

controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Third*, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Martinez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

*Fourth*, in accordance with part 756 of the Regulations, Martinez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

*Fifth*, a copy of this Order shall be delivered to Martinez and shall be published in the **Federal Register**.

*Sixth*, this Order is effective immediately and shall remain in effect until November 24, 2028.

**John Sonderman,**

*Director, Office of Export Enforcement.*

[FR Doc. 2022-27944 Filed 12-22-22; 8:45 am]

**BILLING CODE 3510-DT-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Order Renewing Temporary Denial of Export Privileges; Siberian Airlines d/b/a S7 Airlines, 633104, Novosibirskaya obl., g. Ob, prospekt Mozherina, d. 10 ofis 201

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730-774 (2021) (“EAR” or “the Regulations”),<sup>1</sup> I hereby grant the

<sup>1</sup> On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801-4852 (“ECRA”). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. 2401 *et seq.* (“EAA”), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (“IEEPA”), and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified,

request of the Office of Export Enforcement (“OEE”) to renew the temporary denial order (“TDO”) issued in this matter on June 24, 2022. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations.

#### I. Procedural History

On June 24, 2022, I signed an order denying the export privileges of Siberian Airlines d/b/a S7 Airlines (“Siberian”) for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.<sup>2</sup>

On December 1, 2022, BIS, through OEE, submitted a written request for renewal of the TDO that issued on June 24, 2022. The written request was made more than 20 days before the TDO’s scheduled expiration. A copy of the renewal request was sent to Siberian in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

#### II. Renewal of the TDO

##### A. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent’s export privileges upon a showing that the order is necessary in the public interest to prevent an “imminent violation” of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). “A violation may be ‘imminent’ either in time or degree of likelihood.” 15 CFR 766.24(b)(3). BIS may show “either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.” *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge “is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]” *Id.* A “lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient

superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

<sup>2</sup> The TDO was published in the **Federal Register** on June 29, 2022 (87 FR 38709).

reason to believe the likelihood of a violation.” *Id.*

##### B. The TDO and BIS’s Request for Renewal

The U.S. Commerce Department, through BIS, responded to the Russian Federation’s (“Russia’s”) further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia’s access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia’s defense, aerospace, and maritime sectors and are intended to cut off Russia’s access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia’s strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.*, Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).<sup>3</sup> BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the EAR).<sup>4</sup> Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE’s request for renewal is based upon the facts underlying the issuance of the initial TDO and the evidence developed over the course of this investigation, which indicate a blatant disregard for U.S. export controls, as well as the TDO. Specifically, the initial TDO, issued on June 24, 2022, was based on evidence that Siberian engaged in conduct prohibited by the

<sup>3</sup> 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List (“CCL”) under Categories 0-2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

<sup>4</sup> 87 FR 13048 (Mar. 8, 2022).

Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991.b on flights into Russia after March 2, 2022 from destinations including, but not limited to, Atyrau, Kazakhstan, Bishkek, Kyrgyzstan, and Urgench, Uzbekistan, without the required BIS authorization.<sup>5</sup>

In its December 1, 2022, request for renewal of the TDO, BIS has submitted evidence that Siberian continues to operate in violation of the June 24, 2022 TDO and/or the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991.b. Specifically, BIS's evidence and related investigation indicates that after the

issuance of the TDO, Siberian continued to fly aircraft into Russia in violation of the EAR, including flights from Bangkok, Thailand, Antalya, Turkey, Istanbul, Turkey, Fergana, Uzbekistan, and Tashkent, Uzbekistan. Information about those flights includes, but is not limited to, the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
RA-73667	41707	737-8LP (B738)	Antalya, TR/Novosibirsk, RU	November 19, 2022.
RA-73667	41707	737-8LP (B738)	Tashkent, UZ/Novosibirsk, RU	November 27, 2022.
RA-73667	41707	737-8LP (B738)	Antalya, TR/Novosibirsk, RU	November 30, 2022.
RA-73667	41707	737-8LP (B738)	Antalya, TR/Moscow, RU	December 4, 2022.
RA-73667	41707	737-8LP (B738)	Urgench, UZ/Moscow, RU	December 10, 2022.
RA-73667	41707	737-8LP (B738)	Istanbul, TR/Moscow, RU	December 12, 2022.
RA-73668	41709	737-8LP (B738)	Bangkok, TH/Irkutsk, RU	November 30, 2022.
RA-73668	41709	737-8LP (B738)	Fergana, UZ/Novosibirsk, RU	December 3, 2022.
RA-73668	41709	737-8LP (B738)	Istanbul, TR/Novosibirsk, RU	December 9, 2022.
RA-73668	41709	737-8LP (B738)	Bangkok, TH/Irkutsk, RU	December 11, 2022.
RA-73668	41709	737-8LP (B738)	Bangkok, TH/Irkutsk, RU	December 12, 2022.
RA-73670	41710	737-8LP (B738)	Tashkent, UZ/Novosibirsk, RU	November 24, 2022.
RA-73670	41710	737-8LP (B738)	Istanbul, TR/Novosibirsk, RU	November 29, 2022.
RA-73670	41710	737-8LP (B738)	Fergana, UZ/Novosibirsk, RU	November 29, 2022.
RA-73670	41710	737-8LP (B738)	Bangkok, TH/Irkutsk, RU	December 8, 2022.
RA-73670	41710	737-8LP (B738)	Bangkok, TH/Irkutsk, RU	December 9, 2022.
RA-73670	41710	737-8LP (B738)	Bangkok, TH/Irkutsk, RU	December 10, 2022.

### III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Siberian has acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Siberian, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

### IV. Order

*It is therefore ordered:*

*First*, Siberian Airlines d/b/a S7 Airlines, 633104, Novosibirskaya obl., g. Ob, prospekt Mozzherina, d. 10 ofis 201, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any

transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

*Second*, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Siberian any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Siberian of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Siberian acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Siberian of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Siberian in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and

<sup>5</sup> Publicly available flight tracking information shows, for example, that on March 10, 2022, serial number ("SN") 41400 flew from Atyrau,

Kazakhstan to Moscow, Russia. On May 1, 2022, SN 41707 flew from Bishkek, Kyrgyzstan to Novosibirsk, Russia and, on March 4, 2022, SN

41841 flew from Urgench, Uzbekistan to Moscow, Russia.

authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Siberian, or service any item, of whatever origin, that is owned, possessed or controlled by Siberian if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

*Third*, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Siberian by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Siberian may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Siberian as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Siberian and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

**Matthew S. Axelrod,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2022-27985 Filed 12-22-22; 8:45 am]

**BILLING CODE 3510-DT-P**

## DEPARTMENT OF COMMERCE

### Bureau Of Industry And Security

#### Order Denying Export Privileges; In the Matter of: Jesse Cortez-Arguelles, 150 W. Lincoln Street, Apt. A, Tucson, AZ 85714

On November 5, 2020, in the U.S. District Court for the District of Arizona, Jesse Cortez-Arguelles (“Cortez-Arguelles”) was convicted of violating 18 U.S.C. 554(a). Specifically, Cortez-Arguelles was convicted of attempting to smuggle one 9 mm pistol, two 5.56 caliber rifles, two 9 mm firearm magazines, two 30-round 5.56 caliber firearm magazines, 1,030 rounds of 9 mm ammunition, and 1,000 rounds of 10 mm ammunition, in violation of 18 U.S.C. 554. As a result of his conviction, the Court sentenced Cortez-Arguelles to 36 months of confinement, with credit for time served, three years of supervised release and a \$100 special assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (“ECRA”),<sup>1</sup> the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Cortez-Arguelles’s conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Cortez-Arguelles to make a written submission to BIS. 15 CFR 766.25.<sup>2</sup> BIS has not received a written submission from Cortez-Arguelles.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Cortez-Arguelles’s export privileges under the Regulations for a period of 10 years from the date of Cortez-Arguelles’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Cortez-

Arguelles had an interest at the time of his conviction.<sup>3</sup>

Accordingly, it is hereby *ordered*:

*First*, from the date of this Order until November 5, 2030, Jesse Cortez-Arguelles, with a last known address of 150 W. Lincoln Street, Apt. A, Tucson, AZ 85714, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

*Second*, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the

<sup>1</sup> ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

<sup>3</sup> The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).