Class E airspace designations are published in paragraph 6005, respectively, of FAA Order 7400.11B, dated August 2, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of August 3, 2017 (82 FR 40692) FR Doc. 2017–18107, Amendment of Class E Airspace; Oskaloosa, IA, is corrected as follows:

§ 71.1 [Amended]

ACE IA E5 Oskaloosa, IA [Corrected]

■ On page 40694 column 1, on lines 11 and 12, remove the following text: ''excluding that airspace within the Ottumwa, IA Class E airspace area.''

Issued in Fort Worth, Texas on October 17, 2017.

Christopher L. Southerland,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–23247 Filed 10–31–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 740

[Docket No. 160303181–6181–01]

RIN 0694–AG80

Clarifications to the Export Administration Regulations for the Use of License Exceptions

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This final rule makes clarifications to the Export Administration Regulations (EAR) to provide guidance based on existing agency understanding and practice on the use of two license exceptions. Specifically, this final rule makes three clarifications to License Exception Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV) and adds five notes, along with making other minor clarifications, to License Exception Strategic Trade Authorization (STA). These revisions respond to questions BIS has received about the use of these two EAR license exceptions and provide the general public answers to frequently asked questions based on existing agency interpretive practice. Therefore, the clarifications in this final rule do not change the EAR requirements for the use of the license exceptions but are intended to assist exporters new to the EAR.

DATES: This rule is effective November 1, 2017.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–2440, Fax: (202) 482–3355, Email: *rpd2@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

This final rule revises part 740 of the Export Administration Regulations (EAR) by clarifying two license exceptions based on existing agency understanding and practice. To provide the general public with guidance on using these license exceptions, this final rule makes three clarifications to License Exception Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV) and adds five notes, along with making other minor clarifications, to License Exception Strategic Trade Authorization (STA). These changes are described below under sections: (A) Clarifications for License Exception GOV and (B) Clarifications for License Exception STA.

With these revisions, BIS is not changing the EAR requirements for the use of these license exceptions. Instead, the agency seeks to provide sufficient guidance within the EAR to answer questions the agency frequently receives from the public as to the application of the two license exceptions. These clarifications should be particularly helpful to exporters who are new to the EAR, including exporters of items that have recently moved to the EAR from the International Traffic in Arms Regulations (ITAR) as a result of the United States Munitions List to the Commerce Control List review process.

(A) Clarifications for License Exception GOV

This final rule revises License Exception GOV, § 740.11, to make three clarifications. Specifically, this final rule revises paragraph (b)(2)(ii); adds a new note to paragraph (b)(2)(iii)(C); and adds a new note to paragraph (c)(1). These clarifications do not change the applicability or any other requirements of License Exception GOV and are limited to providing guidance on how BIS interprets these paragraphs of License Exception GOV in response to questions from the public.

Paragraph (b)(2)(ii). The final rule revises paragraph (b)(2)(ii) of License Exception GOV to add two sentences to clarify the applicability of the term 'contractor support personnel,' which is defined in paragraph (b)(2)(ii) of License Exception GOV. BIS has received questions regarding the locations where 'contractor support personnel' must work and the level of U.S. Government supervision needed for personnel to be considered 'contractor support personnel.' The first sentence that this final rule adds to paragraph (b)(2)(ii) clarifies that 'contractor support personnel' is limited to those individuals who are providing such support within a U.S. Government owned or operated facility or under the direct supervision of a U.S. government employee. This final rule adds a parenthetical phrase to clarify that a U.S. government employee is an individual directly employed by the U.S. Government.

As an example of persons directly employed who would meet the 'contractor support personnel' definition, BIS provides the following: A U.S. Government agency plans to conduct a study of soy bean cultivation in Malaysia and the U.S. Government agency team will include three 'contractor support personnel' providing scientific support to the U.S. Government agency's study. These three 'contractor support personnel' will work at the U.S. Embassy in Malaysia to process and analyze agricultural field data being gathered by U.S. Government personnel as part of a study. These individuals meet the definition of contractor support personnel in paragraph (b)(2)(ii) because they will be working within a U.S. Government-owned and operated facility (a U.S embassy) and providing a form of support (scientific support) that is identified in the term's definition.

For an example of persons not directly employed who would be outside the scope of the 'contractor support personnel' definition, BIS provides the following: A U.S. Government agency is evaluating the possibility of providing a grant to a company in Kenya that seeks financing for building three windmills. To evaluate the feasibility of providing a grant, this U.S. Government agency has entered into a contract with a U.S. company that provides feasibility analysis for windmill locations. To conduct the feasibility analysis study,

the contractor will need to have certain items exported to it in Kenya. Under this example, the contractor, including personnel of the contractor, would not constitute 'contractor support personnel' because it does not meet the definition of 'contractor support personnel.' Although it is providing scientific analysis for this U.S. Government agency under a contract, the analysis is not being conducted at a U.S. Government facility or being conducted under the direct supervision of an individual directly employed by the U.S. Government agency.

The second sentence this final rule adds to paragraph (b)(2)(ii) clarifies that private security contractors are not 'contractor support personnel' for purposes of paragraph (b)(2)(ii). This new sentence clarifies that although in certain cases private security contractors may work within a U.S. Government owned or operated facility, such contractors do not provide administrative, managerial, scientific or technical support under contract to the U.S. Government, as required under the definition of 'contractor support personnel.'

Note 1 to paragraph (b)(2)(iii)(C). Paragraph (b)(2)(iii)(C) of License Exception GOV authorizes the temporary export, reexport, or transfer (in-country) of an item in support of any foreign assistance or sales program authorized by law and subject to the control of the President by other means, when the criteria specified in this paragraph are met. This final rule adds a new note to paragraph (b)(2)(iii)(C) of License Exception GOV to clarify how BIS interprets the meaning of the term 'temporary' for purposes of this paragraph. The new note clarifies that within the context of the authorization available in paragraph (b)(2)(iii)(C), 'temporary' means that within no more than four years from the date of an item's initial export, reexport, or transfer (in-country), it must be returned to the exporter, reexporter or transferor or its disposition otherwise authorized (*e.g.,* pursuant to a license or another license exception) in accordance with the EAR. As a conforming change to this new note to paragraph (b)(2)(iii)(C), this final rule revises the introductory text of paragraph (b)(2)(iii)(C) to add single quotes around the term 'temporary.'

Note 1 to paragraph (c)(1). Paragraph (c) of License Exception GOV authorizes certain exports, reexports, and transfers (in-country) to agencies of cooperating governments or agencies of the North Atlantic Treaty Organization (NATO). Paragraph (c)(1) defines 'Agency of a cooperating government' for purposes of this paragraph of License Exception GOV. This final rule adds a new note to paragraph (c)(1) of License Exception GOV to clarify that civil intergovernmental organizations in which the membership is limited to national governments that are 'cooperating governments' are also considered 'cooperating governments' for purposes of paragraph (c)(1). The new note provides an example of a civil intergovernmental organization, the European Space Agency (ESA), which BIS has determined to fall within the scope of the definition of 'cooperating governments.' ESA (and other civil intergovernmental organizations) are considered 'cooperating governments' because their membership is limited to 'cooperating governments'—meaning that if an export was made directly to any of organization's national government members, License Exception GOV would be available. On this basis, BIS does not exclude exports, reexports and transfers (in-country) made to ESA (and any other civil intergovernmental organization whose members are 'cooperating governments') from License Exception GOV. The purpose of this paragraph (c)(1) is to clarify that the fact that two or more 'cooperating governments' are working together does not change the policy rationale for why the United States Government intends to authorize such exports, reexports, and transfers (in-country). However, this final rule adds a second sentence to the note to paragraph (c)(1) to clarify that if the membership of the civil intergovernmental organization involves any national governments or other organizations that are not 'cooperating governments,' such civil intergovernmental organizations are not considered cooperating governments for purposes of paragraph (c)(1), and a third sentence to provide three illustrative examples of civil intergovernmental organizations that are excluded based on this criteria. This third sentence also clarifies that this exclusion applies even when some or all of the 'cooperating governments' are members of the civil intergovernmental organization. This final rule provides the European Aviation Safety Agency (EASA), the United Nations, and the World Bank as three examples of civil intergovernmental organizations that include members that are 'cooperating governments' along with members that are not 'cooperating governments,' with the inclusion of the latter group meaning that these civil intergovernmental organizations are not within the scope of paragraph (c)(1).

(B) Clarifications for License Exception STA

This final rule revises License Exception STA, § 740.20, to add five new clarification notes, along with making other minor clarifications. Specifically, this final rule adds the following notes to License Exception STA: Note 1 to paragraph (a) for applicability of transfers (in-country) under STA; Note 1 to paragraphs (b)(2) and (b)(3) for staying within the scope of the original authorization; Note 1 to paragraph (d)(2) for multiple consignees on a single prior consignee statement and minor clarifications to the text of paragraph (d)(2); and Note 2 to paragraph (d)(2) for exclusion for government consignees from prior consignee statement; and Note 1 to paragraph (d)(3) for exclusion for intangible exports, reexports or transfers (in-country). These new notes, along with the other minor clarifications, do not change the applicability or any other requirements of License Exception STA and simply provide guidance on how BIS interprets these provisions of License Exception STA. These new notes are consistent with the agency's responses to questions at numerous outreach events and in the Frequently Asked Questions (FAQs) available on the agency's Web site.

Note 1 to paragraph (a) for applicability of transfers (in-country) under STA. This final rule adds a new note to paragraph (a) to License Exception STA. This new note provides guidance on when License Exception STA may be used to authorize transfers (in-country) in response to questions from the public about its applicability. The purpose of this note to paragraph (a) is to explain why transfers (in-country) are included in License Exception STA and describe how this term is applied in the context of this license exception. Under the EAR, outside of prohibited end uses and end users and ''knowing'' violations, the transactions where most transferors will need an EAR authorization is when the original export, reexport, or transfer (in-country) was authorized under a BIS license and the consignee will make a transfer (in-country) that goes outside the scope of the license. License Exception STA would be available to authorize such transfers (in-country), provided all the applicable requirements of License Exception STA were met, such as obtaining a prior consignee statement from the consignee in-country. If the transfer (in-country) did not require an authorization, such as for exports received under License Exception STA, an authorization is not

required for subsequent transfers (in-country), provided no prohibited end uses, end-users or ''knowing'' violations were involved in the transfer (in-country). These nuances on the application of transfers (in-country) are sometimes not well understood because some people incorrectly assume that the way to determine license requirements for exports and reexports is the same way to determine license requirements for transfers (in-country). The note to paragraph (a) also specifies that when a transfer (in-country) is not being made under STA, then the STA requirements do not apply. The note to paragraph (a) includes a parenthetical phrase with a reference to see the note to paragraphs (b)(2) and (b)(3) of License Exception STA for requirements specific to staying within the scope of the original License Exception STA authorization, which is described in more detail below.

Note 1 to paragraphs (b)(2) and (b)(3). This final rule adds a new Note 1 to paragraphs (b)(2) and (b)(3) to License Exception STA. This new note to paragraphs (b)(2) and (b)(3) clarifies that for ''600 series'' items authorized under License Exception STA, the items must be provided to an eligible ultimate end user, such as a Country Group A:5 military, to stay in compliance with the original authorization. The new note refers to this concept as 'completing the chain,' which means that regardless of how many times the ''600 series'' item is transferred (in-country) or whether the ''600 series'' item is incorporated into higher level assemblies or other items or not, the ''600 series'' item must ultimately be provided to an eligible ultimate end user or be otherwise authorized under the EAR. Lastly, the new note to paragraphs (b)(2) and (b)(3) clarifies that because the other items eligible for authorization under License Exception STA (*i.e.,* 9x515 and other non-600 series ECCNs) do not include the ''600 series'' requirements specific to ultimate end user, the 'completing the chain' concept does not apply to 9x515 and other non-600 series Export Control Classification Numbers (ECCNs) authorized under License Exception STA. However, the original export, reexport, or transfer (in-country) must be completed within the terms and conditions of the original License Exception STA authorization. As noted above, this clarification is specific to existing EAR requirements; the new note to paragraphs (b)(2) and (b)(3) does not change any License Exception STA requirements but rather provides guidance on how these existing EAR requirements are applied in the context of License Exception STA, in particular as it relates to the ''600 series.''

Adding greater specificity to paragraph (d)(1). This final rule revises paragraph (d)(1) (Requirement to furnish Export Control Classification Number) of License Exception STA to remove the undefined terms ''shipment'' in four places and ''shipped'' in two places and add in their place the defined terms ''export'' in paragraph (d)(1)(i) and ''reexport or transfer (in-country)'' in paragraph (d)(1)(ii). In the context of paragraph (d)(1), the requirement to furnish the ECCN is intended to apply to all exports, reexports, or transfers (in-country) under License Exception STA, and is consistent with how the agency has interpreted this paragraph. This final rule clarifies the intent of this paragraph (d)(1) by removing the undefined term ''shipment'' and adding in its place defined terms that provide greater specificity on the intended scope of this paragraph (d)(1). This final rule makes similar clarifications as described below to paragraphs (d)(2) and (d)(3) to improve the clarity of these paragraphs.

Paragraph (d)(2) for multiple consignees on a single prior consignee statement. This final rule revises paragraph (d)(2) (Prior Consignee Statement) of License Exception STA to make four clarifications to paragraph (d)(2): Adding greater specificity to the introductory text as it relates to the undefined term ''shipment;'' adding two new notes to paragraph (d)(2); clarifying the term 'description'' in paragraph (d)(2)(i); and making certain terms plural in the text. Because of past issues with the incorporation of revisions to paragraph (d)(2), in particular some of the undesignated text included in that paragraph, in this final rule BIS is revising the entire paragraph to ensure the intended revisions are incorporated correctly. The clarifications to paragraph (d)(2) are described in the next four paragraphs.

Similar to the changes described above for paragraph (d)(1), this final rule revises the introductory text of paragraph (d)(2) to remove the undefined term ''shipment'' in one place and the undefined term ''shipping'' in another, and add in their place the defined terms ''exports, reexports, or transfers (in-country).'' This final rule does not remove the undefined term ''shipment'' in the two additional instances where the term is used in the introductory text of paragraph (d)(2), which specifies the requirement to maintain a log or other record. This is because the requirement to maintain a log or other record is not intended to apply to intangible (*i.e.,* electronic or in an otherwise intangible form) exports, reexports, or transfers (in-country). BIS adds a sentence clarifying this for purposes of License Exception STA in this final rule. BIS has based this existing agency practice and interpretation on the use of the term ''shipment'' when referring to a log or other record to mean that the original intent of this License Exception STA requirement was not to apply the requirement to intangible exports, reexports, or transfers (in-country). Because of the frequency at which intangible exports, reexports, or transfers (in-country) often occur, it would have been impractical to impose a log or other record requirement for such exports, reexports or transfers (in-country). For example, for a technical work team located at a U.S. parent company that is collaborating with a technical work team in the United Kingdom (a Country Group A:5 Country), there may be dozens or hundreds of intangible exports that occur during a teleconference or telephone call that are authorized under License Exception STA. Although the party making the intangible export, reexport, or transfer (in-country) and the party receiving the technology or software are responsible for complying with the other requirements of License Exception STA, which are suitable for keeping an intangible export, reexport, or transfer (in-country) within the scope of License Exception STA, the party making the intangible export, reexport, or transfer (in-country) is not burdened with trying to keep a log or other record, the requirement for which was appropriate and intended for a tangible shipment but was not intended for intangible exports, reexports, or transfers (in-country). The changes included in this rule will make this interpretation clearer to the public. This new sentence also specifies that an exporter, reexporter, or transferor is required, prior to making any export, reexport or transfer (in-country), including those that are intangible, to ensure that a prior consignee statement has been obtained pursuant to the requirements of paragraph (d)(2). This final rule also adds a parenthetical phrase to include a cross reference to Note 1 to paragraph (d)(3), which provides additional guidance on intangible exports, reexports and transfers (in-country) under License Exception STA. BIS also has posted on the BIS Web site best practices for managing intangible exports, reexports, and transfers (in-country) under the EAR. BIS encourages any party involved in intangible exports, reexports, or

transfers (in-country) to review this guidance.

This final rule adds a new Note 1 to paragraph (d)(2) to clarify an existing BIS policy that allows for multiple consignees to be listed on a single prior consignee statement, provided certain requirements are met. This new Note 1 to paragraph (d)(2) addresses scenarios when multiple consignees who form a network engaged in a production process (or other type of collaborative activity, such as joint development) will be receiving items under License Exception STA. In such cases, it is existing BIS policy to allow the use of a single consignee statement identifying multiple consignees, provided all the applicable requirements of License Exception STA are met, including those specified in paragraph (d)(2).

This final rule revises paragraph (d)(2)(i) by adding the term ''GENERAL'' before the term ''DESCRIPTION'' and adding the parenthetical phrase, ''aircraft parts and components classified under ECCN 9A610,'' to provide an example of the level of specificity that BIS intends for the description on the prior consignee statement. BIS has received questions from the public asking whether the term ''description'' used in paragraph (d)(2)(i) is intended to mean that the prior consignee must include the make and model number of each part or component that the consignee would receive under License Exception STA. The term ''DESCRIPTION,'' as used in paragraph (d)(2)(i), does not require that level of specificity, as clarified by the changes in this final rule.

Lastly, specific to the clarifications to paragraph (d)(2), this final rule adds an ''(s)'' to the end of the term ''CONSIGNEE'' in the introductory text of paragraph (d)(2) and adds an ''(S)'' to the end of the terms ''TITLE,'' ''NAME,'' and ''PERSON'' in the undesignated text at the end of paragraph (d)(2)(viii). These changes, along with the new Note 1 to paragraph (d)(2), make explicit that it is permissible to list multiple consignees on a single consignee statement.

Note 2 to paragraph (d)(2) for exclusion for government consignees from prior consignee statement. This final rule adds Note 2 to paragraph (d)(2) to exclude Country Group A:5 and A:6 government consignees from the requirement to sign or provide a prior consignee statement to an exporter, reexporter, or transferor under License Exception STA. In particular, for ''600 series'' items authorized under License Exception STA for Country Group A:5 governments, requiring government end users to provide a prior consignee statement makes little sense, given that the goal of License Exception STA is to get these ''600 series'' items to Country Group A:5 governments for their ultimate end use (one of the three permissible ultimate end uses for ''600 series'' items authorized under License Exception STA). In addition, this existing interpretation of agency practice takes into account that under the other likely license exception under which such governments may receive items, License Exception GOV, such a signature on a prior consignee statement is not required. This is an existing interpretation of agency practice that BIS is making explicit in the regulatory text. BIS has provided similar guidance to the public, including to Country Group A:5 and A:6 governments.

Note 1 to paragraph (d)(3) for exclusion for intangible exports, reexports or transfers (in-country). This final rule adds a new Note 1 to paragraph (d)(3) to specify that intangible exports, reexports, and transfers (in-country) made under License Exception STA are not subject to the notification requirements of paragraph (d)(3). The new note to paragraph (d)(3) also specifies that the requirements of paragraph (d)(1) and (d)(2) still apply, including to intangible exports, reexports, or transfers (in-country) made under License Exception STA. The specification in the new note to paragraph (d)(3) is consistent with the requirement discussed above for the new Note 1 to paragraphs (b)(2) and (b)(3) that any export, reexport or transfer (in-country) made under STA must stay within the scope of the authorization. As noted above in the explanation of the changes to paragraph (d)(2), BIS has posted on the BIS Web site best practices for managing intangible exports, reexports, and transfers (in-country) under the EAR. BIS encourages any party involved in intangible exports, reexports, or transfers (in-country) to review this guidance.

Export Administration Act of 1979

Although the Export Administration Act of 1979 expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 15, 2017, 82 FR 39005 (August 16, 2017), 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 of 1979, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 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 (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under 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 OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. 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 under E.O. 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are either unnecessary or contrary to the public interest. BIS is making the changes to its regulations described above to provide guidance on existing interpretations of

current EAR provisions, and thus prior notice and the opportunity for public comment is contrary to the public interest. The guidance included in this final rule has been provided to many members of the public in the past (*e.g.,* those persons that have attended BIS outreach events, asked these types of application questions to BIS by phone, email or in writing, or read certain FAQs posted on the BIS Web site dealing with these EAR provisions). Importantly, this is also the same guidance that would be provided to any other member of the public that asked the same questions to BIS dealing these EAR provisions. BIS's purpose with publishing this final rule is not to change the application of these provisions but to more efficiently communicate the existing agency guidance and interpretation of these provisions by clarifying the regulations. This will benefit members of the public because they will be able to more easily understand and apply these provisions, which are consistent with past agency guidance and interpretations provided to other members of the public. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). This rule does not change the requirements or obligations of persons under the EAR, so a 30-day delay in effectiveness is not needed. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for these amendments 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 740

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

Accordingly, part 740 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 740—[AMENDED]

■ 1. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 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; Notice of August 15, 2017, 82 FR 39005 (August 16, 2017).

■ 2. Section 740.11 is amended:
■ a. By revising paragraph (b)(2)(ii);
■ b. By revising the introductory text of paragraph (b)(2)(iii)(C);
■ c. By adding Note 1 to paragraph (b)(2)(iii)(C); and
■ d. By adding Note 1 to paragraph (c)(1) to read as follows:

§ 740.11 Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV).

* * * * *

(b) * * *

(2) * * *

(ii) *Exports, reexports, and transfers (in-country) made by or consigned to a department or agency of the U.S. Government.* This paragraph authorizes exports, reexports, and transfers of items when made by or consigned to a department or agency of the U.S. Government solely for its official use or for carrying out any U.S. Government program with foreign governments or international organizations that is authorized by law and subject to control by the President by other means. This paragraph does not authorize a department or agency of the U.S. Government to make any export, reexport, or transfer that is otherwise prohibited by other administrative provisions or by statute. Contractor support personnel of a department or agency of the U.S. Government are eligible for this authorization when in the performance of their duties pursuant to the applicable contract or other official duties. 'Contractor support personnel' for the purpose of this provision means those persons who provide administrative, managerial, scientific or technical support under contract to a U.S. Government department or agency (*e.g.,* contractor employees of Federally Funded Research Facilities or Systems Engineering and Technical Assistance contractors). The term 'contractor support personnel' for purposes of this paragraph (b)(2)(ii) is limited to those individuals who are providing such support within a U.S. Government owned or operated facility or under the direct supervision of a U.S. government employee (*i.e.,* an individual directly employed by the U.S. Government). Private security contractors are not 'contractor support personnel' for purposes of this paragraph (b)(2)(ii) because although they may work within a U.S. Government owned or operated facility, such contractors do not provide administrative, managerial, scientific or technical support under contract to the U.S. Government. This authorization is not available when a department or agency of the U.S. Government acts as a transmittal agent on behalf of a non-U.S. Government person, either as a convenience or in satisfaction of security requirements.

(iii) * * *

(C) This paragraph authorizes the 'temporary' export, reexport, or transfer (in-country) of an item in support of any foreign assistance or sales program authorized by law and subject to the control of the President by other means, when:

* * * * *

Note 1 to paragraph (b)(2)(iii)(C): 'Temporary,' for purposes of paragraph (b)(2)(iii)(C) of this section, means that four years from the date of an item's initial export, reexport, or transfer (in-country), it must be returned to the exporter, reexporter, or transferor or its disposition otherwise authorized (e.g., pursuant to a license or another license exception) in accordance with the EAR.

* * * * *

(c) * * *

(1) * * *

Note 1 to paragraph (c)(1): Civil intergovernmental organizations (such as the European Space Agency (ESA)) where the membership is limited to national governments that are 'cooperating governments' are also considered 'cooperating governments' for purposes of paragraph (c)(1) of this section. If the membership of the civil intergovernmental organization includes any national governments or other organizations that are not 'cooperating governments,' such civil intergovernmental organizations are not considered 'cooperating governments' for purposes of paragraph (c)(1) of this section. For example, civil intergovernmental organizations such as the European Aviation Safety Agency (EASA), the United Nations, and the World Bank do not fall within paragraph (c)(1) of this section because their membership includes governments that are not 'cooperating governments.'

* * * * *

■ 3. Section 740.20 is amended:
■ a. By adding Note 1 to paragraph (a);
■ b. By adding Note 1 to paragraphs (b)(2) and (b)(3) at the end of paragraph (b)(3);
■ c. By revising paragraphs (d)(1)(i) and (d)(1)(ii);
■ d. By revising paragraph (d)(2); and
■ e. By adding Note 1 to paragraph (d)(3) to read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

* * * * *

(a) * * *

Note 1 to paragraph (a): License Exception STA authorizes transfers (in-country) but is only needed to authorize a transfer (in-country) when an EAR authorization is required. If a transfer (in-country) is not being made under STA, the requirements specified in this section do not apply (see Note 1 to paragraphs (b)(2) and (b)(3) of this section for requirements specific to staying within the scope of the original License Exception STA authorization and the concept of 'completing the chain' for purposes of ''600 series'' items originally authorized under License Exception STA).

(b) * * *

(3) * * *

Note 1 to paragraphs (b)(2) and (b)(3): Any export, reexport, or transfer (in-country) originally authorized under License Exception STA must stay within the scope of the original authorization. For example, for ''600 series'' items authorized under License Exception STA, such items must be provided to an eligible ultimate end user, such as a Country Group A:5 military, to stay in compliance with the original authorization. This requirement for the ''600 series'' is referred to as 'completing the chain,' meaning regardless of how many times the ''600 series'' item is transferred (in-country) or whether the ''600 series'' item is incorporated into higher level assemblies or other items, the ''600 series'' item must ultimately be provided to an eligible ultimate end user, or be otherwise authorized under the EAR. This applies regardless of whether the ''600 series'' item has been incorporated into a foreign-made item that may no longer be ''subject to the EAR.'' Because the other items eligible for authorization under License Exception STA (9x515 and other non-600 series ECCNs) do not include the ''600 series'' requirements specific to ultimate end user, this 'completing the chain' concept does not apply to 9x515 and other non-600 series ECCNs authorized under License Exception STA. However, the original export, reexport, or transfer (in-country) made under License Exception STA for 9x515 and other non-600 series ECCNs still must comply with the original authorization—meaning the terms and conditions of License Exception STA.

* * * * *

(d) *Conditions*—(1) *Requirement to furnish Export Control Classification Number.* (i) The exporter must furnish to the consignee the ECCN of each item to be exported pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same exporter makes an additional export of the same item, if the information remains accurate at the time of the additional export.

(ii) A reexporter or transferor must furnish to subsequent consignees the ECCN, provided by the exporter or a prior reexporter or transferor, of each item to be reexported or transferred (in-country) pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same reexporter or transferor makes an additional reexport or transfer (in-country) of the same item, if the information remains accurate at the time of the additional reexport or transfer (in-country).

* * * * *

(2) *Prior Consignee Statement.* The requirements in this paragraph (d)(2) apply to each party using License Exception STA to export, reexport, or transfer (in-country), including reexporters and transferors of items previously received under License Exception STA. The exporter, reexporter, or transferor must obtain the following statement in writing from its consignee(s) prior to exporting, reexporting, or transferring (in-country) the item and must retain the statement in accordance with part 762 of the EAR. One statement may be used for multiple exports, reexports, or transfers (in-country) of the same items between the same parties so long as the party names, the description(s) of the item(s) and the ECCNs are correct. The exporter, reexporter, or transferor must maintain a log or other record (such as documents created in the ordinary course of business) that identifies each shipment made pursuant to this section and the specific consignee statement that is associated with each shipment. For purposes of this paragraph (d)(2), a log or other record is not required for intangible (*i.e.,* electronic or in an otherwise intangible form) exports, reexports, or transfers (in-country) made under License Exception STA, but an exporter, reexporter, or transferor is required, prior to making any export, reexport, or transfer (in-country), to ensure that a prior consignee statement has been obtained pursuant to the requirements of this paragraph (d)(2). (*See* Note 1 to paragraph (d)(3) of this section for additional guidance on intangible exports, reexports, and transfers (in-country), including best practices). Paragraphs (d)(2)(i) through (vi) of this section are required for all transactions. In addition, paragraph (d)(2)(vii) is required for all transactions in ''600 series'' items and paragraph (viii) of this section is required for transactions in ''600 series'' items if the consignee is not the government of a country listed in Country Group A:5 (See supplement no. 1 to part 740 of the EAR). Paragraph (d)(2)(viii) is also required for transactions including 9x515 items.

[INSERT NAME(S) OF CONSIGNEE(S)]:

(i) Is aware that [INSERT GENERAL DESCRIPTION AND APPLICABLE ECCN(S) OF ITEMS TO BE SHIPPED (*e.g.,* aircraft parts and components classified under ECCN 9A610)] will be shipped pursuant to License Exception Strategic Trade Authorization (STA) in § 740.20 of the United States Export Administration Regulations (15 CFR 740.20);

(ii) Has been informed of the ECCN(s) noted above by [INSERT NAME OF EXPORTER, REEXPORTER OR TRANSFEROR];

(iii) Understands that items shipped pursuant to License Exception STA may not subsequently be reexported pursuant to paragraphs (a) or (b) of License Exception APR (15 CFR 740.16(a) or (b));

(iv) Agrees to obtain a prior consignee statement when using License Exception STA for any reexport or transfer (in-country) of items previously received under License Exception STA;

(v) Agrees not to export, reexport, or transfer these items to any destination, use or user prohibited by the United States' Export Administration Regulations;

(vi) Agrees to provide copies of this document and all other export, reexport, or transfer records (*i.e.,* the documents described in 15 CFR part 762) relevant to the items referenced in this statement to the U.S. Government as set forth in 15 CFR 762.7;

(vii) Understands that License Exception STA may be used to export, reexport, and transfer (in-country) ''600 series'' items to persons, whether non-governmental or governmental, only if they are in and, for natural persons, nationals of a country listed in Country Group A:5 (See supplement no. 1 to part 740 of the EAR) or the United States and if:

(A) The *ultimate* end user for such items is the armed forces, police, paramilitary, law enforcement, customs, correctional, fire, or a search and rescue agency of a government of one of the countries listed in Country Group A:5 or the United States Government;

(B) For the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of an item in one of the countries listed in Country Group A:5 or the United States that will be for one, or more, of the following purposes:

(1) Ultimately to be used by any such government agencies in one of the countries listed in Country Group A:5 or the United States Government; or

(2) Sent to a person in the United States and not for subsequent export under § 740.9(b)(1) (License Exception TMP for items moving in transit through the United States); or

(C) The United States Government has otherwise authorized the ultimate end use, the license or other authorization is in effect, and the consignee verifies in writing that such authorization exists and has provided the license or other approval identifier to the exporter, reexporter or transferor (as applicable).

(viii) Agrees to permit a U.S. Government end-use check with respect to the items.

[INSERT NAME(S) AND TITLE(S) OF PERSON(S) SIGNING THIS

DOCUMENT, AND DATE(S) DOCUMENT IS SIGNED].

Note 1 to paragraph (d)(2): When multiple consignees who form a network engaged in a production process (or other type of collaborative activity, such as joint development) will be receiving items under License Exception STA, a single prior consignee statement for multiple consignees may be used for any item eligible for export, reexport, or transfer (in-country) under License Exception STA, provided all of the applicable requirements of License Exception STA are met, including those specified in paragraph (d)(2).

Note 2 to paragraph (d)(2): Country Group A:5 and A:6 government consignees are not required to sign or provide a prior consignee statement.

(3) * * *

Note 1 to paragraph (d)(3): While the exporter, reexporter, and transferor must furnish the applicable ECCN and obtain a consignee statement prior to export, reexport or transfer (in-country) made under License Exception STA in accordance with the requirements of paragraphs (d)(1) and (d)(2) of this section, intangible (i.e., electronic or in an otherwise intangible form) exports, reexports, and transfers (in-country) made under License Exception STA are not subject to the notification requirements of paragraph (d)(3) of this section. However, any export, reexport, or transfer (in-country) made under STA must stay within the scope of the original authorization.

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Dated: October 26, 2017.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2017–23712 Filed 10–31–17; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

Final Report: Review of Federal Energy Regulatory Commission Agency Actions Pursuant to Executive Order 13783, Promoting Energy Independence and Economic Growth

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Availability of Final Report.

SUMMARY: This Final Report on the Review of Federal Energy Regulatory Commission Agency Actions is provided pursuant to Executive Order 13783, Promoting Energy Independence and Economic Growth.

DATES: November 1, 2017.

ADDRESSES: Report available through *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT:

Nicholas Tackett, Office of Energy Projects, Branch Chief, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, 202–502–6783

Karin L. Larson, Office of General Counsel, Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, 202–502–8236

SUPPLEMENTARY INFORMATION:

FEDERAL ENERGY REGULATORY COMMISSION

Final Report

Review of Federal Energy Regulatory Commission Agency Actions Pursuant to Executive Order 13783, Promoting Energy Independence and Economic Growth

I. Executive Summary

On March 28, 2017, the President signed Executive Order 13783, titled Promoting Energy Independence and Economic Growth (Executive Order).[1] Pursuant to section 2(c) of the Executive Order, on May 12, 2017, the Federal Energy Regulatory Commission (FERC, or the Commission) submitted to the Office of Management and Budget (OMB) its plan (Plan) for reviewing its existing regulations, orders, guidance documents, policies, and any other similar agency action (agency actions) that potentially burden the development or use of domestically produced energy resources. On July 26, 2017, pursuant to section 2(d) of the Executive Order, the head of the Commission submitted a draft final report detailing the review undertaken and the results of the review. Given the Commission's status as an independent regulatory agency, this final report is being submitted on a voluntary basis.[2]

Of the agency actions reviewed, this final report identifies nine agency actions that potentially materially burden the development or use of domestic energy resources as contemplated by the Executive Order and clarified by OMB's May 8, 2017 Guidance Memo.[3] In addition, these identified agency actions may be addressed in conjunction with the Commission's ongoing efforts pursuant to Executive Order 13777.

II. Background

Section 2 of the Executive Order requires the heads of federal agencies to immediately ''review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. Such review shall not include agency actions that are mandated by law, necessary for the public interest, and consistent with the policy set forth in section 1 of this order.''

On May 8, 2017, OMB issued a Guidance Memo providing additional information regarding compliance with the Executive Order, in particular section 2. The Guidance Memo noted that the Executive Order does not apply to independent agencies as defined in 44 U.S.C. 3502(5), but encouraged independent regulatory agencies, especially those that directly regulate the development or use of domestically produced energy resources, to provide the plan and report that are called for in section 2 of the Executive Order. The Guidance Memo further encourages agencies to coordinate their compliance with Section 2 of Executive Order 13783 with their compliance with Executive Order 13777, which directs agencies to establish Regulatory Reform Task Forces to evaluate existing regulations generally and make recommendations to the agency head regarding their repeal, replacement and modification, consistent with applicable law.

In the Plan, the Commission explained that it intended to review agency actions it has taken pursuant to legislative authority under: (1) the Natural Gas Act (NGA), 15 U.S.C. 717, *et seq.*; (2) the Federal Power Act (FPA), 16 U.S.C. 791a, *et seq.*; (3) the Interstate Commerce Act, 49 App. U.S.C. 1 *et seq.*; (4) the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601 *et seq.*, and (5) other statutes for which the Commission's actions on LNG, natural gas pipeline, and hydropower projects

[1] Executive Order 13783, *Promoting Energy Independence and Economic Growth,* 82 Fed. Reg. 16093 (Mar. 28, 2017).

[2] The Commission is a multi-member, independent regulatory agency that must follow applicable federal laws to change its rules, regulations and orders. Because the Commission must ultimately decide what action, if any, to take in response to the Executive Order, this report is a Commission staff analysis of the issues identified for review in the Executive Order and does not specifically recommend actions nor indicate the timing of any potential action.

[3] Memo from Dominic J. Mancini, Acting Administrator, Office of Information and Regulatory Affairs to Regulatory Reform Officers and Regulatory Policy Officers at Executive Departments and Agencies regarding Guidance for Section 2 of Executive Order 13783, titled ''Promoting Energy Independence and Economic Growth.''