



DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 201214-0340]

RIN 0694-AI39

Revisions to the Unverified List (UVL)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by removing three (3) persons from the Unverified List (UVL). The three persons are removed from the UVL on the basis that BIS was able to verify their *bona fides* (i.e., legitimacy and reliability relating to the end use and end user of items subject to the EAR) through successful end-use checks.

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

FOR FURTHER INFORMATION CONTACT: Kevin Kurland, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-4255 or by email at UVLRequest@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Unverified List (UVL), found in Supplement No. 6 to part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) (EAR), contains the names and addresses of foreign persons who are or have been parties to a transaction, as such parties are described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* the Bureau of Industry and Security (BIS) has been unable to verify through an end-use check. BIS may add persons to the UVL when BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's *bona fides* because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for reasons outside the U.S. Government's control.

There are a number of reasons why end-use checks cannot be completed. These include but are not limited to reasons unrelated to the cooperation of the foreign party subject to the end-use check. For example, BIS sometimes initiates end-use checks and cannot find a foreign party at the address indicated on export documents and cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks, prevent the scheduling of such checks, or refuse to schedule them in a timely manner. Under these circumstances, although BIS has an interest in informing the public of its inability to verify the foreign party's *bona fides*, there may not be sufficient information to add the foreign person at issue to the Entity List (Supplement No. 4 to part 744 of the EAR) under § 744.11 of the EAR (see paragraph (b), Criteria for revising the Entity List), or under another provision of the EAR. In such circumstances, BIS may add the foreign person to the UVL.

Furthermore, BIS sometimes is able to conduct end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if, during the conduct of an end-use check, a recipient of items subject to the EAR is unable to produce the items that are the subject of the end-use check for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of the items. The inability of foreign

persons subject to end-use checks to demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR and indicates a risk that such items may be diverted to prohibited end uses and/or end users. However, in such circumstances, BIS may not have sufficient information to establish that such persons are involved in activities described in parts 744 or 746 of the EAR, therefore preventing the placement of the persons on the Entity List. In such circumstances, the foreign persons may be added to the UVL.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and keep a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement.

Requests for removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL listings will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides*.

Changes to the EAR

Supplement No. 6 to Part 744 (“the Unverified List” or “UVL”)

This rule removes three persons from the UVL. BIS is removing these persons pursuant to § 744.15(c)(2) of the EAR based on the successful completion of end-use checks that resulted in the verification of their *bona fides*. This final rule implements the decision of the Acting Deputy Assistant Secretary for Export Enforcement to remove the following three persons located in Germany and Mexico from the UVL:

Germany:

- DMA Logistics GmbH, Max Planck-Strasse 1, Unna, Germany; *and*
- Halm Elektronik GmbH, Burgstrasse 106, Frankfurt am Main, Germany

Mexico:

- Integrated Production and Test Engineering, a.k.a. IPTE, Calle Alambiques 975—9, Parque Industrial el Álamo, Guadalajara, Jalisco 44490, Mexico

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 through 4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

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 designated as “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.

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

Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. The analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable because no general notice of proposed rulemaking was required for this action. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor is 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 the following control numbers: 0694-0088 (Simplified Network Application Processing+ System (SNAP+) and the Multipurpose Export License Application), 0694-0122 (Licensing Responsibilities and Enforcement), and 0694-0137 (License Exceptions and Exclusions). Collection 0694-0088 includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission for a total burden estimate of 31,878 hours.

This rule will not change public burden in a collection of information approved by OMB under control number 0694-0088. The restoration of license exceptions for listed persons on the Unverified List will result in decreased license applications being submitted to BIS by exporters. The removal of license exceptions for listed persons on the Unverified List will potentially result in increased license applications being submitted to BIS by exporters. Total burden hours associated with the Paperwork Reduction Act and OMB control number 0694-0088 are expected not to change, as the restoration of some license exceptions and the restriction of other license exceptions will only affect transactions involving persons removed from or added to the Unverified List and not all export transactions. Because license exception eligibility is restored

for these entities removed from the UVL, this rule increases public burden in a collection of information approved by OMB under control number 0694-0137 minimally, as this will only affect specifically listed individual persons. The decreased burden under 0694-0088 is reciprocal to the increased burden under 0694-0137, and results in little or no change of burden to the public. This rule also decreases public burden in a collection of information under OMB control number 0694-0122, as a result of the exchange of UVL statements between private parties. The total change in burden hours associated with both of these collections is expected to be minimal, as it involves a limited number of persons listed on the UVL.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 744 - CONTROL POLICY: END-USER AND END-USE BASED

1. 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 18, 2020, 85 FR 59641 (September 22, 2020); Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

Supplement No. 6 to Part 744 [Amended]

2. Supplement No. 6 to part 744 is amended in the table by:
 - a. Removing the entries for “DMA Logistics GmbH” and “Halm Elektronik GmbH” under “Germany”; and
 - b. Removing the entry for “Mexico”.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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