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**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**15 CFR Parts 744 and 746**

**[Docket No. 150610514-5514-01]**

**RIN 0694-AG66**

**Russian Sanctions: Addition to the Entity List to Prevent Violations of Russian Industry Sector Sanctions**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Export Administration Regulations (EAR) to further implement U.S. sanctions on certain Russian energy projects. Specifically, in this

rule, the Bureau of Industry and Security (BIS) amends the EAR by adding a Russian oil and gas field, the Yuzhno-Kirinskoye Field located in the Sea of Okhotsk, to the Entity List. This Russian field is reported to contain substantial reserves of oil in addition to reserves of gas. The U.S. Government has determined, therefore, that exports, reexports, and transfers (in-country) of all items subject to the EAR to this Russian field by any person without first obtaining a BIS license present an unacceptable risk of use in, or diversion to, the activities specified in the Russian industry sector sanctions. Thus, as part of the BIS “is informed” process, this final rule adds this Russian field to the Entity List to further implement the Russian industry sector sanctions. This Russian field will be listed on the Entity List under the destination of Russia. This final rule clarifies the introductory text of the Entity List to specify that the embargoes and other special controls part of the EAR is also used to add entities to the Entity List. Lastly, this final rule makes a change to the Russian industry sector sanctions by clarifying the additional prohibition on those informed by BIS also includes end-uses that are within the scope of the Russian Industry sector sanctions.

**DATE:** This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For this Entity List-related change, contact the Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov). For the Russian

industry sector sanctions referred to in this rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-0092, Fax: (202) 482-482-3355, E-mail: [rp2@bis.doc.gov](mailto:rp2@bis.doc.gov). For emails, include “Russia” in the subject line.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

This final rule amends the Export Administration Regulations (EAR) to further implement U.S. sanctions on certain Russian energy projects. Specifically, in this rule, the Bureau of Industry and Security (BIS) amends the EAR by adding a Russian oil and gas field, the Yuzhno-Kirinskoye Field located in the Sea of Okhotsk, to the Entity List.

This Russian field is reported to contain substantial reserves of oil in addition to reserves of gas. The U.S. Government has determined, therefore, that exports, reexports, and transfers (in-country) of all items subject to the EAR to this Russian field by any person without first obtaining a BIS license present an unacceptable risk of use in, or diversion to, the activities specified in the Russian industry sector sanctions. Thus, as part of the BIS “is informed” process, this final rule adds this Russian field to the Entity List to further implement the Russian industry sector sanctions. This Russian field will be listed on the Entity List under the destination of Russia.

## **Entity List**

The Entity List (Supplement No. 4 to Part 744) identifies entities and other persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional licensing requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those listed. The “license review policy” for each listed entity or other person is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the Federal Register notice adding entities or other persons to the Entity List. BIS places entities and other persons on the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

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

*Addition to the Entity List Consistent With Executive Order 13662*

Under § 746.5(a)(2), BIS in this final rule is adding a Russian oil and gas field to the Entity List and informing the public of a license requirement for exports, reexports, or transfers (in-country) of any item subject to the EAR to that location. This Russian field is added based on being the site of activities that are described in Executive Order 13662 (79 FR 16169), *Blocking Property of Additional Persons Contributing to the Situation in Ukraine*, issued by the President on March 20, 2014. This Order expanded the scope of the national emergency declared in Executive Order 13660 of March 6, 2014 and Executive Order 13661 of March 16, 2014. Specifically, Executive Order 13662 expanded the scope to include sectors of the Russian Federation's economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, such as financial services, energy, metals and mining, engineering, and defense and related materiel. The Department of the Treasury's Office of Foreign Assets Control (OFAC), pursuant to Executive Order 13662 and on behalf of the Secretary of the Treasury, has designated certain entities operating in these sectors.

The Yuzhno-Kirinskoye Field is being added to the Entity List because it is reported to contain substantial reserves of oil. Consequently, exports, reexports, and transfers (in-country) of all items subject to the EAR to this Russian oil and gas field by any person without first obtaining a BIS license has been determined by the U.S. Government to present an unacceptable risk of use in, or diversion to, the activities specified in paragraph (a)(1) of § 746.5, namely exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) locations. Therefore, a license requirement for all items subject to the EAR is warranted.

License applications for such transactions will be reviewed with a presumption of denial because such exports, reexports, and transfers (in-country) are for use directly or indirectly in exploration or production from a deepwater (greater than 500 feet) project in Russia that has the potential to produce oil. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the field being added to the Entity List in this rule.

This final rule adds the following one Russian gas and oil field to the Entity List to expand the EAR license requirements in § 746.5:

**Russia**

(1) Yuzhno-Kirinskoye Field,  
in the Sea of Okhotsk.

*Clarification to the introductory text of the Entity List*

As noted above, BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR. This final rule, as a clarification for this existing BIS policy for adding persons to the Entity List, revises the first sentence of the introductory text of the Entity List to add a reference to part 746. This clarification to the introductory text will make it clear that this Supplement lists certain entities subject to license requirements for specified items under this part 744 and part 746 of the EAR.

### *Clarification to Russian Industry sector sanctions*

In § 746.5 (Russian industry sector sanctions), this final rule revises the second sentence of paragraph (a)(2) for the additional prohibition on those informed by BIS to add the term “end-use” after the term “end-user.” This change clarifies that the additional prohibition described in this paragraph (a)(2), as part of the BIS “is informed” process, may be based on an end-user or end-use when BIS determines there is an unacceptable risk of use in, or diversion to, the activities specified in paragraph (a)(1) of this section in Russia. This clarification does not change the scope of § 746.5, but rather clarifies the cases in which BIS will use the “is informed” process to assist exporters, reexporters, and transferors to “know” when an export, reexport, or transfer (in-country) is subject to the license requirements specified in § 746.5.

### **Export Administration Act**

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 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, distributive 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 rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by 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 e-mail to [Jasmeet\\_K.\\_Seehra@omb.eop.gov](mailto:Jasmeet_K._Seehra@omb.eop.gov), or by fax to (202) 395-7285.



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

4. For the Entity List changes in this final rule, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. foreign policy interests by preventing items from being exported, reexported, or transferred (in country) for use in, or diversion to, the activities specified in the Russian industry sector sanctions at the Russian field being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then persons working on or in the Russian field being added to the Entity List by this action would continue to be able to receive items subject to the EAR without a license and to conduct activities contrary to the Russian industry sector sanctions. In addition, publishing a proposed rule would give parties trying to export, reexport, or transfer (in-country) to this location notice of the U.S. Government's intention to place this Russian field on the Entity List and would create an incentive for persons located at this Russian field to accelerate receiving items subject to the EAR to conduct activities that are contrary to the to the Russian industry sector sanctions, and/or to take steps to set up additional aliases and other measures to try to limit the impact of the listing on the Entity List. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment

are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

5. For the clarification to Russian industry sector sanctions and clarification to the introductory text of the Entity List, 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 allowing for notice and comment would be contrary to the public interest. The revisions to § 746.5(a)(2) and the introductory text to Supplement No. 4 to Part 744, facilitate public understanding of existing interpretations of current EAR provisions, and therefore prior notice and the opportunity for public comment would prevent BIS promulgating these revisions as soon as possible so that the public will be aware of the correct text and meaning of these current EAR provisions.

BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). As mentioned previously, the revisions described here made by this rule consist of minor clarifications that need to be in place as soon as possible to avoid confusion by the public regarding the intent and meaning of these changes to the EAR.

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

### 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

### 15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 744 and 746 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

### **PART 744—[AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of September 17, 2014, 79 FR 56475

(September 19, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014);  
 Notice of January 21, 2015, 80 FR 3461 (January 22, 2015).

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

- a. Adding introductory text;
- b. Removing from the table the text below the headings and above the entry for “Afghansistan”; and
- c. Adding under Russia, in alphabetical order, the entity “Yuzhno-Kirinskoye Field, in the Sea of Okhotsk”.

The additions read as follows:

**Supplement No. 4 to Part 744 - Entity List**

This Supplement lists certain entities subject to license requirements for specified items under this part 744 and part 746 of the EAR. License requirements for these entities include exports, reexports, and transfers (in-country) unless otherwise stated. This list of entities is revised and updated on a periodic basis in this Supplement by adding new or amended notifications and deleting notifications no longer in effect.

Country	Entity	License requirement	License review policy	Federal Register Citation
*****				
<b>RUSSIA</b>	*****			
	Yuzhno-Kirinskoye Field, in the Sea of Okhotsk.	For all items subject to the EAR. (See §746.5 of the EAR).	Presumption of denial.	80 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE

				FEDERAL REGISTER].
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*****				

**PART 746—[AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108-11, 117 Stat. 559; 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 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007-7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of May 6, 2015, 80 FR 26815 (May 8, 2015).

4. Section 746.5 is amended by revising paragraph (a)(2) to read as follows:

**§ 746.5 Russian industry sector sanctions.**

(a) \*\*\*

(2) *Additional prohibition on those informed by BIS.* BIS may inform persons, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export, reexport, or transfer (in-country) or for the export, reexport, or transfer (in-country) of specified items to a certain end-user or end-use, because there is an unacceptable risk of use in, or diversion to, the activities specified in

paragraph (a)(1) of this section in Russia. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse persons from compliance with the license requirements of paragraph (a)(1) of this section.

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Dated: July 30, 2015

Eric L. Hirschhorn,

Under Secretary of Commerce for Industry and Security.

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