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Shipper's Export Declaration or Automated Export System (AES) requirements.

(e) *Destination Control Statement.* You may be required to enter an appropriate Destination Control Statement on commercial documents in accordance with Destination Control Statement requirements of § 758.6 of the EAR.

(f) *Recordkeeping.* Records of transactions involving exports under any of the License Exceptions must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.

[61 FR 12768, Mar. 25, 1996, as amended at 61 FR 64274, Dec. 4, 1996; 62 FR 25457, May 9, 1997; 65 FR 42568, July 10, 2000; 66 FR 36680, July 12, 2001; 66 FR 42109, Aug. 10, 2001; 68 FR 50472, Aug. 21, 2003; 78 FR 22708, Apr. 16, 2013]

§ 740.2 Restrictions on all License Exceptions.

(a) You may not use *any* License Exception if *any* one or more of the following apply:

(1) Your authorization to use a License Exception has been suspended or revoked, or your intended export does not qualify for a License Exception.

(2) The export or reexport is subject to one of the ten General Prohibitions, is not eligible for a License Exception, and has not been authorized by BIS.

(3) The item is primarily useful for surreptitious interception of wire, oral, or electronic communications, or related software, controlled under ECCNs 5A001.f.1, 5A980, 5D001 (for 5A001.f.1 or for 5E001.a (for 5A001.f.1, or for 5D001.a (for 5A001.f.1))), or 5D980, unless the item is consigned to and for the official use of an agency of the U.S. Government (see § 740.11(b)(2)(ii) of this part, Governments (GOV)). No license exceptions apply for 5E001.a (for 5A001.f.1, or for 5D001.a (for 5A001.f.1)) or for 5E980.

(4) The item being exported or reexported is subject to the license requirements described in § 742.7 of the EAR and the export or reexport is not:

(i) Being made to Australia, Japan, New Zealand, or a NATO (North Atlantic Treaty Organization) member state (see NATO membership listing in § 772.1 of the EAR);

(ii) Authorized by § 740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. government);

(iii) Authorized by § 740.14(e) of the EAR (certain shotguns and shotgun shells for personal use); or

(iv) Authorized by § 740.20 of the EAR (License Exception STA).

(5)(i) The item is controlled for missile technology (MT) reasons, except that the items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, or 7E101, may be exported as part of a manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(2)(ii) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(c) (License Exception AVS for equipment and spare parts for permanent use on a vessel or aircraft).

(ii) MT controlled commodities described in ECCNs 2A001 or 2A101 may be exported or reexported under § 740.9(a)(2)(ii) (License Exception TMP) or § 740.10 (License Exception RPL) as one-for-one replacement for equipment previously legally exported or reexported.

(6) The export or reexport is to a sanctioned destination (Cuba, Iran, North Korea, and Syria), unless a license exception or portion thereof is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country in part 746 of the EAR.

(7) "*Space qualified*" items. Commodities defined in 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.a.1, 6A008.j.1, or 6A998.b; "software" for commodities defined in 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.a.1, 6A008.j.1, or 6A998.b and controlled under ECCNs 3D001 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6D001, 6D002, 6D991; and "technology" for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.a.1, 6A008.j.1, or 6A998.b and controlled under ECCNs 3E001, 6E001, 6E002, 6E101, 6E991.

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(8) The item is controlled under ECCNs 2A983, 2A984, 2D983, 2D984, 2E983 or 2E984 and the License Exception is other than:

(i) RPL, under the provisions of § 740.10, including § 740.10(a)(3)(v), which prohibits exports and reexports of replacement parts to countries in Country Group E:1 (see Supplement 1 to part 740);

(ii) GOV, restricted to eligibility under the provisions of § 740.11(b)(2)(ii); or

(iii) TSU, under the provisions of § 740.13(a) and (c).

(9) The item is a QRS11-00100-100/101 Micromachined Angular Rate Sensor controlled for RS reasons under ECCN 7A994.

(10) The commodity being exported or reexported is subject to the license requirements of § 742.11 of the EAR.

(11) The item is a “military commodity” subject to ECCN 0A919, except that such military commodities may be reexported in accordance with § 740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. Government).

(12) The item is described in a “600 series” ECCN and is destined to, shipped from, or was manufactured in a destination listed in Country Group D:5 (see Supplement No.1 to part 740 of the EAR), except that such items are eligible for License Exception GOV (§ 740.11(b)(2) of the EAR) unless otherwise restricted by that paragraph.

(13) “600 series” items that are controlled for missile technology (MT) reasons may not be exported, reexported, or transferred (in-country) under License Exception STA (§ 740.20 of the EAR). Items controlled under ECCNs 9D610.b, 9D619.b, 9E610.b, or 9E619.b or .c are not eligible for license exceptions except for License Exception GOV (§ 740.11(b)(2) of the EAR). The only license exceptions under which other “600 series” items may be exported to destinations not identified in Country Group D:5 (see Supplement No.1 to part 740 of the EAR) are the following:

(i) License Exception LVS (§ 740.3 of the EAR);

(ii) License Exception TMP (§ 740.9 of the EAR);

(iii) License Exception RPL (§ 740.10 of the EAR);

(iv) License Exception TSU (§ 740.13(a), (b), (f) and (g) of the EAR);

(v) License Exception GOV (§ 740.11(b) or (c) of the EAR); and

(vi) License Exception STA under § 740.20(c)(1) of the EAR if the “600 series” item at the time of export, reexport, or transfer (in-country):

(A) Is destined to one of the countries listed in Country Group A:5 or the United States;

(B) Is for the *ultimate* end use by the armed forces, police, paramilitary, law enforcement, customs, correctional, fire, or a search and rescue agency of a government of one of the countries listed in Country Group A:5 or the United States Government, or the “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing of an item in one of the countries listed in Country Group A:5 or the United States for *ultimate* end use by any such government agencies, the United States Government, or a person in the United States;

(C) Is transferred in compliance with the conditions on the use of License Exception STA contained in § 740.20(b)(2) of the EAR; and

(D) Is not precluded in the relevant ECCN from being exported under License Exception STA or until after the review and clearance requirements in § 740.20(g) of the EAR for ECCN 9A610.a end items have been satisfied.

(14) Items classified under ECCNs 0A521, 0B521, 0C521, 0D521 and 0E521 may only be authorized by License Exception GOV (§ 740.11(b)(2)(ii)) or an item-specific license exception identified in Supplement No. 5 to part 774 for a particular ECCN 0Y521 item.

NOTE TO PARAGRAPH (a)(14): Item-specific license exception availability is specific to each ECCN 0Y521 entry in Supplement No. 5 to part 774 and may not be used for any other ECCN 0Y521 entries in the Supplement. The U.S. Government makes a determination at the time items are classified under ECCNs 0A521, 0B521, 0C521, 0D521 and 0E521 regarding whether any license exceptions will be available, in addition to License Exception GOV (§ 740.11(b)(2)(ii)).

(15) If they are sold under a contract that includes \$14,000,000 or more of “600 Series Major Defense Equipment” (as

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defined in § 772.1), exports of “600 series” items to a country not listed in Country Group A:5 (see Supplement No. 1 to Part 740 of the EAR), are not eligible for any license exception except to U.S. Government end users under License Exception GOV (§ 740.11(b) of the EAR).

(16) If they are sold under a contract that includes \$25,000,000 or more of “600 Series Major Defense Equipment” (as defined in § 772.1), exports of “600 series” items to a country listed in Country Group A:5 (see Supplement No. 1 to Part 740 of the EAR), are not eligible for any license exception except to U.S. Government end users under License Exception GOV (§ 740.11(b) of the EAR).

NOTE TO PARAGRAPH (a): Items subject to the exclusive export control jurisdiction of another agency of the U.S. Government may not be authorized by a license exception or any other authorization under the EAR. If your item is subject to the exclusive jurisdiction of another agency of the U.S. Government, you must determine your export licensing requirements pursuant to the other agency’s regulations. See § 734.3(b) and Supplement No. 3 to part 730 of the EAR for other U.S. Government departments and agencies with export control responsibilities.

(b) All License Exceptions are subject to revision, suspension, or revocation, in whole or in part, without notice. It may be necessary for BIS to stop a shipment or an export transaction at any stage of its progress, e.g., in order to prevent an unauthorized export or reexport. If a shipment is already en route, it may be further necessary to order the return or unloading of the shipment at any port of call.

(c) BIS may by informing the exporter, suspend or revoke any License Exception in order to comply with U.S. Wassenaar obligations. In addition, BIS may inform an exporter, that before using any License Exception, a notice be submitted with BIS concerning the proposed export.

(d) See § 746.3 for restrictions on certain transfers within Iraq of items exported or reexported to Iraq pursuant to a License Exception.

[61 FR 12768, Mar. 25, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 740.2, see the List of CFR Sections Affected, which appears in the

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Finding Aids section of the printed volume and at www.fdsys.gov.

EFFECTIVE DATE NOTE: At 78 FR 76747, Dec. 19, 2013, § 740.2 was amended by adding paragraph (a)(17), effective Jan. 21, 2014. For the convenience of the user, the added text is set forth as follows:

§ 740.2 Restrictions on all license exceptions.

(a) * * *

(17) A party to the transaction, as described in § 748.5 of the EAR, is listed on the Unverified List in Supplement No. 6 to Part 744, see § 744.15 of the EAR.

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§ 740.3 Shipments of limited value (LVS).

(a) *Scope.* License Exception LVS authorizes the export and reexport in a single shipment of eligible commodities as identified by “LVS - \$(value limit)” on the CCL.

(b) *Eligible Destinations.* This License Exception is available for all destinations in Country Group B (see Supplement No. 1 to part 740), provided that the net value of the commodities included in the same order and controlled under the same ECCN entry on the CCL does not exceed the amount specified in the LVS paragraph for that entry.

(c) *Definitions—(1) Order.* The term *order* as used in this § 740.3 means a communication from a person in a foreign country, or that person’s representative, expressing an intent to import commodities from the exporter. Although all of the details of the order need not be finally determined at the time of export, terms relating to the kinds and quantities of the commodities to be exported, as well as the selling prices of these commodities, must be finalized before the goods can be exported under License Exception LVS.

(2) *Net value: for LVS shipments.* The actual selling price of the commodities that are included in the same order and are controlled under the same entry on the CCL, less shipping charges, or the current market price of the commodities to the same type of purchaser in the United States, whichever is the larger. In determining the actual selling price or the current market price of the commodity, the value of containers