



DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 210406-0076]

RIN 0694-AI47

Addition of Entities to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by adding seven entities to the Entity List. These seven entities have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These seven entities will be listed on the Entity List under the destination of the People's Republic of China (China).

DATES: This rule is effective April 8, 2021.

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (supplement no. 4 to part 744 of the Export Administration Regulations (EAR)) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or 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 (15 CFR parts 730-774) impose additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity 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 relevant *Federal Register* notice adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

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

ERC Entity List Decisions

Additions to the Entity List

Under § 744.11(b) (Criteria for revising the Entity List) of the EAR, entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities 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, and those acting on behalf of such entities, may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 provide an illustrative list of activities that could be considered contrary to the national security or foreign policy interests of the United States.

This rule implements the decision of the ERC to add seven entities to the Entity List. These seven entities will be listed on the Entity List under the destination of China. The ERC made the decision to add these seven entities described below under the standard set forth in § 744.11(b) of the EAR.

The ERC determined that the seven subject entities are engaging in or enabling activities contrary to U.S. national security and foreign policy interests, as follows:

The “National Supercomputing Center Jinan,” “National Supercomputing Center Shenzhen,” “National Supercomputing Center Wuxi,” “National Supercomputer Center Zhengzhou,” “Shanghai High-Performance Integrated Circuit Design Center,” “Sunway Microelectronics,” and “Tianjin Phytium Information Technology” are being added to the Entity List on the basis of their procurement of U.S.-origin items for activities contrary to the national security and foreign policy interests of the United States. Specifically, these entities are involved in activities that support China’s military actors, its destabilizing military modernization efforts, and/or its weapons of mass destruction (WMD) programs.

Pursuant to § 744.11(b), the ERC determined that the conduct of the above-described seven entities raises sufficient concerns that prior review, via the imposition of a license requirement, of exports, reexports, or transfers (in-country) of all items subject to the EAR involving these seven entities and the possible issuance of license denials or the possible imposition of license conditions on shipments to these entities, will enhance BIS’s ability to

prevent violations of the EAR or otherwise protect U.S. national security or foreign policy interests. As further provided below, BIS has provided a limited exclusion to this rule in the savings clause.

For the seven entities added to the Entity List in this final rule, BIS imposes a license requirement that applies to all items subject to the EAR. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the person being added to the Entity List in this rule. For the seven entities added to the Entity List by this rule, BIS imposes a license review policy of a presumption of denial.

The acronym “a.k.a.” (also known as) is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the Entity List.

For the reasons described above, this final rule adds the following seven entities to the Entity List:

CHINA

- National Supercomputing Center Jinan;
- National Supercomputing Center Shenzhen;
- National Supercomputing Center Wuxi;
- National Supercomputer Center Zhengzhou;
- Shanghai High-Performance Integrated Circuit Design Center;
- Sunway Microelectronics; *and*
- Tianjin Phytium Information Technology.

Savings Clause

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 April 8, 2021, 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).

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) (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. 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 or 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 42.5 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.

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

4. Pursuant to section 1762 of the Export Control Reform Act of 2018, 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.

5. 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.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 is revised 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).

2. Supplement No. 4 to part 744 is amended under CHINA, PEOPLE’S REPUBLIC OF, by adding in alphabetical order entries for “National Supercomputing Center Jinan,” “National Supercomputing Center Shenzhen,” “National Supercomputing Center Wuxi,” “National Supercomputer Center Zhengzhou,” “Shanghai High-Performance Integrated Circuit Design Center,” “Sunway Microelectronics,” and “Tianjin Phytium Information Technology” to read as follows:

Supplement No. 4 to Part 744 - Entity List

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Country	Entity	License requirement	License review policy	Federal Register Citation

CHINA, PEOPLE’S REPUBLIC OF	***** National Supercomputing Center Jinan, a.k.a., the following two aliases: -Shandong Computing Center; <i>and</i> -NSCC-JN. No. 1768, Xinluo Street, High-tech Development Zone, Jinan City, Shandong Province, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	National Supercomputing Center Shenzhen, a.k.a., the following three aliases: -The National Supercomputing Shenzhen Center; -Shenzhen Cloud Computing Center; <i>and</i> -NSCC-SZ. No. 9 Duxue Road, University Town Community, Taoyuan	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Street, Nanshan District, Shenzhen, China.			
National Supercomputing Center Wuxi, a.k.a., the following one alias: -NSCC-WX. No. 1, Yinbai Road, Binhu District, Wuxi City, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
National Supercomputer Center Zhengzhou, a.k.a., the following one alias: -NSCC-ZZ. Southeast of the intersection of Fengyang Street and Changchun Road, Zhongyuan District, Zhengzhou City, China; <i>and</i> 1st Floor, Building 18, Zhengzhou University (South Campus), Zhengzhou City, China; <i>and</i> Room 213, Institute of Drug Research, Zhengzhou University, Changchun Road, High-tech Zone, Zhengzhou City, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Shanghai High-Performance Integrated Circuit Design Center, a.k.a., the following two aliases: -Shenwei Micro; <i>and</i> -Shanghai High-Performance IC Design Center. No. 399, Bi sheng Road, Zhangjiang Hi-Tech Park, Pudong New Area, Shanghai, China; <i>and</i> 428 Zhanghen Rd, Zhangjiang High Tech Park, Pudong District, Shanghai, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Sunway Microelectronics, a.k.a., the following two aliases: -Chengdu Shenwei Technology; <i>and</i> -Chengdu Sunway Technology. Building D22, Electronic Science and Technology Park, Section 4, Huafu Avenue, Chengdu, China; <i>and</i> Shuangxing Avenue, Gongxing Street, Southwest Airport Economic Development Zone, Shuangliu District, Chengdu, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

	<p>*****</p> <p>Tianjin Phytium Information Technology, a.k.a., the following three aliases: -Phytium; -Phytium Technology; <i>and</i> -Tianjin Feiteng Information Technology.</p> <p>Bldg 5 Xin'an Venture Plaza 1 Haiyuan M Rd Binhai New Area Tianjin, 300450 China; <i>and</i> Building 5, Xin'an Chuangye Plaza, No. 1, Haiyuan Middle Road, Binhai New District, Tianjin, China; <i>and</i> 8th Floor, Quantum Core Tower, No.27 Zhichun Road, Haidian District, Beijing, China; <i>and</i> 10th Floor, Office Building, Wangdefu Kaiyue International Building, No.526 Sanyi Avenue, Kaifu District, Changsha City, Hunan Province; China; <i>and</i> Room 101, No. 1012, Hulin Road, Huangpu District, Guangzhou, China; <i>and</i> 100 Waihuanxi Rd, 3F-326 Science Pavilion, Panyu District, Guangdong, Guangzhou, China.</p> <p>*****</p>	<p>For all items subject to the EAR. (See §744.11 of the EAR).</p>	<p>Presumption of denial.</p>	<p>86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].</p>
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Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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