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DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Parts 734, 740, 744, and 746**

[Docket No. 240820–0220]

RIN 0694–AJ78

Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR); and Corrections**AGENCY:** Bureau of Industry and Security, Department of Commerce.**ACTION:** Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) makes changes to the Russian and Belarusian sanctions under the Export Administration Regulations (EAR). This final rule expands the scope of the Russia/Belarus-Military End User (MEU) Foreign-Direct Product (FDP) rule, and renames it accordingly, so that the rule will also apply to transactions involving entities on the Entity List that pose a significant risk of involvement in the supply or diversion of items subject to the EAR to procurement networks for Russia's and Belarus's defense industry or intelligence services. This final rule also adds controls on the export, reexport, or transfer (in-country) to or within Russia or Belarus of "software" for the operation of computer numerical control (CNC) machine tools. In addition, this final rule makes corrections and clarifications to certain aspects of the EAR's Russia and Belarus sanctions.

DATES: This rule is effective August 27, 2024 except for amendatory instruction 11, which is effective September 16, 2024.

FOR FURTHER INFORMATION CONTACT:

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For questions on the Entity List changes in this final rule, contact Chair, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Email: ERIC@bis.doc.gov. For emails, include "Russia and Belarus, August 2024 export control measures" in the subject line.

SUPPLEMENTARY INFORMATION:**I. Background***A. Export Controls Implemented Against Russia and Belarus*

In response to Russia's February 2022 full-scale invasion of Ukraine, BIS imposed extensive sanctions on Russia under the EAR as part of the final rule, "Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)" ("Russia Sanctions Rule") (87 FR 12226, March 3, 2022). To address Belarus's complicity in the invasion, BIS imposed similar sanctions on Belarus under the EAR in a final rule, "Implementation of Sanctions Against Belarus" ("Belarus Sanctions Rule") (87 FR 13048, March 6, 2022). Since March 2022, BIS has published numerous final rules strengthening the export controls on Russia and Belarus, including measures undertaken in coordination with U.S. allies and partners.

B. Overview of This Final Rule

BIS is amending the EAR (15 CFR parts 730 through 774) to strengthen export controls against Russia and Belarus by targeting entities that pose a risk of supplying items to the Russian and Belarusian defense industry or intelligence services by making them subject to foreign direct product rule-related restrictions. This final rule also imposes licensing requirements on certain operation "software" designated as EAR99 that is destined for Russia or Belarus and corrects or clarifies certain Russia and/or Belarus export controls that were added to the EAR by rules issued earlier this year. The three sets of changes this final rule makes are described in section II as follows:

A. Expansion of FDP rule to apply to Russia and Belarus Procurement Entities;

B. Addition of License Requirements for Operation "Software" for Machine Tools; and

C. Corrections and clarifications to the EAR's Russia and Belarus controls that are related to a January 2024 Final Rule and a June 2024 Final Rule.

II. Amendments to the EAR*A. Expansion of FDP Rule To Apply to Russia and Belarus Procurement Entities*

The EAR's jurisdiction extends to certain foreign-made items that meet the criteria under one of the FDP rules under § 734.9 that are the "direct product" of certain "technology" or "software" or produced by a complete plant or 'major component' of a plant that itself is a "direct product" of

certain "technology" or "software." Each FDP rule also includes a product scope, and certain FDP rules include an end-user or end-use scope. Among these different FDP rules, there are two that are specific to Russia and Belarus that were added to the EAR to address Russia's full-scale invasion of Ukraine: (1) the FDP rule under § 734.9(f) (Russia/Belarus/Temporarily occupied Crimea region of Ukraine FDP rule); and (2) the FDP rule under § 734.9(g) (Russia/Belarus-Military End User FDP rule). The Russia/Belarus/Temporarily occupied Crimea region of Ukraine FDP rule applies to the destinations of Russia/Belarus/Temporarily occupied Crimea region of Ukraine, and the Russia/Belarus-Military End User FDP rule has a broader product scope that is specific to Russian and Belarusian Military End Users, wherever located. As described in this section II.A, this final rule expands the scope of the Russia/Belarus-Military End User FDP Rule to further address the national security and foreign policy concerns due to the significant risk of procurement entities (as described below) supplying items to the Russian and Belarusian defense industry or intelligence services.

Specifically, this final rule is modifying the name of the Russia/Belarus-Military End User FDP rule in § 734.9(g) to the "Russia/Belarus-Military End User and Procurement FDP rule," so that the rule, as renamed, applies to both Russian and Belarusian military end users as defined in § 744.21 of the EAR, as well as to a second, new category of entities under the EAR: Russian or Belarusian Procurement Entities (*i.e.*, an entity that poses a significant risk of involvement in the supply or diversion of items subject to the EAR to procurement networks for Russia's or Belarus's defense industry or intelligence services) (as described below). Such Russian or Belarusian Procurement Entities are entities placed on the Entity List under § 744.11 of the EAR and that pose a significant risk of involvement in the supply or diversion of items subject to the EAR to procurement networks for Russia's or Belarus's defense industry or intelligence services. Entities affected by the Russia/Belarus-Military End User and Procurement FDP rule will continue to be identified with footnote 3 on the Entity List in supplement no. 4 to part 744. The standard for a footnote 3 designation, as revised and expanded to refer to Russian or Belarusian Procurement entities, is described in note 3 to paragraph (g) in § 734.9. All footnote 3 designated entities will be

subject to the (now renamed) Russia/Belarus-Military End User and Procurement FDP rule set forth in § 734.9(g), along with the license requirements set forth in § 746.8(a)(3) of the EAR.

The creation of this new category of Russian and Belarusian Procurement Entities addresses the continuing efforts of Russia and Belarus to obtain items needed to support Russia's war against Ukraine. As the U.S. and its partners and allies have steadily expanded the scope of export controls against Russia and Belarus since Russia's unprovoked full-scale invasion of Ukraine in February 2022, Russia and Belarus have in turn developed extensive procurement networks to obtain restricted items from third countries. These procurement networks have been used to funnel controlled items, including those described on the Common High Priority List (see <https://www.bis.doc.gov/index.php/all-articles/13-policy-guidance/country-guidance/2172-russia-export-controls-list-of-common-high-priority-items>), and including microelectronics and other items that have been recovered from Russian weapons systems found on the battlefield in Ukraine, to Russia's defense industrial base. Due to the elongated nature of these supply chains, entities involved in this procurement may be multiple steps removed from military production, even as they supply items critical to Russia's war effort. This has been especially true as Russia and Belarus have shifted their economies to a wartime footing, converting large sectors of their industry to support the production of weapons systems and other items needed by the military. As a result, many of the items (including foreign-produced items that may be U.S.-branded) that are sought out by these procurement networks (e.g., the kinds of items described in § 744.21(f) of the EAR) are likely destined for military end uses in Russia or Belarus, or to intelligence services in furtherance of Russia's war. It is possible that third-country intermediaries may not have actual knowledge of the intended end use of the items they are providing to Russia or Belarus. This rule will enable the United States to more aggressively target such intermediaries and other procurement entities that are not directly involved in supplying the Russian or Belarusian defense industry or intelligence services, but that obtain items that ultimately support military production or use by intelligence services. For example, as a result of the change made by this rule, an entity in

a third country that sends U.S.-branded electronic "components" produced outside the United States to a Russian trading company with a record of supplying the Russian defense industry or intelligence services may qualify as a Russian or Belarusian Procurement Entity. This set of FDP-related restrictions under the EAR would limit this entity's ability to continue to obtain the U.S.-branded electronic components that are of concern, including certain foreign-made items, and cut off the support such entity is providing to Russian or Belarusian defense industry or intelligence services. Prior to this, this procurement entity would have had to have been a 'military end user' as defined in § 744.21(g) in order to be subject to the FDP-related restrictions on foreign-made items. To implement this more expansive FDP rule, this rule revises note 3 to paragraph (g) in § 734.9 to establish a standard pursuant to which the End User Review Committee (ERC) may designate an entity as a footnote 3 entity if the ERC determines that the entity is a Russian or Belarusian MEU, as defined in § 744.21 of the EAR, or a Russian or Belarusian Procurement Entity. The rule also makes corresponding changes to the headings to paragraphs (g)(1) and (2) in § 734.9. The 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.

Along with the amendments to § 734.9, BIS in this final rule is amending § 744.11 of the EAR to clarify that FDP license requirements relating to footnote 3 are described in § 746.8 of the EAR. In § 744.11 under paragraph (a)(2), the EAR specifies the FDP license requirements associated with footnotes 1 and 4. In this rule, a reference to footnote 3 is added to ensure that reexporters and transferors understand where to find these license requirements. As a conforming change, BIS amends the numbering and organization of the paragraphs under § 744.11(a)(2), so the footnotes associated with the Entity List are specified and described in numerical order. Consistent with these structural changes, paragraph (a)(2)(ii) under § 744.11 is removed and reserved, and new paragraphs (a)(2)(iii) and (iv) under § 744.11 are added for footnote 3 and footnote 4, respectively.

Restrictions on certain military end uses and military end users are located in § 744.21. BIS is making a conforming change to § 744.21 of the EAR to clarify that only footnote 3 entities meeting the MEU definition on the Entity List will cross-reference § 744.21, but footnote 3 entities meeting the procurement-related standard will not cross-reference § 744.21. As a result, § 744.21(a)(2) and (b)(1) are revised to reflect that MEUs placed on the Entity List will be identified with a footnote 3 designation and a reference to § 744.21.

In supplement no. 4 to part 744—Entity List, this final rule makes conforming changes to footnotes 3 and 4. A reference to § 744.11 is added to footnote 3 to parallel the addition of the footnote 3 description in § 744.11(a)(2)(iii) in this final rule, and the paragraphs are reorganized to be in numerical order. With the reorganization of the footnote descriptions under § 744.11(a)(2) in this final rule, footnote 4 is updated by removing the reference to it in paragraph (a)(2)(ii) and adding that reference to paragraph (a)(2)(iv), the location of the description of footnote 4.

In § 746.8 (Sanctions against Russia and Belarus), a conforming change is made to § 746.8(a)(3), which describes the Russian and Belarusian Military End User FDP rule. This FDP rule is being renamed consistent with the changes made by this final rule as the "Russian and Belarusian Military End User and Procurement FDP rule". This final rule also amends § 746.8(a)(3) to add a reference to procurement entities for Russia's defense industry or intelligence services. Note 1 to paragraph (a)(3), which had identified MEUs on the Entity List as having a footnote 3 designation, is removed consistent with the changes made by this rule so that footnote 3 designations may be applied to Russian and Belarusian MEUs or to Russian or Belarusian Procurement Entities. The relevant description of a footnote 3 designation is now located in note 3 to paragraph (g) in § 734.9.

BIS estimates these changes described in section II.A will result in an additional fifteen license applications submitted to BIS annually.

B. Imposition of License Requirements for Operation "Software" for Machine Tools

With this final rule, BIS is amending the license requirements that apply to "software" designated as EAR99 (EAR99 "software") in § 746.8(a)(8) of the EAR. Specifically, BIS is adding controls on EAR99 "software" for the operation of computer numerical control (CNC) machine tools (i.e., operation

“software”) to ensure that CNC machine tools that are already restricted for export, reexport, and transfer to or within Russia and Belarus under the EAR cannot receive “software” updates. While § 746.8 already restricts “software” used to design industrial “parts” and “components” and convert them into machine-readable instructions, this expansion in controls targets operation “software” embedded in CNC machine tools that allows them to carry out these instructions to produce the finished industrial “parts” and “components,” including:

- “Software” that provides a user interface for setting up, operating, and troubleshooting the machine tool;
- “Software” that translates the instructions produced by computer-aided manufacturing (CAM) software into physical actions by the machine tool;
- “Software” that monitors conditions during the machining process; *and*
- “Software” that automatically adjusts the machine tool’s settings based on real-time conditions.

Much of this “software” is typically installed within the machine tool itself, and software updates are often purchased and loaded after the fact. Machine tools currently operating in Russia and Belarus are likely to already have some version of this “software” pre-installed. However, it is not uncommon for the companies that produce CNC machine tools to offer “software” updates for existing tools which can improve performance by modernizing the “software” installed in older tools, or fix “software” defects that came to light after the original machine was shipped. Controlling Russian and Belarusian access to these “software” updates will limit the utility of these machine tools. As with other EAR99 “software” that is otherwise restricted from export, reexport, and transfer (in country) to or within Russia and/or Belarus, there will be an exclusion for EAR99 operation software destined for companies exclusively operating in either of the two countries’ agricultural or medical industries (see 89 FR 51644, June 18, 2024; adding 15 CFR 746.8(a)(12)(iv)).

This amendment has a delayed effective date of September 16, 2024, consistent with the effective date of other controls on EAR99 “software” that were added in the June 18, 2024 Final Rule.

BIS estimates these changes described in section II.A will result in an additional twenty license applications submitted to BIS annually.

C. Corrections and Clarifications

On January 25, 2024, BIS published the final rule, “Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls” (89 FR 4804) (January 2024 Final Rule) and on June 18, 2024 the final rule, “Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls” (89 FR 51644) (June 2024 Final Rule). This final rule corrects inadvertent errors introduced by those two final rules and eliminates obsolete cross references. BIS estimates that these changes, as described in section II.C.1 through .3, will result in a reduction of five license applications submitted to BIS annually because of the restoration of the availability of certain license exceptions that had been inadvertently rendered unavailable.

1. Correction to License Exception MED To Update the Cross Reference to the License Requirements That May Be Overcome

In § 740.23 (Medical Devices (MED)), this final rule corrects the cross reference to the license requirements that this license exception may overcome. This correction addresses an inadvertent error made by the June 2024 Final Rule that consolidated various Russia and Belarus-related sanctions into an expanded § 746.8. Specifically, this final rule replaces outdated references to §§ 746.5 and 746.10 in the last sentence of paragraph (a) introductory text in § 740.23 with a cross reference to paragraphs (a)(5) through (8) of § 746.8 of the EAR, which is where the applicable license requirements are now located following the consolidation made by the June 2024 Final Rule.

2. Correction to Amendatory Instruction for Software Controls in the June 2024 Final Rule

This final rule also corrects an error inadvertently introduced by an incorrect amendatory instruction in the June 2024 Final Rule. Specifically, amendatory instruction 14a. erroneously omitted the term “revising.” By making this correction, the new text from this instruction for § 746.8(a) will be incorporated as intended in the CFR. This error is corrected in instruction 11 of this final rule. Consistent with the June 2024 Final Rule, this correction has a delayed effective date of September 16, 2024.

3. Corrections Involving License Exception Eligibility in § 746.8(c)(2)

In this final rule, BIS issues a correction to text erroneously added by the June 2024 Final Rule that had inadvertently restricted the availability of certain license exceptions for exports, reexports, or transfer (in-country) to or within Russia and Belarus. This correction is made by removing limiting text in paragraphs (c)(2)(i) to (viii) in § 746.8 to correct inconsistencies regarding license exception availability in connection with the Russia controls in §§ 746.5, 746.8, and 746.10 of the EAR.

In the preamble of the January 2024 Final Rule, BIS explained that it was harmonizing license exceptions across §§ 746.5, 746.8, and 746.10 by adding eligibility for several license exceptions or portions of license exceptions that were previously excluded under certain sections of the Russian and Belarus sanctions. However, in certain cases a restriction in the introductory text to paragraph (c) in §§ 746.5, 746.8, and 746.10 was inadvertently retained, thereby resulting in inconsistent limits on the availability of certain license exceptions or portions of those license exceptions. Those limits were subsequently carried over to the revised § 746.8 by the June 2024 Final Rule. BIS is now removing that text from paragraphs (c)(2)(i) to (viii) in § 746.8 as included in the June 2024 Final Rule to reflect the original intent of the January 2024 Final Rule to change the EAR such that the regulatory text specifies the correct limits on license exception availability.

The removal of this limitation does not change the fact that in order to use any EAR license exception, the export, reexport, or transfer (in-country) must not be otherwise restricted under § 740.2, must meet all of the applicable terms and conditions of the referenced license exception, and must also be consistent with § 746.8(c), which excludes the use of all EAR license exceptions, except for those license exceptions or portions of license exceptions specifically identified in § 746.8(c).

To implement these changes in § 746.8, this final rule corrects paragraph (c)(1) to remove the restriction on the use of license exceptions for the license requirements in paragraph (a)(8) of that section. Consistent with the intent of the June 2024 Final Rule, this final rule removes the reference to paragraph (a)(8) regarding the availability of license exceptions from paragraph (c)(1) and adds that reference to paragraph (c)(2).

BIS has also determined that apart from the introductory text of paragraph (c)(2), specifying the applicable license requirements in each paragraph under (c)(2)(i) through (viii) creates unnecessary complexity and confusion. The other restrictions specified in these paragraphs, the terms and conditions of the referenced license exceptions or portions of license exceptions referenced in paragraphs (c)(2)(i) through (viii), and the general restrictions on the use of license exceptions under § 740.2, are sufficient to allow limited exports, reexports, and transfers (in-country) to or within Russia and Belarus that are consistent with U.S. national security and foreign policy interests. For these reasons, BIS makes these changes to § 746.8(c)(1) and (2) to position the reference to paragraph (a)(8) in the paragraph (c)(2) and to simplify the structure of paragraph (c)(2). These changes should facilitate understanding of these provisions while also aligning the regulatory text with the intent of the January 2024 Final Rule.

Savings Clause

For the changes being made in this final rule, 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 August 27, 2024, 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), provided the export, reexport, or transfer (in-country) is completed no later than on September 26, 2024.

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. 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by Executive Orders (E.O.) 12866, 13563, and 14094, which 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 (e.g., potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). Pursuant to E.O. 12866, as amended, this final rule has not been determined to be a “significant regulatory action.”

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person 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 rule involves the following OMB-approved collections of information subject to the PRA:

- 0694–0088, “Simple Network Application Process and Multipurpose Application Form,” which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694–0096, “Five Year Records Retention Period,” which carries a burden hour estimate of less than 1 minute; and
- 0607–0152, “Automated Export System (AES) Program,” which carries a burden hour estimate of 3 minutes per electronic submission.

BIS estimates that these new controls on Russia and Belarus under the EAR will result in an increase of thirty license applications submitted annually to BIS. However, the additional burden falls within the existing estimates currently associated with these control numbers. Additional information regarding these collections of information—including all background materials—can be found at <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. Pursuant to section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no Final Regulatory Flexibility Analysis is required, and none has been prepared.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 734, 740, 744, and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are revised to read as follows:

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 1. The authority citation for 15 CFR part 734 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.; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 1, 2023, 88 FR 75475 (November 3, 2023).

■ 2. Section 734.9 is amended by revising the headings of paragraphs (g), (g)(1), and (g)(2), and revising the note to paragraph (g), to read as follows:

§ 734.9 Foreign-Direct Product (FDP) Rules.

- * * * * *
- (g) *Russia/Belarus-Military End User and Procurement FDP rule.* * * *
- (1) *Product Scope of Russia/Belarus-Military End User and Procurement FDP rule.* * * *
- * * * * *
- (2) *End-user scope of the Russia/Belarus-Military End User and Procurement FDP rule.* * * *
- * * * * *

Note 3 to paragraph (g). Footnote 3 may be added to an entity that the End User Review Committee has determined to be either a Russian or Belarusian 'military end user' as defined in § 744.21 of the EAR, or a Russian or Belarusian Procurement Entity that poses a significant risk of involvement in the supply or diversion of items subject to the EAR to procurement networks for Russia's or Belarus's defense industry or intelligence services.

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PART 740—LICENSE EXCEPTIONS

■ 3. The authority citation for 15 CFR part 740 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. 7201 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 4. Section 740.23 is amended by revising the second to last sentence of paragraph (a) introductory text to read as follows:

§ 740.23 Medical Devices (MED).

* * * * *

(a) * * * This license exception authorizes transactions involving items designated as EAR99 that would otherwise require a license pursuant to § 746.6 or paragraphs (a)(5) through (8) of § 746.8 of the EAR, subject to the terms and conditions described in this section. * * *

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

■ 5. 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 7, 2023, 88 FR 62439 (September 11, 2023); Notice of November 1, 2023, 88 FR 75475 (November 3, 2023).

■ 6. Amend § 744.11 by removing and reserving paragraph (a)(2)(ii) and adding paragraphs (a)(2)(iii) and (a)(2)(iv) to read as follows:

§ 744.11 License requirements that apply to entities acting or at significant risk of acting contrary to the national security or foreign policy interests of the United States.

* * * * *

- (a) * * *
(2) * * *

(iii) Footnote 3 entities. License requirements for foreign-produced items involving entities marked with footnote 3 are described in § 746.8(a)(3). The license review policy is set forth in the entry in supplement no. 4 to this part for each entity with a footnote 3 designation.

(iv) Footnote 4 entities. You may not, without a license, reexport, export from abroad, or transfer (in-country) any foreign-produced item subject to the EAR pursuant to § 734.9(e)(2) of the EAR when an entity designated with footnote 4 on the Entity List in supp. no. 4 to this part is a party to the transaction, or that will be used in the "development" or "production" of any "part," "component," or "equipment" produced, purchased, or ordered by any such entity. See § 744.23 for additional license requirements that may apply to these entities. The license review policy for foreign-produced items subject to this license requirement is set forth in the entry in supplement no. 4 to this part for each entity with a footnote 4 designation.

* * * * *

■ 7. Section 744.21 is amended by revising the last sentence of paragraph (a)(2) and the third and sixth sentences of the introductory text of paragraph (b)(1) to read as follows:

§ 744.21 Restrictions on certain 'military end uses' or 'military end users'.

- (a) * * *
(2) * * *

Belarusian or Russian 'military end users' located outside of Belarus or Russia are limited to entities identified on the Entity List under supplement no. 4 to this part with a footnote 3 designation and a reference to this section.

* * * * *

- (b) * * *

(1) * * * Such Belarusian or Russian 'military end users' may also be added to supplement no. 4 to this part (Entity List) and will be listed with a footnote 3 designation and a reference to this section. * * * As specified in paragraphs (a)(1) and (2) of this section, 'military end users' of a country identified in this section not located in that same country are exhaustively listed on either the Entity List with a footnote 3 designation and a reference to this section, or on the MEU List under supplement no. 7 this part. * * *

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■ 8. Supplement no. 4 to part 744 is amended by revising footnotes 3 and 4 to read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

3 For this entity, "items subject to the EAR" includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR. See §§ 744.11, 744.21, and 746.8 of the EAR for related license requirements, license review policy, and restrictions on license exceptions.

4 For this entity, "items subject to the EAR" includes foreign-produced items that are subject to the EAR under § 734.9(e)(2) of the EAR. See § 744.11(a)(2)(iv) for related license requirements and license review policy.

* * * * *

PART 746—EMBARGOES and OTHER SPECIAL CONTROLS

■ 9. The authority citation for 15 CFR part 746 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. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 8, 2024, 89 FR 40355 (May 9, 2024).

■ 10. In § 746.8 amend paragraph (a)(3) by:

- a. Revising the paragraph heading; and
b. Removing note 1 to paragraph (a)(3).

The revision reads as follows:

§ 746.8 Sanctions against Russia and Belarus.

- (a) * * *

(3) Russia/Belarus-Military End User and Procurement FDP rule. * * *

* * * * *

■ 11. Effective September 16, 2024, amend § 746.8 by:

■ a. Revising the first and last sentences of the introductory text of paragraph (a), and paragraphs (a)(8)(ii); (c)(1) and (2) to read as follows:

§ 746.8 Sanctions against Russia and Belarus.

(a) License requirements. Except as described in the exclusions in paragraph (a)(12), and in addition to license requirements specified on the

Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR and in other provisions of the EAR, including part 744 and other sections of part 746, a license is required as specified under paragraphs (a)(1) through (8) of this section. * * * License requirements in paragraph (a)(4) of this section that apply to exports, reexports, and transfers (in-country) involved in certain end uses should be reviewed only after license requirements in paragraphs (a)(1) through (3) and (5) through (8) of this section are reviewed.

* * * * *
(8) * * *

(ii) The following types of software subject to the EAR are in the scope of paragraph (a)(8): Enterprise resource planning (ERP); customer relationship management (CRM); business intelligence (BI); supply chain management (SCM); enterprise data warehouse (EDW); computerized maintenance management system (CMMS); project management software, product lifecycle management (PLM); building information modelling (BIM); computer aided design (CAD); computer-aided manufacturing (CAM); engineering to order (ETO); and software for the operation of computer numerical control (CNC) machine tools. The scope of paragraph (a)(8) also includes software updates for software identified in this paragraph that are subject to the EAR and designated as EAR99.

* * * * *
(c) * * *

(1) No license exceptions may overcome the license requirements in paragraph (a)(3) of this section, except as specified in the entry for a Footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR.

(2) No license exceptions may overcome the license requirements in paragraphs (a)(1), (2), and (4) through (8) of this section except the following:

(i) License Exception TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(ii) License Exception GOV (§ 740.11(b) of the EAR).

(iii) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices; foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies; joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries; the wholly-owned

subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740; or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

(iv) License Exception BAG, excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).

(v) License Exception AVS, excluding any aircraft registered in, owned or controlled by, or under charter or lease by Russia or Belarus (§ 740.15(a) and (b) of the EAR).

(vi) License Exception encryption commodities, software, and technology (ENC) for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices; foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies; joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries; the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740; or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§§ 740.13(c) and 740.17 of the EAR).

(vii) License Exception CCD (§ 740.19 of the EAR).

(viii) License Exception MED (§ 740.23 of the EAR).

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Thea D. Rozman Kendler,
Assistant Secretary for Export Administration.

[FR Doc. 2024-19132 Filed 8-23-24; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 240820-0222]

RIN 0694-AJ79

Revisions to the Entity List

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

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by adding 123 entities under 131 entries to the Entity List. These entries are listed on the Entity List under the destinations of Canada (1), the People’s Republic of China (China) (42), the Crimea Region of Ukraine (1), Cyprus (1), Iran (11), Kazakhstan (1), Kyrgyzstan (1), Russia (63), Turkey (8), Ukraine (1), and the United Arab Emirates (UAE) (1). Three entities are added to the Entity List under two destinations and two entities are added to the Entity List under three destinations, which accounts for the difference in the totals. These 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.

DATES: This rule is effective August 27, 2024.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Email: *ERC@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (supplement no. 4 to part 744 of the EAR (15 CFR parts 730 through 774)) 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, pursuant to § 744.11(b). The EAR impose additional license requirements on, and limit the availability of, most license exceptions for exports, reexports, and transfers (in-country) when a listed entity is a party to the transaction. 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 that added the entity to the Entity List. The Bureau of Industry and Security (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