended by removing and reserving paragraph (a)(22).

PART 744 – END-USE AND END-USER CONTROLS

3. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *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. 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 September 19, 2022, 87 FR 57569 (September 21, 2022); Notice of November 8, 2022, 87 FR 68015, 3 CFR, 2022 Comp., p. 563; Notice of September 7, 2023, 88 FR 62439 (September 11, 2023).

4. Section 744.1 is amended by revising paragraph (a)(1) to read as follows:

§ 744.1 General provisions.

(a)(1) *Introduction.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part contains prohibitions against exports, reexports, and selected transfers to certain end users and end uses as introduced under General Prohibitions Five (End

use/End users) and Nine (Orders, Terms, and Conditions), unless authorized by BIS. Sections 744.2, 744.3, and 744.4 prohibit exports, reexports, and transfers (in-country) of items subject to the EAR to defined nuclear, missile, and chemical and biological weapons proliferation activities. Section 744.5 prohibits exports, reexports, and transfers (in-country) of items subject to the EAR to defined nuclear maritime end-uses. Consistent with General Prohibition Seven (Support of Proliferation Activities and certain Military-Intelligence End Uses and End Users (“U.S. person” activities)), § 744.6 prohibits specific activities by U.S. persons in support of certain nuclear, missile, chemical and biological weapons end uses, and whole plants for chemical weapons precursors, as well as certain military-intelligence end uses and military-intelligence end users. Section 744.7 prohibits exports, reexports, and transfers (in-country) of certain items for certain aircraft and vessels. Section 744.8 prohibits exports, reexports, and transfers (in-country) without authorization when a person designated on the list of Specially Designated Nationals and Blocked Persons (SDN List) pursuant to certain specified sanctions programs is a party to the transaction. Section 744.9 sets forth restrictions on exports, reexports, and transfers (in-country) of certain cameras, systems, or related components. Section 744.11 imposes license requirements, to the extent specified in supplement no. 4 to this part, on entities listed in supplement no. 4 to this part for activities contrary to the national security or foreign policy interests of the United States. Section 744.15 sets forth the conditions for exports, reexports, and transfers (in-country) to persons listed on the Unverified List (UVL) in supplement no. 6 to this part, the criteria for revising the UVL, as well as procedures for requesting removal or modification of a listing on the UVL. Section 744.16 sets forth the license requirements, policies and procedures for the Entity List. Section 744.17 sets forth restrictions on exports, reexports, and transfers (in-country) of microprocessors and associated “software” and “technology” for military end uses and to military end users. Section 744.19 sets forth BIS’s licensing policy for applications for export, reexport, and transfer (in-country) when a party to the transaction is an entity that has been sanctioned pursuant to any of three specified statutes

that require certain license applications to be denied. In addition, these sections include license review standards for export, reexport, and in-country transfer license applications submitted as required by these sections. It should also be noted that part 764 of the EAR prohibits exports, reexports, and certain transfers of items subject to the EAR to denied parties. Section 744.21 imposes restrictions for exports, reexports, and transfers (in-country) of item subject to the EAR listed in supplement no. 2 to this part for a military end use or military end user in Burma, Cambodia, the People's Republic of China (PRC or China), Nicaragua, or Venezuela and for a Burmese, Cambodian, Chinese, Nicaraguan, or Venezuelan military end user if identified in supplement no. 7 to this part. Section 744.21 also imposes restrictions for exports, reexports, and transfers (in-country) for all items subject to the EAR for a military end use or military end user in Belarus or Russia and for a Belarusian or Russian military end user wherever located if identified on supplement no. 4 to this part. Section 744.22 imposes restrictions on exports, reexports, and transfers (in-country) for a military-intelligence end use or military-intelligence end user in Burma, China, Russia, or Venezuela; or for a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR). Section 744.23 sets forth restrictions on exports, reexports, and transfers (in-country) for certain “supercomputer” and semiconductor manufacturing end use.

* * * * *

5. Section 744.7 is amended by revising the paragraph (b)(2) heading to read as follows:

§ 744.7 Restrictions on certain exports to and for the use of certain foreign vessels or aircraft.

* * * * *

(b) * * *

(2) *Exports, reexports, and transfers (in-country) to U.S. or Canadian Airline's*

Installation or Agent. * * *

* * * * *

6. Section 744.8 is revised to read as follows:

744.8 Restrictions on exports, reexports, and transfers (in-country) when certain persons designated on the list of Specially Designated Nationals and Blocked Persons (SDN List) are a party to the transaction.

(a) *Scope.* (1) In addition to any other EAR license requirements that may be applicable, this section imposes EAR license requirements, license review policies, and restrictions on the use of license exceptions for exports, reexports, and transfers (in-country) when a person who is designated on the Department of the Treasury, Office of Foreign Assets Control's (OFAC) List of Specially Designated Nationals and Blocked Persons (SDN List) with any of the following identifiers is a party to the transaction, as described in § 748.5(c) through (f):

(i) Related to Russia's invasion of Ukraine.

(A) [BELARUS-EO14038];

(B) [BELARUS];

(C) [RUSSIA-EO14024];

(D) [UKRAINE-EO13660];

(E) [UKRAINE-EO13661];

(F) [UKRAINE-EO13662]; *or*

(G) [UKRAINE-EO13685].

(ii) Terrorism-related.

(A) [FTO]; *or*

(B) [SDGT].

(iii) WMD-related.

(A) [NPWMD].

(B) [Reserved]

(iv) Related to narcotics trafficking or other criminal networks.

(A) [ILLICIT DRUGS-EO14059];

(B) [SDNT];

(C) [SDNTK]; *or*

(D) [TCO].

***Note 1 to paragraph (a)(1):** The names of such designations are published in the Federal Register and incorporated into the SDN List, as set forth in appendix A to 31 CFR chapter V and on OFAC's website at <https://www.treas.gov/sdn>. See Program Tag Definitions for OFAC Sanctions Lists for additional information: <https://ofac.treasury.gov/specially-designated-nationals-list-sdn-list/program-tag-definitions-for-ofac-sanctions-lists>*

(2) These EAR controls supplement and strengthen the sanctions that are imposed by OFAC on these SDNs to better ensure that U.S. national security and foreign policy interests are protected. Specifically, this section imposes controls on exports, reexports, or transfers (in-country) of items subject to the EAR where the OFAC regulations are not applicable, such as in certain situations involving deemed exports and deemed reexports, and reexports and transfers (in-country) not involving the U.S. financial system or otherwise involving U.S. persons. To avoid imposing a duplicative license requirement, the transactions specified in this section do not require separate EAR authorization if the transactions are authorized under an OFAC specific or general license or are exempted under OFAC's regulations.

***Note 2 to paragraph (a):** The Entity List in supplement no. 4 to part 744 includes certain persons that have also been designated with certain identifiers on the SDN List. See § 744.11 and supplement no. 4 to part 744 for requirements, including license review policies, for these entities, which take precedence over the requirements in this § 744.8. BIS requires an EAR authorization as specified in the license requirement column on the Entity List for export, reexport, and transfer (in-country) transactions involving items subject to the EAR in which these persons are parties to the transaction regardless of whether such transaction is authorized under an OFAC specific or general license or exempted under OFAC's regulations.*

(b) *License requirements.* Unless the export, reexport, or transfer (in-country) is authorized under an OFAC specific or general license or exempted under OFAC's regulations, a license is required under the EAR for the export, reexport, or transfer (in-country) of any item "subject to the EAR" when a person who is designated on OFAC's SDN List with any of the identifiers set forth in paragraph (a)(1) is a party to the transaction as described in § 748.5(c) through (f). A Department of Commerce license is not required for transactions described in this paragraph (b) that would have otherwise met all of the terms and conditions of an OFAC general license if the transactions had been subject to OFAC jurisdiction.

(c) *License exceptions.* No license exceptions may overcome the license requirements in this section, except for entities that are also listed on the Entity List in supplement no. 4 to part 744 that have certain license exception eligibility, which is available to overcome the license requirements of this section and supplement no. 4 to part 744 for that specific entity.

(d) *License review policy.* Applications for licenses required by this section will be subject to a presumption of denial license review policy, except when note 1 to paragraph (a)(1) of this section is applicable and the license review policy specified on the Entity List in supplement no. 4 to part 744 is different, in which case the license review policy under the applicable Entity List entry for that person would govern. You should consult OFAC regarding transactions subject to licensing requirements under regulations maintained by OFAC.

(e) *Violations.* (1) Any export, reexport, or transfer (in-country) by a U.S. person of any item subject to both the EAR and regulations maintained by OFAC in situations in which a person identified in paragraph (a)(1) is a party to the transaction as described in § 748.5(c) through (f) that is not authorized by OFAC constitutes a violation of the EAR. This paragraph does not apply to entities identified under both this section and the Entity List in supplement no. 4 to part 744. EAR violations involving entities identified under both this section and the Entity List will be addressed pursuant to §§ 744.11 and 744.16.

(2) Any export, reexport, or transfer (in-country) of any item subject to the EAR in which a person identified in paragraph (a)(1) is a party to the transaction as described in § 748.5(c) through (f) and such transaction is not subject to regulations maintained by OFAC and not authorized by BIS constitutes a violation of the EAR.

Note 3 to § 744.8: This section does not implement, construe, or limit the scope of any criminal statute, including but not limited to 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including but not limited to 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

7. Sections 744.10, 744.12 through 744.14, 744.18, and 744.20 are removed and reserved.

PART 746 – EMBARGOES AND OTHER SPECIAL CONTROLS

8. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108-11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007-7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 8, 2023, 88 FR 30211 (May 10, 2023).

9. Section 746.10 is amended by:

- a. Revising paragraph (a)(2);
- b. Revising paragraph (a)(3) introductory text; and
- c. Removing the final sentence of the paragraph (c) introductory text.

The revisions read as follows:

§ 746.10 ‘Luxury goods’ sanctions against Russia and Belarus and Russian and Belarusian oligarchs and malign actors.

(a) * * *

(2) *Russian and Belarusian oligarch and malign actors.* The license requirements under this section for persons designated on OFAC’s SDN List with the identifier [BELARUS], [BELARUS-EO14038], [RUSSIA-EO 14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685] were removed from this section on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], because a broader license requirement for all items subject to the EAR is required under § 744.8 as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], which includes all ‘luxury goods’ under supplement no. 5 to part 746 and any other item subject to the EAR. See § 744.8 of the EAR for license requirements for persons designated on OFAC’s SDN List with the identifier [BELARUS], [BELARUS-EO14038], [RUSSIA-EO 14024], [UKRAINE-EO13660], [UKRAINE-EO13661], [UKRAINE-EO13662], or [UKRAINE-EO13685].

(3) *Exclusion from scope of U.S.-origin controlled content under paragraph (a)(1) of this section.* For purposes of determining U.S.-origin controlled content under supplement no. 2 to part 734 of the EAR when making a *de minimis* calculation for reexports and exports from abroad to Russia or Belarus, the license requirements in paragraph (a)(1) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided the criteria in paragraphs (a)(3)(i) and (ii) of this section are met:

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

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