

SBA's List of Qualified Base Closure Areas (located at <http://www.sba.gov/hubzone>) to verify that the location is within a qualified base closure area. If a concern disagrees with the failure of SBA's List of Qualified Base Closure Areas to include a particular area as a qualified base closure area, then the concern must submit relevant documentation from the Department of Defense, Office of Economic Adjustment, or the military department responsible for closing that installation.

\* \* \* \* \*

■ 12. Revise § 126.306 as follows:

**§ 126.306 How will SBA process this certification?**

(a) The AA/HUB or designee is authorized to approve or decline certifications. \* \* \* The decision of the AA/HUB or designee is the final agency decision.

■ 13. Revise § 126.503(c) as follows:

**§ 126.503 What happens if SBA is unable to verify a qualified HUBZone SBC's eligibility or determines that the concern is no longer eligible for the program?**

\* \* \* \* \*

(c) Decertifying Pursuant to a Protest. SBA will decertify a qualified HUBZone SBC and remove its name from the List without first proposing it for decertification if the AA/HUB upholds a protest pursuant to § 126.803 and the AA/HUB's decision is not overturned pursuant to § 126.805.

■ 14. Revise § 126.607(b) and (c) to read as follows:

**§ 126.607 When must a contracting officer set aside a requirement for qualified HUBZone SBCs?**

\* \* \* \* \*

(b) If the contracting officer determines that § 126.605 does not apply, the contracting officer shall set aside the requirement for HUBZone, 8(a) or SDVO SBC contracting before setting aside the requirement as a small business set-aside.

(c) If the contracting officer decides to set aside the requirement for competition restricted to qualified HUBZone SBCs, the contracting officer must:

(1) Have a reasonable expectation after reviewing SBA's list of qualified HUBZone SBCs that at least two responsible qualified HUBZone SBCs will submit offers; and

(2) Determine that award can be made at fair market price.

■ 15. Amend § 126.613 to redesignate the current paragraph (c) as paragraph (d), and to add a new paragraph (c) to read as follows:

**§ 126.613 How does a price evaluation preference affect the bid of a qualified HUBZone SBC in full and open competition?**

\* \* \* \* \*

(c) For purchases by the Secretary of Agriculture of agricultural commodities for export operations through international food aid programs administered by the Farm Service Agency, the price evaluation preference shall be 5% on the first portion of a contract to be awarded that is not greater than 20% of the total volume being procured for each commodity in a single IFB.

\* \* \* \* \*

■ 16. Revise § 126.700 to read as follows:

**§ 126.700 What are the performance of work requirements for HUBZone contracts?**

(a) A prime contractor receiving an award as a qualified HUBZone SBC must meet the performance of work requirements set forth in § 125.6(c) of this chapter.

(b) In addition to the requirements set forth in § 125.6(c), one or more qualified HUBZone SBCs must spend at least 50% of the cost of the contract incurred for personnel on its own employees or employees of other qualified HUBZone SBCs.

(1) A qualified HUBZone SBC prime contractor receiving a HUBZone contract for general construction may meet this requirement itself by expending at least 50% of the cost of the contract incurred for personnel on its employees or it may subcontract at least 35% of the cost of the contract performance incurred for personnel to one or more qualified HUBZone SBCs. A qualified HUBZone SBC prime contractor may not, however, subcontract more than 50% of the cost of the contract incurred for personnel to non-qualified HUBZone SBCs.

(2) A qualified HUBZone SBC prime contractor receiving a HUBZone contract for specialty construction may meet this requirement itself by expending at least 50% of the cost of the contract incurred for personnel on its employees or it may subcontract at least 25% of the cost of the contract performance incurred for personnel to one or more qualified HUBZone SBCs. A qualified HUBZone SBC prime contractor may not, however, subcontract more than 50% of the cost of the contract incurred for personnel to non-qualified HUBZone SBCs.

(c) A contracting officer may waive the 50% requirement set forth in paragraph (b) of this section for a particular procurement after determining that at least two qualified

HUBZone SBCs cannot meet the requirement. Where a waiver is granted, the qualified HUBZone SBC prime contractor must still meet the performance of work requirements set forth in § 125.6(c) of this chapter.

Dated: June 17, 2005.

**Hector V. Barreto,**

*Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2005-21704; Airspace Docket No. 05-ACE-20]

#### Modification of Class E Airspace; Newton, KS

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of the direct final rule which revises Class E airspace at Newton, KS.

**EFFECTIVE DATE:** 0901 UTC, October 27, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Brenda Mumper, Air Traffic Division, Airspace Branch, ACE-520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2524.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on July 21, 2005 (70 FR 41949). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 27, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on August 15, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 738, 742 and 744

[Docket No. 050822227-5227-01]

RIN A694-AD44

#### Removal of License Requirements for Exports and Reexports to India of Items Controlled Unilaterally for Nuclear Nonproliferation Reasons and Removal of Certain Indian Entities From the Entity List

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

**ACTION:** Final rule.

**SUMMARY:** On July 18, 2005, President George W. Bush and Indian Prime Minister Manmohan Singh announced the completion of the Next Steps in Strategic Partnership (NSSP) with India. The proposed cooperation outlined in the NSSP has progressed through a series of reciprocal steps that built on one another, including steps related to creating the appropriate environment for successful high-technology commerce. This rule implements two steps the United States has agreed to take as part of the final phase of NSSP, namely, the removal of license requirements for exports and reexports of items controlled unilaterally by the United States for nuclear nonproliferation reasons to India and the removal of six Indian entities from the Entity List.

**DATES:** This rule is effective August 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Eileen M. Albanese, Office of Exporter Services, Bureau of Industry and Security, Telephone: (202) 482-0436.

#### SUPPLEMENTARY INFORMATION:

##### Background

In November 2001, the Indian Prime Minister and the President of the United States committed India and the United States to a strategic partnership. Since then, the two countries have significantly strengthened bilateral cooperation and commerce in space, civil nuclear energy, and dual-use technology. On January 12, 2004, the two leaders announced the NSSP with

the aim of implementing a shared vision to expand cooperation, deepening the ties of commerce and friendship between the two nations, and increasing stability in Asia and beyond.

The proposed cooperation has progressed through a series of reciprocal steps that built on one another. It included expanded engagement on nuclear regulatory and safety issues and missile defense, ways to enhance cooperation regarding peaceful uses of space technology, and steps to create the appropriate environment for successful high-technology commerce. In bringing the NSSP to completion, the United States and India resolve to transform their relationship by establishing a global partnership, with the mutual commitment to promoting stability, democracy, prosperity, and peace throughout the world. This rule implements revisions to the Export Administration Regulations (EAR) as part of the completion of the NSSP.

##### Effects of This Rule

This rule removes export and reexport license requirements for items controlled unilaterally by the United States for nuclear nonproliferation reasons (*i.e.*, items that are not subject to the Nuclear Suppliers Group regime). The rule accomplishes this change by revising § 742.3(a)(2) to except India from this license requirement and by removing the "X" from the box at the intersection of the row for India and the column labeled NP 2 of the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR). Removal of export license requirements for these items is expected to reduce the number of license applications for exports and reexports to India.

This rule also removes six Indian entities from the Entity List (Supplement No. 4 to Part 744 of the EAR). Three of these entities are Department of Atomic Energy entities, "Tarapur (TAPS 1 & 2)," "Rajasthan (RAPS 1 & 2)," and "Kudankulam (1 & 2)." TAPS 1 & 2 and RAPS 1 & 2 are under International Atomic Energy Agency (IAEA) safeguards. Kudankulam 1 & 2 is under construction. The Government of India and the IAEA have agreed that this facility will be subject to IAEA safeguards upon completion. The other three entities are Indian Space Research Organization (ISRO) subordinate entities, specifically, "ISRO Telemetry, Tracking and Command Network (ISTRAC)," "ISRO Inertial Systems Unit (IISU), Thiruvananthapuram," and "Space Applications Center (SAC), Ahmedabad."

Neither the removal of the unilateral nuclear nonproliferation license requirement nor the removal of the entities from the Entity List by this rule removes any other license requirements imposed by the EAR. Among others, the end use license requirements of part 744, including the license requirements for the nuclear end uses specified in §§ 744.2, 744.5 and 744.6, and missile end use license requirements specified in §§ 744.3 and 744.6, continue to apply. This rule also does not affect license requirements related to entities that remain on the Entity List. For certain of those entities, a license is required for all items subject to the EAR; for others, a license is required for items with a classification other than (1) EAR99 or (2) where the third through fifth digits of the ECCN are "999." BIS strongly urges parties to consult Supplement No. 3 to part 732 of the EAR, "BIS's 'Know Your Customer' Guidance and Red Flags," when exporting or reexporting items to India.

Although the Export Administration Act of 1979 (EAA), as amended, expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)) as extended by the Notice of August 2, 2005, 70 FR 45273 (August 5, 2005), continues the EAR in effect under the International Emergency Economic Powers Act (IEEPA).

##### Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Total burden hours associated with the Paperwork Reduction Act and Office and Management and Budget control number 0694-0088 are expected to decrease because of this regulation. BIS anticipates that this rule will reduce the number of license applications for