



## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 744

[Docket No. 210617-0134]

RIN 0694-AI56

#### Addition of Certain Entities to the Entity List

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Export Administration Regulations (EAR) by adding five entities to the Entity List. These five entities have been determined by the United States Government to be acting contrary to the foreign policy interests of the United States and will be listed on the Entity List under the destination of the People's Republic of China (China).

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

#### 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, Email: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Entity List (supplement no. 4 to part 744 of the EAR) identifies entities reasonably believed to be involved in, 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 Export Administration Regulations (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* document 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 makes all decisions to remove or modify an entry by unanimous vote.

### **ERC Entity List Decisions**

#### *Additions to the Entity List*

This rule implements the decision of the ERC to add five entities to the Entity List. The five entities are being added based on § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The five entities are located in China.

The ERC reviewed and applied § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these five entities to the Entity List. Under that paragraph, persons for whom there is reasonable cause to believe, based on specific and articulable facts, that they 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, along with those acting on behalf of such persons, may be added to the Entity List. Paragraphs (b)(1) through (b)(5) of § 744.11 provide an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

For each of the five entities described below, the ERC made the requisite determination under the standard set forth in § 744.11(b). Specifically, the ERC determined that the subject entities are engaging in or enabling activities contrary to U.S. foreign policy interests. These entities have been implicated in human rights violations and abuses in the implementation of China's campaign of repression, mass arbitrary detention, forced labor and high-technology surveillance against Uyghurs, Kazakhs, and other members of Muslim minority groups in the Xinjiang Uyghur Autonomous Region. Specifically, the ERC determined that Xinjiang GCL New Energy Material Technology, Co. Ltd; Xinjiang Daqo New Energy, Co. Ltd; Xinjiang East Hope Nonferrous Metals Co. Ltd.; Hoshine Silicon Industry (Shanshan) Co., Ltd.; and Xinjiang Production and Construction Corps are engaging in activities contrary to the foreign policy interests of the United States through participating in the practice of, accepting, or utilizing forced labor.

Pursuant to § 744.11(b) of the EAR, the ERC has determined that the conduct of these five entities raises sufficient concern that prior review of exports, reexports or transfers (in-country) of all items subject to the EAR involving these entities, and the possible imposition of license conditions or license denials on shipments to these entities, will enhance BIS's ability to prevent items subject to the EAR from being used in activities contrary to the foreign policy interests of the United States.

For the five entities identified above that are being added to the Entity List, BIS imposes a license requirement for all items subject to the EAR and a license review policy of case-by-case review for Export Control Classification Numbers (ECCNs) 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983. A policy of case-by-case review also applies to items designated as EAR99 that are described in the Note to ECCN 1A995, specifically, items for protection against chemical or biological agents that are consumer goods, packaged for retail sale or personal use, or medical products. Additionally, in light of the current global pandemic, BIS has adopted a policy of case-by-case review for items subject to the EAR that are necessary

to detect, identify and treat infectious disease. BIS has adopted a license review policy of presumption of denial for all other items subject to the EAR. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the entities being added to the Entity List in this rule. The acronym “a.k.a.” or ‘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.

This final rule adds the following five entities to the Entity List:

### **People’s Republic of China**

- Hoshine Silicon Industry (Shanshan) Co., Ltd.;
- Xinjiang Daqo New Energy, Co. Ltd.;
- Xinjiang East Hope Nonferrous Metals Co. Ltd.;
- Xinjiang GCL New Energy Material Technology, Co. Ltd; *and*
- Xinjiang Production and Construction Corps.

### *Savings Clause*

Shipments of items removed from eligibility for a License Exception or for export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country) on [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER], pursuant to actual orders for export, reexport, or transfer (in-country) to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport 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. Sections 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

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.

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 29.6 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.

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, 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.

Because a notice of proposed rulemaking and an opportunity for public comment are not required 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 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).

2. Supplement No. 4 to part 744 is amended under CHINA, PEOPLE’S REPUBLIC OF, by adding in alphabetical order, entries for “Hoshine Silicon Industry (Shanshan) Co., Ltd.”, “Xinjiang Daqo New Energy, Co. Ltd”, “Xinjiang East Hope Nonferrous Metals Co. Ltd.”, “Xinjiang GCL New Energy Material Technology, Co. Ltd”, and “Xinjiang Production and Construction Corps”.

The additions 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
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CHINA,	*****			

<b>PEOPLE'S REPUBLIC OF</b>	<p>Hoshine Silicon Industry (Shanshan) Co., Ltd., a.k.a., the following one alias: - Hesheng Silicon Industry (Shanshan) Co., Ltd. Xinjiang East: West of Kekeya Road, Stone Industrial Park, Shanshan County, Turpan City, Xinjiang (Hesheng Industrial Park), China.</p>	<p>For all items subject to the EAR. (See §744.11 of the EAR).</p>	<p>Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.</p>	<p>86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].</p>
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	<p>Xinjiang Daqo New Energy, Co. Ltd., a.k.a., the following three aliases: -Xinjiang Great New Energy Co., Ltd.; -Xinjiang Daxin Energy Co., Ltd.; <i>and</i> -Xinjiang Daqin Energy Co., Ltd.  Shihezi Development Zone Chemical New Material Industrial Park; <i>and</i> No. 16, Weiliu Road, New Chemical Material Industrial Park, Shihezi Economic Development Zone, Xinjiang China.</p>	<p>For all items subject to the EAR. (See §744.11 of the EAR).</p>	<p>Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.</p>	<p>86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].</p>
	<p>Xinjiang East Hope Nonferrous Metals Co. Ltd., a.k.a., the following one alias: -Xinjiang Nonferrous.  Wucaiwan Industrial Park, Zhundong Economic and Technological Development Zone, Changji Prefecture, Xinjiang (Cainan Community); <i>and</i> Jimsar County, Changji Hui Autonomous Prefecture, Xinjiang Uygur Autonomous Region, Wucaiwan Coal, Electricity and Coal Chemical Base, China.</p>	<p>For all items subject to the EAR. (See §744.11 of the EAR).</p>	<p>Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.</p>	<p>86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].</p>
	<p>Xinjiang GCL New Energy Material Technology, Co. Ltd., a.k.a., the following one alias: -Xinjiang GCL New Energy Materials Technology Co., Ltd.  East Section of Hengsi Road, Quanbei Industrial Zone, Hongsha, Zhundong Economic and Technological Development Zone, Changji Prefecture,</p>	<p>For all items subject to the EAR. (See §744.11 of the EAR).</p>	<p>Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption</p>	<p>86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].</p>

	Xinjiang (Jijihu Community); <i>and</i> East Part, the 4th Horizontal Road, North Hongshaquan Industrial park, Zhundong Economic and Technological Development Zone, Changji, Xinjiang, China.		of denial for all other items subject to the EAR.	
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	Xinjiang Production and Construction Corps (XPCC), a.k.a., the following three aliases: -XPCC; -Xinjiang Corps; <i>and</i> -Bingtuan.  Urumqi, Xinjiang Uyghur Autonomous Region, China.	For all items subject to the EAR. (See §744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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**Matthew S. Borman,**

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