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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 732, 736, 738, 740, 742, 746, and 774

[Docket No. 110627356-1475-01]

RIN 0694-AF29

#### Amendments to the Export Administration Regulations: Facilitating Enhanced Public Understanding of the Provisions That Implement the Comprehensive U.S. Sanctions on Syria

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

**ACTION:** Final rule.

**SUMMARY:** In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by moving the substantive provisions of the comprehensive sanctions on Syria from General Order No. 2 in Supplement No. 1 to part 736 to a revised § 746.9. This rule also includes conforming changes to the EAR. This rule will facilitate compliance with the comprehensive sanctions on Syria.

**DATES:** This rule is effective December 12, 2011.

**FOR FURTHER INFORMATION CONTACT:** Director, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, (202) 482-4252.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Amendments to Parts 736 and 746 of the Export Administration Regulations*

In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by moving the substantive provisions of the comprehensive sanctions on Syria from General Order No. 2 in Supplement No. 1 to part 736 to a revised Section 746.9. In General Order No. 2 of May 14, 2004, BIS implemented the U.S. sanctions on Syria pursuant to the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (SAA) and the International Emergency Economic Powers Act (IEEPA). Part 746 of the EAR addresses embargoes and other special controls and is therefore the most appropriate place for the comprehensive sanctions against Syria. For this reason, part 746 previously

contained a cross reference to the Syria provisions in General Order No. 2 at section 746.9. BIS is removing the cross reference and replacing it with the substantive provisions previously set forth in the General Order. As a result, the Syria controls will be included in part 746 along with the controls applicable to other embargoed and sanctioned countries. As noted below, certain Syria controls continue to be set forth in section 742.9 of the EAR, and section 746.9 supersedes the substantive provisions of section 742.9. These changes will facilitate compliance with the comprehensive U.S. sanctions on Syria.

Although all the substantive provisions from General Order No. 2 are being included in part 746, BIS is maintaining certain provisions relating to the sanctions against Syria in the General Order at this time because of wording in Executive Order 13338. That Executive Order invokes the waiver authority granted to the President in the SAA by waiving application of certain prohibitions of the SAA “so as to permit the exportation or reexportation of certain items as specified in the Department of Commerce’s General Order No. 2 to Supplement No. 1 \* \* \*.” Because of this cross reference to General Order No. 2 in the Executive Order, BIS is maintaining in the General Order the waiver provisions referenced in the Executive Order.

This rule also makes conforming changes to the EAR for the amendments to Supplement No. 1 to part 736, General Order No. 2, and Section 746.9.

##### *Conforming Changes: Parts 732, 736, 738, 740, 742, and 774*

This rule amends sections 732.1 (Steps overview), 740.2 (Restrictions on all License Exceptions), and 740.9 (Temporary imports, exports, and reexports) of the EAR. Specifically, Syria is now listed in paragraphs 732.1(d)(2), 732.1(d)(3), 732.3(d)(4), 732.3(i), 740.2(a)(6), and 740.9(a)(2).

This rule also amends Section 742.9 (Anti-terrorism: Syria) and Supplement No. 1 to part 738—Commerce Country Chart. Paragraph (e) of Section 742.9 and the sentence that appears in the entry for Syria in the Commerce Country Chart now direct the public to revised Section 746.9, which provides export and reexport license requirements, licensing policy and license exceptions as applied to Syria.

Finally, this rule amends the entries on the Commerce Control List in Supplement No. 1 to part 774 of the EAR for items controlled by Export Control Classification Numbers 1C350, 1C355 and 1C395. The rule removes a

statement in the License Requirements section of those entries that directed exporters to Supplement No. 1 to part 736 of the EAR for controls on Syria.

Since August 21, 2001, the Export Administration Act (the Act) has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 FR 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.* (2000)). BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

##### Rulemaking Requirements

1. Executive Orders 13563 and 12866 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

2. Notwithstanding any other provisions 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 rule does not involve a collection of information and, therefore, does not implicate requirements of the PRA.

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

4. The Department finds that the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring prior notice, the opportunity for public participation, and a delay in effective date are inapplicable because the Department for good cause finds that prior notice and opportunity for public

comment are unnecessary (5 U.S.C. 553(b)(B)). It is unnecessary to provide prior notice and an opportunity for public comment in issuing this notice because the notice does not make any substantive changes to the Regulations. This rule simply reorganizes certain Syria-related provisions of the EAR. The provisions are currently in a General Order and the public is directed to them through a cross-reference in the EAR section addressing embargoes and special controls. This rule places the Syria provisions into the EAR section addressing embargoes and special controls, replacing the existing cross-reference. All controls in place pertaining to Syria remain in place and no new controls have been added. Therefore, this regulation is issued in final form. In addition, the Department finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. The controls at issue have been in effect since 2004 and the public has been expected to be in compliance with the provisions since that time. Thus, because the controls on Syria are not changed by this rule, there is no need to delay the effectiveness of the rule to allow the regulated public time to come into compliance. Accordingly, this regulation is made effective immediately upon publication.

No other law requires that a notice of proposed rulemaking and an opportunity for public comments be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

#### List of Subjects

##### 15 CFR Parts 732 and 740

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

##### 15 CFR Parts 736 and 738

Exports.

##### 15 CFR Part 742

Exports, Terrorism.

##### 15 CFR Part 746 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 732, 736, 738, 740, 742, 746 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

#### PART 732—[AMENDED]

- 1. The authority citation for 15 CFR part 732 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *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; Notice of August 12, 2011 (76 FR 50661 (Aug. 16, 2011)).

##### § 732.1 [Amended]

- 2. Section 732.1 is amended by:

■ a. Removing the phrase “, and Three (Foreign-Produced Direct Product Reexports) for all countries except: Cuba, Iran, and North Korea.” in the next to last sentence of paragraph (d)(2) and adding in its place “, and Three (Foreign-Produced Direct Product Reexports) for all countries except: Cuba, Iran, North Korea, and Syria.”; and

■ b. Removing the parenthetical phrase “(e.g., Cuba, Iran, and North Korea)” in paragraph (d)(3) and adding in its place “(e.g., Cuba, Iran, North Korea and Syria)”.

- 3. Section 732.3 is amended by revising paragraphs (d)(4) and (i) to read as follows:

##### § 732.3 Steps regarding the ten general prohibitions.

\* \* \* \* \*

(d) \* \* \*

(4) *Destinations subject to embargo and other special controls provisions.* The Country Chart does not apply to Cuba, Iran, North Korea, and Syria. For those countries you should review the provisions at part 746 of the EAR and may skip this step concerning the Country Chart. For Iraq and Rwanda, the Country Chart provides for certain license requirements, and part 746 of the EAR provides additional requirements.

\* \* \* \* \*

(i) Step 14: Embargoed countries and special destinations. If your destination for any item is Cuba, Iran, Iraq, North Korea, Rwanda, or Syria you must consider the requirements of parts 742 and 746 of the EAR. Unless otherwise indicated, General Prohibition Six (Embargo) applies to all items subject to the EAR, *i.e.* both items on the CCL and within EAR99. You may not make an export or reexport contrary to the provisions of part 746 of the EAR without a license unless:

\* \* \* \* \*

#### PART 736—[AMENDED]

- 4. The authority citation for 15 CFR part 736 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 note; 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. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of August 12, 2011 (76 FR 50661 (Aug. 16, 2011)); Notice of November 4, 2010, 75 FR 68673 (November 8, 2010).

- 5. Supplement No. 1 to part 736—General Order No. 2—is revised to read as follows:

#### Supplement No. 1 to Part 736—General Orders

\* \* \* \* \*

General Order No. 2; Section 5(b) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (SAA) gives the President authority to waive the application of certain prohibitions set forth in the SAA if the President determines that it is in the national security interest of the United States to do so. The President made such a determination in Executive Order 13338, finding that it was “in the national security interest of the United States to waive application of subsection 5(a)(1) and 5(a)(2)(A) of the SAA so as to permit the exportation or reexportation of certain items as specified in the Department of Commerce’s General Order No. 2.” The President’s reference to General Order No. 2 addresses applications to export and reexport the following items, which are considered on a case-by-case basis as opposed to the general policy of denial set forth in section 746.9 of the Regulations: items in support of activities, diplomatic or otherwise, of the United States Government (to the extent that regulation of such exportation or reexportation would not fall within the President’s constitutional authority to conduct the nation’s foreign affairs); medicine (on the CCL) and medical devices (both as defined in part 772 of the EAR); parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft; aircraft chartered by the Syrian Government for the transport of Syrian Government officials on official Syrian Government business; telecommunications equipment and associated computers, software and technology; and items in support of United Nations operations in Syria. The total dollar value of each approved license for aircraft parts for flight safety normally will be limited to no more than \$2 million over the 24-month standard license term, except in the case of complete overhauls.

**Note to General Order No. 2:** The controls for exports and reexports to Syria are set forth in § 746.9 of the EAR.

\* \* \* \* \*

#### PART 738—[AMENDED]

- 6. The authority citation for 15 CFR part 738 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011 (76 FR 50661 (Aug. 16, 2011)).

■ 7. Supplement No. 1 to part 738—Commerce Country Chart—is amended by revising the sentence that appears in the entry for “Syria” to read “See § 746.9 of the EAR to determine whether a license is required in order to export or reexport to this destination.”

#### PART 740—[AMENDED]

■ 8. The authority citation for 15 CFR part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *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; Notice of August 12, 2011 (76 FR 50661 (Aug. 16, 2011)).

■ 9. Section 740.2 is amended by revising paragraph (a)(6) to read as follows:

#### § 740.2 Restriction on all License Exceptions.

(a) \* \* \*

(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.

\* \* \* \* \*

■ 10. Section 740.9 is amended by:

■ (a) Revising the heading and first sentence of paragraph (a)(2)(i)(A) to read as set forth below.

■ (b) Removing the clause in paragraph (a)(2)(viii)(A), “to Country Groups D:1 or E:2, or Sudan (see supplement No. 1 to part 740) if the commodities:”, and adding in its place “to Country Groups D:1 or E:2, Sudan, or Syria (see Supplement No. 1 to part 740) if the commodities:”

#### § 740.9 Temporary imports, exports, and reexports (TMP).

(a) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) *Destinations other than Country Group E:2, Sudan or Syria.* Exports and reexports of tools of trade for use by the exporter or employees of the exporter may be made only to destinations other

than Country Group E:2, Sudan, or Syria. \* \* \*

\* \* \* \* \*

#### PART 742—[AMENDED]

■ 11. The authority citation for 15 CFR part 742 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *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; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 12, 2011 (76 FR 50661 (Aug. 16, 2011)); Notice of November 4, 2010, 75 FR 68673 (November 8, 2010).

■ 12. Section 742.1 is amended by revising the last sentence of paragraph (d) to read as follows:

#### § 742.1 Introduction.

\* \* \* \* \*

(d) \* \* \* If you are exporting or reexporting to Cuba, Iran, North Korea, or Syria, you should review part 746 of the EAR, Embargoes and Other Special Controls.

\* \* \* \* \*

■ 13. Section 742.9 is amended by revising paragraph (e) to read as follows:

#### § 742.9 Anti-terrorism: Syria.

\* \* \* \* \*

(e) Section 746.9 (Syria) of the EAR sets forth the export and reexport controls for Syria. Section 746.9 supersedes the provisions of paragraphs (a) through (d) of this section.

#### PART 746—[AMENDED]

■ 14. The authority citation for 15 CFR part 746 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *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. 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, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007–7 of December 7, 2006, 72 FR 1899 (January 16, 2007); August 12, 2011 (76 FR 50661 (Aug. 16, 2011)).

■ 15. Section 746.1 is amended by revising paragraph (a) introductory text and adding paragraph (a)(3) to read as follows:

#### § 746.1 Introduction.

\* \* \* \* \*

(a) *Comprehensive controls.* This part contains or refers to all the BIS licensing requirements, licensing policies, and License Exceptions for countries subject to general embargoes or comprehensive sanctions, currently Cuba, Iran, and Syria. This part is the focal point for all the EAR requirements for transactions involving these countries.

\* \* \* \* \*

(3) *Syria.* Pursuant to Sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Pub. L. 108–175, codified as a note to 22 U.S.C. 2151) (the SAA), since May 14, 2004 BIS has maintained a prohibition on the export to Syria of all items on the Commerce Control List (in 15 CFR part 774) (CCL) and a prohibition on the export to Syria of products of the United States, other than food and medicine. The President also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. Section 746.9 of this part sets forth the specific license requirements, licensing policy and license exceptions applicable to Syria as a sanctioned country under the EAR. These provisions were issued consistent with Executive Order 13338 of May 11, 2004 which implemented the SAA.

\* \* \* \* \*

■ 16. Section 746.9 is revised to read as follows:

#### § 746.9 Syria.

Sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Pub. L. 108–175, codified as a note to 22 U.S.C. 2151) (the SAA) require a prohibition on the export to Syria of all items on the Commerce Control List (in 15 CFR part 774) (CCL) and a prohibition on the export to Syria of products of the United States, other than food and medicine. The President also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. The provisions in this section were issued consistent with Executive Order 13338 of May 11, 2004 which implemented the SAA.

(a) *License requirements.* A license is required for the export or reexport to Syria of all items subject to the EAR, except food and medicine classified as EAR99 (food and medicine are defined in part 772 of the EAR). A license is required for the “deemed export” and “deemed reexport,” as described in § 734.2(b) of the EAR, of any technology or source code on the Commerce Control List (CCL) to a Syrian foreign

national. “Deemed exports” and “deemed reexports” to Syrian foreign nationals involving technology or source code subject to the EAR but not listed on the CCL do not require a license.

(b) *License Exceptions.* No License Exceptions to the license requirements set forth in paragraph (a) of this section are available for exports or reexports to Syria, except the following:

(1) TMP for items for use by the news media as set forth in § 740.9(a)(2)(viii) of the EAR,

(2) GOV for items for personal or official use by personnel and agencies of the U.S. Government as set forth in § 740.11(b)(2)(i) and (ii) of the EAR,

(3) TSU for operation technology and software, sales technology, and software updates pursuant to the terms of § 740.13(a), (b), or (c) of the EAR,

(4) BAG for exports of personally-owned items by individuals leaving the United States as personal baggage pursuant to the terms of § 740.14(a) through (d), only, of the EAR, and

(5) AVS for the temporary sojourn of civil aircraft reexported to Syria pursuant to the terms of § 740.15(a)(4) of the EAR.

(c) *Licensing policy.* (1) Except as described in this paragraph (c), all license applications for export or reexport to Syria are subject to a general policy of denial. License applications for “deemed exports” and “deemed reexports” of technology and source code will be reviewed on a case-by-case basis. BIS may consider, on a case-by-case basis, license applications for exports and reexports of items necessary to carry out the President’s constitutional authority to conduct U.S. foreign affairs and as Commander-in-Chief, including exports and reexports of items necessary for the performance of official functions by the United States Government personnel abroad.

(2) BIS may also consider the following license applications on a case-by-case basis: items in support of activities, diplomatic or otherwise, of the United States Government (to the extent that regulation of such exportation or reexportation would not fall within the President’s constitutional authority to conduct the nation’s foreign affairs); medicine (on the CCL) and medical devices (both as defined in part 772 of the EAR); parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft; aircraft chartered by the Syrian Government for the transport of Syrian Government officials on official Syrian Government business; telecommunications equipment and associated computers,

software and technology; and items in support of United Nations operations in Syria. The total dollar value of each approved license for aircraft parts for flight safety normally will be limited to no more than \$2 million over the 24-month standard license term, except in the case of complete overhauls.

(3) In addition, consistent with part 734 of the EAR, the following are not subject to the EAR and therefore not subject to this General Order: informational materials in the form of books and other media; publicly available software and technology; and technology exported in the form of a patent application or an amendment, modification, or supplement thereto or a division thereof (see 15 CFR 734.3(b)(1)(v), (b)(2) and (b)(3)).

**Note to § 746.9:** For administrative reasons, BIS continues to maintain provisions in General Order No. 2, Supplement No. 1 to part 736 of the EAR relating to the President’s waiver of certain prohibitions. This section contains all of the substantive controls against Syria, including the waiver-related provisions maintained in General Order No. 2.

#### PART 774—[AMENDED]

■ 17. The authority citation for 15 CFR part 774 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011 (76 FR 50661 (Aug. 16, 2011)).

■ 18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, “Micro Organisms,” and “Toxins”—Export Control Classification Number (ECCN) 1C350 is amended by revising the AT paragraph in the License Requirements section to read as follows:

#### Supplement No. 1 to Part 774—Commerce Control List

\* \* \* \* \*

#### 1C350 Chemicals that may be used as precursors for toxic chemical agents.

##### License Requirements

\* \* \* \* \*

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a

country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Cuba, Iran, North Korea, and Syria.)

\* \* \* \* \*

■ 19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, “Micro Organisms,” and “Toxins”—Export Control Classification Number (ECCN) 1C355 is amended by revising the Control(s) paragraphs in the License Requirements section to read as follows:

#### 1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and families of chemicals not controlled by ECCN 1C350 or by the Department of State under the ITAR.

##### License Requirements

\* \* \* \* \*

*Control(s):* CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required to export or reexport CWC Schedule 2 chemicals and mixtures identified in 1C355.a to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR). A license is required to export CWC Schedule 3 chemicals and mixtures identified in 1C355.b to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter, prior to export. A license is required to reexport CWC Schedule 3 chemicals and mixtures identified in 1C355.b from a State not Party to the CWC to any other State not Party to the CWC. (See § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C355. A license is required, for AT reasons, to export or reexport items controlled by 1C355 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Cuba, Iran, North Korea, and Syria.)

\* \* \* \* \*

■ 20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, “Micro Organisms,” and “Toxins”—Export Control Classification Number (ECCN) 1C395 is amended by revising the AT paragraph in the License Requirements section to read as follows:

**1C395 Mixtures and Medical, Analytical, Diagnostic, and Food Testing Kits Not Controlled by ECCN 1C350, as Follows (See List of Items Controlled).**

*License Requirements*

\* \* \* \* \*

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C395. A license is required, for AT reasons, to export or reexport items controlled by 1C395 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Cuba, Iran, North Korea, and Syria.)

\* \* \* \* \*

Dated: December 5, 2011.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket No. USCG–2011–1083]

**RIN 1625–AA08**

**Special Local Regulations; Pompano Beach Holiday Boat Parade, Intracoastal Waterway, Pompano Beach, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations on the waters of the Intracoastal Waterway in Pompano Beach, Florida during the Pompano Beach Holiday Boat Parade on Sunday, December 11, 2011. The marine parade will consist of approximately 50 vessels. The marine parade will begin at

Lake Santa Barbara, transit north on the Intracoastal Waterway, and end at the Hillsborough Bridge. These special local regulations are necessary to provide for the safety of life on navigable waters of the United States during the marine parade. The special local regulations consist of a series of moving buffer zones around participant vessels as they transit from Lake Santa Barbara to the Hillsborough Bridge. Persons and vessels that are not participating in the marine parade are prohibited from entering, transiting through, anchoring in, or remaining within any of the buffer zones unless authorized by the Captain of the Port Miami or a designated representative.

**DATES:** This rule is effective from 5 p.m. until 10 p.m. on December 11, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–1083 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–1083 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, call or email Lieutenant Jennifer S. Makowski, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–8724, email [Jennifer.S.Makowski@uscg.mil](mailto:Jennifer.S.Makowski@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information about this year’s Pompano Beach Holiday Boat Parade with

sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to marine parade participants, participant vessels, spectators, and the general public.

For the same reason discussed above, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

**Basis and Purpose**

The legal basis for the rule is the Coast Guard’s authority to establish special local regulations: 33 U.S.C. 1233.

The purpose of the rule is to insure safety of life on navigable waters of the United States during the Pompano Beach Holiday Boat Parade.

**Discussion of Rule**

On December 11, 2011, Greater Pompano Beach Chamber of Commerce is hosting the Pompano Beach Holiday Boat Parade on the Intracoastal Waterway in Pompano Beach, Florida. The marine parade will consist of approximately 50 vessels. The marine parade will begin at Lake Santa Barbara, transit north on the Intracoastal Waterway, and end at the Hillsborough Bridge. Although this event occurs annually, and special local regulations have been promulgated in the Code of Federal Regulations at 33 CFR 100.701, the date of the marine parade does not correspond with the date published in the Code of Federal Regulations, and the special local regulations have been modified. Therefore, the special local regulations set forth in 33 CFR 100.701 are inapplicable for this year’s Pompano Beach Holiday Boat Parade.

The special local regulations consist of a series of buffer zones around vessels participating in the Pompano Beach Holiday Boat Parade. These buffer zones are as follows: (1) All waters within 75 yards of the lead marine parade vessel; (2) all waters within 75 yards of the last marine parade vessel; and (3) all waters within 50 yards of all other marine parade vessels. Notice of the special local regulations, including the identities of the lead marine parade vessel and the last marine parade vessel, will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. These special local regulations will be enforced from 5 p.m. until 10 p.m. on December 11, 2011. Persons and vessels are prohibited from entering, transiting