

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1266

[Notice (06-079)]

RIN 2700-AB51

#### Cross-Waiver of Liability

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) is proposing to amend part 1266 of Title 14 to update and ensure consistency in the use of cross-waiver of liability provisions in NASA agreements. Part 1266 provides the regulatory basis for cross-waiver provisions used in the following categories of NASA mission agreements: Agreements for activities in connection with the "Agreement Among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station" (commonly referred to as the ISS Intergovernmental Agreement, or IGA); agreements for use of the Space Shuttle; and agreements for NASA's science and space exploration missions that are launched on Expendable Launch Vehicles (ELVs). Among other generally clerical amendments to this Part, NASA is proposing to delete the subsection regarding the cross-waiver of liability during Space Shuttle operations and expand the scope of the ELV provision to encompass Reusable Launch Vehicles (RLVs) as well as other users of the same launch vehicle during the same launch.

*Comment Date:* Comments due on or before November 22, 2006.

**ADDRESSES:** Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Steven A. Mirmina, Senior Attorney,

Office of the General Counsel, NASA Headquarters, 300 E Street, SW., Washington, DC 20546; telephone: 202/358-2432; e-mail [steve.mirmina@nasa.gov](mailto:steve.mirmina@nasa.gov).

**SUPPLEMENTARY INFORMATION:** In the 14 years since the current rule's publication (September 25, 1991), shifts in areas of NASA mission and program emphases warrant an adjustment of the NASA cross-waiver provisions to ensure they remain current. Most notably, on January 29, 1998, the United States formally joined with 14 nations in an international partnership in cooperative space exploration for the design, development, operation, and utilization of the International Space Station (ISS) through the IGA. The IGA entered into force for NASA and various other Partners between 1998 and 2005. Article 16 of the IGA establishes a broad cross-waiver of liability among Partner States and their contractually or otherwise related entities by requiring those entities to make similar waivers of liability. Thus, NASA is required to include IGA-based cross-waivers in contracts and agreements for activities related to the ISS.

A second development involves the February 1, 2003, Space Shuttle *Columbia* accident. In the wake of that tragedy, NASA embraced the recommendations of the Columbia Accident Investigation Board (CAIB) that the NASA Space Transportation System (Shuttle) be used chiefly for completion of the ISS and then retired. While NASA is assessing the possibility of a servicing mission for the Hubble Space Telescope using the Shuttle, NASA does not expect to conclude any Space Act agreements with international partners for cooperation on this prospective mission. Since current servicing mission plans envision no other non-ISS missions, there is no longer a need to retain the section of part 1266 regarding a separate cross-waiver of liability to be used during Shuttle operations (formerly § 1266.103), and NASA is proposing to delete it.

Third, NASA has continued to conduct scores of missions for the purpose of furthering science and space exploration unrelated to the ISS and without using the Shuttle. These missions are currently launched using ELVs and Evolved Expendable Launch Vehicles (EELVs). NASA anticipates

that missions of this nature may also be launched using commercially available RLVs. Thus, NASA is expanding the scope of the current ELV section to include RLVs as well. NASA has an established practice of including cross-waivers in its mission agreements to lower the risks and costs of space exploration. Revising the present regulation is intended to promote consistency between the general types of cross-waivers NASA uses in its agreement practice for ISS activities and other scientific missions launched by commercial vehicles. Additionally, since commercial launch providers can launch multiple payloads on the same vehicle, NASA is proposing to expand the scope of the waiver in § 1266.104 to include other users of a single launch vehicle.<sup>1</sup>

Fourth, NASA has had a long history and consistent practice of requiring international and domestic partners to cross-waive claims for loss or damage and, thus, assume responsibility for the risks inherent in space exploration. For years, NASA has utilized broad, no-fault, no subrogation cross-waivers. In response to questions raised by the U.S. Department of Justice in 1995 regarding the Agency's authority to waive claims of the U.S. Government, and at NASA's request, President Clinton underscored successive Administrations' acknowledgement of the importance of these liability arrangements by affirming, through a delegation of his constitutional foreign affairs authority, NASA's authority to enter into cross-waivers of liability, on behalf of the Government of the United States, with its Partners in international agreements. In part, the President's delegation provided:

The authority conferred upon the President by the Constitution and the laws of the United States of America to execute mutual waivers of claims of liability on behalf of the

<sup>1</sup> The provisions of this Regulation will be applicable only to NASA launches that are not licensed by the Federal Aviation Administration (FAA). The FAA licenses launch vehicles and reentry of reentry vehicles under authority granted to the Secretary of Transportation in the Commercial Space Launch Act (CSLA) of 1984, as amended, codified in 49 U.S.C. Subtitle IX, chapter 701, and delegated to the FAA Administrator. Licensing authority under the CSLA is carried out by FAA Associate Administrator for Commercial Space Transportation. Where NASA acquires launch services on a commercial basis (such as through contracts for spacecraft delivery on-orbit) the cross-waiver provisions of the CSLA will apply.

United States for damages arising out of cooperative activities is hereby delegated to the Administrator of NASA for agreements with foreign governments and their agents regarding aeronautical, science, and space activities that are executed pursuant to the authority granted NASA by the National Aeronautics and Space Act of 1958, Public Law 85-568, as amended.<sup>2</sup>

However, this delegation of cross-waiver authority for cooperative agreements with foreign entities left unresolved the extent of NASA's authority to execute similar waivers of U.S. Government claims against the Agency's U.S. cooperative partners, such as corporations and universities. Therefore, NASA sought statutory confirmation and clarification of NASA's authority to implement liability cross-waivers with both domestic and international partners.

Congress responded by amending the National Aeronautics and Space Act of 1958 (Space Act) to include Section 309.<sup>3</sup> Specifically, this section, codified at 42 U.S.C. 2458c, confirms and clarifies NASA's authority to waive claims of the U.S. Government in cooperative agreements in exchange for a reciprocal waiver of claims from the cooperating party. In situations where, for example, a foreign space agency lacks fully reciprocal authority to waive claims of its government, special arrangements have been developed to cover the gap, including the requirement to purchase insurance to protect NASA against broader claims of a foreign government that a foreign space agency is unable to waive. A prime example of such arrangements is set forth in Article 16 of the IGA to address potential subrogated claims of the Japanese Government.

Use of Cross-Waivers for ISS and ELV/RLV Activities: The fundamental purpose of cross-waivers of liability in NASA agreements is to encourage participation in the exploration, exploitation, and use of outer space. The IGA declares the Partner States' intention that cross-waivers of liability be broadly construed to achieve this purpose. It is important to underscore the fact that agreements for high-risk activities of very broad and diffuse scope require that both entities be involved in "Protected Space Operations" or "PSO." PSO is defined to include a wide range of design,

transport, flight, and payload activities. In addition, for many of these higher-risk activities as well as for any activity requiring a significant amount of contractor involvement, NASA typically insists that each party require its own related entities (e.g. contractors, subcontractors, users, and customers, at any tier) to agree to waive claims against similar entities that may be legally related to any other party. This is referred to as the "flow down" requirement of the cross-waiver.

The chief differences between the ISS and ELV cross-waivers lie in the broad scope of the ISS activities required to be covered by cross-waivers in contrast with the more limited scope of waivers used for most mission-specific science and space exploration activities. To illustrate, the cross-waiver for ISS activities generally is in effect anywhere in the world when activities are conducted in implementation of any ISS-related agreement. The ELV-based cross-waiver is more limited; it generally is only applied to the parties to an agreement and their related entities, although it is being expanded by this proposed rule to cover other payloads launched on the same vehicle. In essence, however, the operation of the ISS and ELV waivers is comparable; both the party claiming damage and the party causing damage must be participating in "Protected Space Operations". More specifically, the term "Protected Space Operations" in the IGA cross-waiver includes all activities in implementation of the IGA or Memoranda of Understanding concluded pursuant to the IGA. In contrast, the term "Protected Space Operations" in NASA's science and space exploration agreements covers all ELV or RLV activities that are performed in implementation of an agreement for launch services. The specific requirements and precise scope of the term "Protected Space Operations" are provided in §§ 1266.102 and 1266.104. The other changes accomplished in this revision are minor, making uniform the capitalization, use of italics, ordering of listed terms, and general editorial changes to the cross-waiver regulation.

*General:* This part establishes the regulatory basis for cross-waivers incorporated in NASA agreements implementing the IGA as well as for cooperative ELV or RLV missions that do not involve ISS activities. In addition, this part provides the regulatory basis for NASA to flow down the obligations of these cross-waivers of liability to its related entities through contracts issued pursuant to its mission agreements. To be made fully effective,

the cross-waivers required by this part will necessitate concomitant changes to NASA procurement regulations. NASA plans to implement these changes as expeditiously as possible after this proposed rule becomes final.

This regulation is not a significant regulatory action for purposes of Executive Order 12866, "Regulatory Planning and Review". As required by the Regulatory Flexibility Act, NASA certifies that these amendments will not have a significant impact on small business entities.

#### List of Subjects in 14 CFR Part 1266

Cross-waiver, Evolved expendable launch vehicle, Expendable launch vehicle, Intergovernmental agreement, International Space Station, Liability, Reusable launch vehicle, Space shuttle, Space transportation and exploration.

For the reasons stated in the preamble, NASA proposes to revise 14 CFR part 1266 as follows:

#### PART 1266—CROSS-WAIVER OF LIABILITY

- Sec.  
 1266.100 Purpose.  
 1266.101 Scope.  
 1266.102 Cross-waiver of liability for agreements involving activities related to the International Space Station (ISS).  
 1266.103 [Reserved].  
 1266.104 Cross-waiver of liability for science and space exploration agreements for missions launched by Expendable Launch Vehicles or Reusable Launch Vehicles.

**Authority:** 42 U.S.C. 2473 (c)(1), (c)(5) and 42 U.S.C. 2458c.

##### § 1266.100 Purpose.

The purpose of this regulation is to ensure that consistent cross-waivers of liability are included in NASA agreements for activities related to the ISS and for NASA's other activities of scientific space exploration that do not involve activities in connection with the ISS, whether launched by Expendable Launch Vehicle (ELV) or Reusable Launch Vehicle (RLV).

##### § 1266.101 Scope.

The provisions at § 1266.102 are intended to implement the cross-waiver requirement in Article 16 of the intergovernmental agreement entitled, "Agreement Among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station (IGA)". Article 16 establishes a cross-waiver of

<sup>2</sup> Presidential Documents, Memorandum of October 10, 1995, Delegation of Authority to Enter into Mutual Waivers of Liability for Certain Agreements Under the National Aeronautics and Space Act of 1958, 60 FR 53251, October 13, 1995.

<sup>3</sup> The provisions of Section 309 were recently extended in the NASA Authorization Act of 2005, Pub. L. 109-155, which was signed by President Bush on December 30, 2005.

liability for use by the Partner States and their related entities and requires that this reciprocal waiver of claims be extended to contractually or otherwise related entities of NASA by requiring those entities to make similar waivers of liability. Thus, NASA is required to include IGA-based cross-waivers in contracts and agreements for ISS activities that fall within the scope of "Protected Space Operations," as that term is defined in § 1266.102. The purpose of the waiver is to encourage participation in the "exploration, exploitation, and use of outer space" through the ISS. The IGA declares the Partner States' intention that this cross-waiver of liability be broadly construed to achieve this purpose. NASA incorporates the provisions of § 1266.102 into its agreements for activities that implement the IGA and the memoranda of understanding between the United States and its respective international partners. The provisions at § 1266.104 of this part provide the regulatory basis for cross-waiver clauses to be incorporated in NASA's science and space exploration agreements that do not involve activities in connection with the ISS and are launched by either ELVs or RLVs.

**§ 1266.102 Cross-waiver of liability for agreements involving activities related to the International Space Station (ISS).**

(a) The objective of this section is to implement NASA's responsibility to flow down the cross-waiver of liability in Article 16 of the IGA to its related entities in the interest of encouraging participation in the exploration, exploitation, and use of outer space through the ISS. It is intended that the cross-waiver of liability be broadly construed to achieve this objective. Provided that the waiver of claims is reciprocal, the parties may tailor the scope of the cross-waiver clause in these agreements to address the specific circumstances of a particular cooperation.

(b) For the purposes of this section:

(1) The term "Partner State" includes each contracting party for which the Agreement Among The Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America Concerning Cooperation on the Civil International Space Station (signed January 29, 1998; hereinafter the "Intergovernmental Agreement") has entered into force or become operative (pursuant to Sections 25 and 26, respectively, of the Intergovernmental Agreement), or any successor

agreement. A Partner State includes its Cooperating Agency. It also includes any entity specified in the MOU between NASA and the Government of Japan to assist the Government of Japan's Cooperating Agency in the implementation of that MOU.

(2) The term "related entity" means:

(i) A contractor or subcontractor of a Party or a Partner State at any tier;

(ii) A user or customer of a Party or a Partner State at any tier; or

(iii) A contractor or subcontractor of a user or customer of a Party or a Partner State at any tier. The term "related entity" may also apply to a State, or an agency or institution of a State, having the same relationship to a Partner State as described in paragraphs (b)(2)(i) through (b)(2)(iii) of this section or otherwise engaged in the implementation of Protected Space Operations as defined in paragraph (b)(3)(vi) of this section. The terms "contractors" and "subcontractors" include suppliers of any kind.

(3) The term "damage" means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect or consequential damage.

(4) The term "launch vehicle" means an object or any part thereof intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.

(5) The term "payload" means all property to be flown or used on or in a launch vehicle or the ISS.

(6) The term "Protected Space Operations" means all launch vehicle activities, ISS activities, and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of the IGA, MOUs concluded pursuant to the IGA, and implementing arrangements. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or transfer vehicles, the ISS, payloads, or instruments, as well as related support equipment and facilities and services; and

(ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. "Protected Space Operations" also includes all activities related to evolution of the ISS, as provided for in Article 14 of the IGA. "Protected Space Operations" excludes activities on Earth which are conducted on return from the ISS to develop

further a payload's product or process for use other than for ISS-related activities in implementation of the IGA.

(c)(1) Cross-waiver of liability: Each Party agrees to a cross-waiver of liability pursuant to which each Party waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this section based on damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims against:

(i) Another Party;

(ii) A Partner State other than the United States of America;

(iii) A related entity of any entity identified in paragraph (c)(1)(i) or (c)(1)(ii) of this section; or

(iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.

(2) In addition, each Party shall, by contract or otherwise, extend the cross-waiver of liability as set forth in paragraph (c)(1) of this section to its related entities by requiring them, by contract or otherwise, to:

(i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section; and

(ii) Require that their related entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, which entered into force on September 1, 1972, where the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this section, this cross-waiver of liability shall not be applicable to:

(i) Claims between a Party and its own related entity or between its own related entities;

(ii) Claims made by a natural person, his/her estate, survivors or subrogees (except when a subrogee is a Party to this Agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of such person;

(iii) Claims for damage caused by willful misconduct;

(iv) Intellectual property claims;

(v) Claims for damage resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to paragraph (c)(2) of this section; or

(vi) Claims by or against a Party arising out of or relating to the other Party's failure to meet its contractual obligations set forth in the Agreement.

(5) Nothing in this section shall be construed to create the basis for a claim or suit where none would otherwise exist.

(6) This cross-waiver shall not be applicable when the Commercial Space Launch Act cross-waiver (49 U.S.C. 70101 *et seq.*) is applicable.

**§ 1266.103 [Reserved].**

**§ 1266.104 Cross-waiver of liability for science and space exploration agreements for missions launched by Expendable Launch Vehicles or Reusable Launch Vehicles.**

(a) The purpose of this section is to implement a cross-waiver of liability between the parties to agreements for NASA's science and space exploration missions launched by an Expendable Launch Vehicle (ELV) or Reusable Launch Vehicle (RLV) when those missions do not involve activities in connection with the International Space Station (ISS). This comprehensive cross-waiver of liability is intended to apply both between the parties to those agreements as well as to the parties' related entities, in the interest of furthering participation in space exploration, use, and investment. It is intended that the cross-waiver of liability be broadly construed to achieve this objective. Provided that the waiver of claims is reciprocal, the parties may tailor the scope of the cross-waiver clause in these agreements to address the specific circumstances of a particular cooperation.

(b) For purposes of this section:

(1) The term "Party" means a party to a NASA agreement involving a launch of an ELV or RLV not involving activities in connection with the ISS.

(2) The term "related entity" means:

(i) A contractor or subcontractor of a Party at any tier;

(ii) A user or customer of a Party at any tier; or

(iii) A contractor or subcontractor of a user or customer of a Party at any tier. The term "related entity" may also apply to a State or an agency or institution of a State, having the same relationship to a Party as described in paragraphs (b)(2)(i) through (b)(2)(iii) of this section, or otherwise engaged in the

implementation of Protected Space Operations as defined in paragraph (b)(6) of this section. The terms "contractors" and "subcontractors" include suppliers of any kind.

(3) The term "damage" means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect, or consequential damage.

(4) The term "launch vehicle" means an object or any part thereof intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.

(5) The term "payload" means all property to be flown or used on or in a launch vehicle.

(6) The term "Protected Space Operations" means all ELV or RLV activities and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an agreement for launch services. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or transfer vehicles, payloads, or instruments, as well as related support equipment and facilities and services; and

(ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. The term "Protected Space Operations" excludes activities on Earth that are conducted on return from space to develop further a payload's product or process for use other than for the activities within the scope of an Agreement for launch services.

(c) Cross-waiver of liability: (1) Each Party agrees to a cross-waiver of liability pursuant to which each Party waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this section based on damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for damage against:

(i) Another Party;

(ii) A party to another NASA agreement that includes flight on the same launch vehicle;

(iii) A related entity of any entity identified in paragraphs (c)(1)(i) or (c)(1)(ii) of this section; or

(iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.

(2) In addition, each Party shall extend the cross-waiver of liability as set forth in paragraph (c)(1) of this section to its own related entities by requiring them, by contract or otherwise, to:

(i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section; and

(ii) Require that their related entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, which entered into force on September 1, 1972, where the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this section, this cross-waiver of liability shall not be applicable to:

(i) Claims between a Party and its own related entity or between its own related entities;

(ii) Claims made by a natural person, his/her estate, survivors, or subrogees (except when a subrogee is a Party to this Agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of such natural person;

(iii) Claims for damage caused by willful misconduct;

(iv) Intellectual property claims;

(v) Claims for damages resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to paragraph (c)(2) of this section; or

(vi) Claims by or against a Party arising out of or relating to the other Party's failure to meet its contractual obligations set forth in the Agreement.

(5) Nothing in this section shall be construed to create the basis for a claim or suit where none would otherwise exist.

(6) This cross-waiver shall not be applicable when the Commercial Space

Launch Act cross-waiver (49 U.S.C. 70101 *et seq.*) is applicable.

**Michael D. Griffin,**  
*Administrator.*

[FR Doc. E6-17701 Filed 10-20-06; 8:45 am]

**BILLING CODE 7510-13-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Chapter VII

[Docket No. 061010262-6262-01]

#### Effectiveness of Licensing Procedures for Agricultural Commodities to Cuba

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

**ACTION:** Request for comments.

**SUMMARY:** The Bureau of Industry and Security (BIS) is requesting public comments on the effectiveness of its licensing procedures as defined in the Export Administration Regulations for the export of agricultural commodities to Cuba. BIS will include a description of these comments in its biennial report to the Congress, as required by the Trade Sanctions Reform and Export Enhancement Act of 2000 (Pub. L. 106-387), as amended.

**DATES:** Comments must be received by November 22, 2006.

**ADDRESSES:** Written comments (three copies) should be sent to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2705, Washington, DC 20230 with a reference to TSRA 2006 Report, or to e-mail [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov) with a reference to TSRA 2006 Report in the subject line. Comments may also be emailed to Joan Roberts, Office of Nonproliferation and Treaty Compliance, at [JRoberts@bis.doc.gov](mailto:JRoberts@bis.doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Joan Roberts, Office of Nonproliferation and Treaty Compliance, Telephone: (202) 482-4252. Additional information on BIS procedures and our previous biennial report under the Trade Sanctions Reform and Export Enhancement Act, as amended, is available at [http://www.bis.doc.gov/licensing/TSRA\\_TOC.html](http://www.bis.doc.gov/licensing/TSRA_TOC.html). Copies of these materials may also be requested by contacting the Office of Nonproliferation and Treaty Compliance.

Copies of the public record concerning these regulations may be requested from: Bureau of Industry and Security, Office of Administration, U.S. Department of Commerce, Room 6883,

1401 Constitution Avenue, NW., Washington, DC 20230; (202) 482-2165. The Office of Administration displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482-2165 for assistance.

**SUPPLEMENTARY INFORMATION:** The Bureau of Industry and Security (BIS) authorizes exports of agricultural commodities to Cuba pursuant to section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (22 U.S.C. 7205(a)), under the procedures set forth in § 740.18 of the Export Administration Regulations (EAR) (15 CFR 740.18). These are the only licensing procedures currently in effect pursuant to the requirements of section 906(a) of TSRA. Please include the phrase TSRA 2006 on the envelope or in the subject line of the email as appropriate.

Under the provisions of section 906(c) of TSRA (22 U.S.C. 7205(c)), BIS must submit a biennial report to the Congress on the operation of the licensing system implemented pursuant to section 906(a) for the preceding two-year period. This report is to include the number and types of licenses applied for, the number and types of licenses approved, the average amount of time elapsed from the date of filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and a description of comments received from interested parties during a 30-day public comment period about the effectiveness of the licensing procedures. BIS is currently preparing a biennial report on the operation of the licensing system for the two-year period from October 1, 2004 to September 30, 2006.

By this notice, BIS requests public comments on the effectiveness of the licensing procedures for the export of agricultural commodities to Cuba set forth under § 740.18 of the EAR. Parties submitting comments are asked to be as specific as possible. All comments received by the close of the comment period will be considered by BIS in developing the report to Congress.

All information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BIS requires written comments.

Copies of the public record concerning these regulations may be

requested from: Bureau of Industry and Security, Office of Administration, U.S. Department of Commerce, Room 6883, 1401 Constitution Avenue, NW., Washington, DC 20230; (202) 482-2165. The Office of Administration displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482-2165 for assistance.

Dated: October 17, 2006.

**Christopher A. Padilla,**  
*Assistant Secretary for Export Administration.*

[FR Doc. E6-17707 Filed 10-20-06; 8:45 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Chapter VII

[Docket No. 061005255-6255-01]

#### Effects of Foreign Policy-Based Export Controls

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

**ACTION:** Request for comments on foreign policy-based export controls.

**SUMMARY:** The Bureau of Industry and Security (BIS) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BIS is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

**DATES:** Comments must be received by November 22, 2006.

**ADDRESSES:** Written comments may be sent by e-mail to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include "FPBEC" in the subject line of the message. Written comments (three copies) may be submitted by mail or hand delivery to Sheila Quartermann, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Include "FPBEC" in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Joan Roberts, Director, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry