

# Rules and Regulations

Federal Register

Vol. 78, No. 224

Wednesday, November 20, 2013

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 748

[Docket No. 130927853–3853–01]

RIN 0694–AF99

#### Amendments to Existing Validated End-User Authorizations in the People's Republic of China

**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) to revise existing authorizations for Validated End-Users (VEUs) Samsung China Semiconductor Co. Ltd. (Samsung China), Semiconductor Manufacturing International Corporation (SMIC), SK hynix Semiconductor (China) Ltd. (SK hynix China) and SK hynix Semiconductor (Wuxi) Ltd. (SK hynix Wuxi) (collectively “SK hynix”) in the People's Republic of China (PRC). Specifically, BIS amends Supplement No. 7 to part 748 of the EAR to add two items and remove one item from the list of eligible items for VEU Samsung China, add a facility to the list of eligible destinations and two items to the list of eligible items for VEU SMIC, and update the addresses of the facilities used by VEU SK hynix China and VEU SK hynix Wuxi.

**DATES:** This rule is effective November 20, 2013.

**FOR FURTHER INFORMATION CONTACT:** Karen Nies-Vogel, Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230; by telephone: (202) 482–5991, fax: (202) 482–3991, or email: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Authorization Validated End-User*

Validated End-Users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEUs, as well as the dates they were so designated, and their respective eligible destinations and items are identified in Supplement No. 7 to part 748 of the Export Administration Regulations (EAR). Under the terms described in that supplement, VEUs may obtain eligible items without an export license from the Bureau of Industry and Security (BIS), in conformity with section 748.15 of the EAR. Eligible items vary between VEUs, but may include commodities, software, and technology, except those controlled for missile technology or crime control reasons on the Commerce Control List (CCL) (part 774 of the EAR).

VEUs are reviewed and approved by the U.S. Government in accordance with the provisions of section 748.15 and Supplement Nos. 8 and 9 to part 748 of the EAR. The End-User Review Committee (ERC), composed of representatives from the Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for administering the VEU program. BIS amended the EAR in a final rule published on June 19, 2007 (72 FR 33646) to create Authorization VEU.

##### Amendments to Existing Validated End-User Authorizations in the People's Republic of China (PRC)

*Revisions to the List of “Eligible Items (By ECCN)” for Validated End-User Samsung China Semiconductor Co. Ltd (Samsung China)*

This final rule amends Supplement No. 7 to part 748 of the EAR to add Export Control Classification Numbers (ECCNs) 2B350.i.3 and 3A233 to the list of items that may be exported, reexported or transferred (in-country) to Samsung China's facility in the PRC under Authorization VEU. BIS also removes ECCN 2B350.i.4 from Samsung China's list of approved items. BIS makes these changes pursuant to requests from Samsung China. BIS added Samsung China as a VEU in

Supplement No. 7 to part 748 in a rule published in the **Federal Register** on July 10, 2013 (78 FR 41291).

*Eligible Items (by ECCN) That May Be Exported, Reexported or Transferred (In-Country) to the Eligible Destination Identified Under Samsung China Semiconductor Co. Ltd.'s Validated End-User Authorization*

ECCNs 1C350.c.3, 1C350.d.7, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and 3E001 (limited to “technology” for items classified under 3C002 and 3C004 and “technology” for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).

*Revisions to the List of “Eligible Destinations” and “Eligible Items (By ECCN)” for Validated End-User Semiconductor Manufacturing International Corporation (SMIC)*

This final rule also amends Supplement No. 7 to part 748 of the EAR to add a facility to the list of SMIC facilities to which eligible items may be exported, reexported or transferred (in-country) using Authorization VEU, to bring the number of SMIC's VEU-authorized facilities in the PRC to a total of four. BIS also adds two ECCNs to SMIC's list of eligible items that may be sent to the four facilities. The ECCNs added in this rule to SMIC's VEU authorization are ECCNs 2B350.d.3 and 3C003. BIS makes these changes pursuant to requests from SMIC.

##### *Additional SMIC Destination*

Semiconductor Manufacturing International (Shenzhen) Corporation, Qier Road, Export Processing Zone, Pingshan New Area, Shenzhen, China 518118.

*Eligible Items (by ECCN) That May Be Exported, Reexported or Transferred (In-Country) to the Eligible Destination Identified Under Semiconductor Manufacturing International Corporation Validated End-User Authorization*

ECCNs 1C350.c.3, 1C350.d.7, 2B006.b.1, 2B230, 2B350.d.2, 2B350.d.3, 2B350.g.3, 2B350.i.3, 3B001.a, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3C001, 3C002, 3C003, 3C004, 5B002, and 5E002 (limited to “technology” according to

the General Technology Note for the “production” of integrated circuits controlled by ECCN 5A002 that have been classified by BIS as eligible for License Exception ENC under paragraph (b)(2) or (b)(3) of section 740.17 of the EAR, or classified by BIS as a mass market item under paragraph (b)(3) of section 748.15 of the EAR).

*Change of Address Name of the Facility for Validated End-Users SK hynix Semiconductor (China) Ltd. and SK hynix Semiconductor (Wuxi) Ltd.*

Finally, in this rule, BIS amends Supplement No. 7 to part 748 to make a technical change by updating the facility address names for existing VEUs SK hynix in the PRC. Although the actual location of the facilities for these VEUs has not changed, the technology park where the VEUs are located recently changed its name and this amendment reflects that change and also indicates the specific lot in which each VEU is located.

*Prior Address Name for SK hynix China*

Lot K7/K7-1, Export Processing Zone, Wuxi, Jiangsu, China 214028.

*New Address Name for SK hynix China*

Lot K7, Wuxi High-tech Zone Comprehensive Bonded Zone, Wuxi New District, Jiangsu Province, China 214028.

*Prior Address Name for SK hynix Wuxi*

Lot K7/K7-1, Export Processing Zone, Wuxi, Jiangsu, China 214028.

*New Address Name for SK hynix Wuxi*

Lot K7-1, Wuxi High-tech Zone Comprehensive Bonded Zone Wuxi New District, Jiangsu Province, China 214028.

Authorization VEU eliminates the burden on exporters and reexporters of preparing individual license applications because the export, reexport and transfer (in-country) of the eligible items specified for each VEU may be made under general authorization instead of under individual licenses. With the addition of items for Samsung China and the addition of items and a facility for SMIC, exporters and reexporters can supply items much more quickly, thus enhancing the competitiveness of both the VEU and its suppliers of U.S.-origin items. In addition, the update of the facility addresses for existing VEUs SK hynix reinforces the reliability of information that facilitates legitimate trade that exporters and reexporters conduct under Authorization VEU.

Since August 21, 2001, the Export Administration Act has been in lapse

and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended most recently by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration 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, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694-0088, “Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS-748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, which carries an estimated burden of 30 minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694-0088 are not expected to increase significantly as a result of this rule.

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 PRA, unless that collection of information displays a currently valid OMB Control Number.

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

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to

notice and the opportunity for public comment because they are unnecessary. In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2).

The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313 (July 6, 2006) (proposed rule), and 72 FR 33646 (June 19, 2007) (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy. In publishing this final rule, BIS adds an eligible destination to an existing VEU, updates the address name of two others, and makes changes to the list of eligible items for VEU Samsung and VEU SMIC. These changes have been made within the established regulatory framework of the Authorization VEU program. Further, this rule does not abridge the rights of the public or eliminate the public’s option to export under any of the forms of authorization set forth in the EAR.

Publication of this rule in other than final form is unnecessary because the authorizations granted in the rule are consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. In addition, as with license applications, VEU authorization applications contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such applications. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as the interagency reviews license applications, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and the measurement of such information against the VEU authorization criteria. Given the nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to

publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEU's were developed with public comments, allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because the delay would be contrary to the public interest. BIS is simply amending the list of VEU authorizations by adding a new end user, consistent with established objectives and parameters administered and enforced by the responsible designated departmental representatives to the End-User Review Committee. Delaying this action's effectiveness could cause confusion with the new VEU status as determined by those authorized government representatives

and stifle the ongoing purpose of the VEU Authorization Program. Accordingly, it is contrary to the public interest to delay this rule's effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

**List of Subjects in 15 CFR Part 748**

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

Accordingly, part 748 of the EAR (15 CFR parts 730–774) is amended as follows:

**PART 748—[AMENDED]**

- 1. The authority citation for part 748 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 8, 2013, 78 FR 49107 (August 12, 2013).

- 2. Amend Supplement No. 7 to part 748 by:
  - a. Revising the Export Control Classification Numbers in the “Eligible items (by ECCN)” column for Validated End-User “Samsung China Semiconductor Co. Ltd.” in “China, (People’s Republic of)”;
  - b. Revising the list of facilities in the “Eligible destination” column and items in the “Eligible items (by ECCN)” column for Validated End-User Semiconductor Manufacturing International Corporation in “China, (People’s Republic of)”;
  - c. Revising the address of the facility that appears in the “Eligible destination” column for both Validated End-Users “SK hynix Semiconductor (China) Ltd.” and “SK hynix Semiconductor (Wuxi) Ltd.” in “China, (People’s Republic of)”.

The revisions read as follows:

**SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END-USER (VEU): LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS**

Country	Validated end-user	Eligible items (by ECCN)	Eligible destination	Federal Register Citation
<b>Nothing in this Supplement shall be deemed to supersede other provisions in the EAR, including but not limited to § 748.15(c).</b>				
*	*	*	*	*
	Samsung China Semiconductor Co. Ltd.	1C350.c.3, 2B350.d.2, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and 3E001 (limited to “technology” for items classified under 3C002 and 3C004 and “technology” for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).	Samsung China Semiconductor Co. Ltd., Xinglong Street, Chang’an District, Xi’an, People’s Republic of China 710065.	78 FR 41291, 7/10/13. 78 FR [INSERT PAGE NUMBER], 11/20/2013.
	Semiconductor Manufacturing International Corporation.	1C350.c.3, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3B001.a, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3C001, 3C002, 3C003, 3C004, 5B002, and 5E002 (limited to “technology” according to the General Technology Note for the “production” of integrated circuits controlled by ECCN 5A002 that have been classified by BIS as eligible for License Exception ENC under paragraph (b)(2) or (b)(3) of section 740.17 of the EAR, or classified by BIS as a mass market item under paragraph (b)(3) of section 748.15 of the EAR).	Semiconductor Manufacturing International (Shanghai) Corporation, 18 Zhang Jiang Rd., Pudong New Area, Shanghai, China 201203. Semiconductor Manufacturing International (Tianjin) Corporation, 19 Xing Hua Avenue, Xi Qing Economic Development Area, Tianjin, China 300385. Semiconductor Manufacturing International (Beijing) Corporation, No. 18 Wen Chang Road, Beijing Economic-Technological Development Area, Beijing, China 100176. Semiconductor Manufacturing International (Shenzhen) Corporation. Qier Road, Export Processing Zone. Pingshan New Area. Shenzhen, China 518118.	72 FR 59164, 10/19/07. 75 FR 67029, 11/1/10. 77 FR 10953, 2/24/12. 78 FR [INSERT PAGE NUMBER], 11/20/2013.

SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END-USER (VEU): LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS—Continued

Country	Validated end-user	Eligible items (by ECCN)	Eligible destination	Federal Register Citation
*	*	*	*	*
	SK hynix Semiconductor (China) Ltd.	3B001.a, 3B001.b, 3B001.c, 3B001.e, and 3B001.f.	SK hynix Semiconductor (China) Ltd., Lot K7, Wuxi High-tech Zone, Comprehensive Bonded Zone, Wuxi New District, Jiangsu Province, China 214028.	75 FR 62462, 10/12/10. 77 FR 40258, 7/9/12. 78 FR 3319, 1/16/13. 78 FR [INSERT PAGE NUMBER], 11/20/2013.
	SK hynix Semiconductor (Wuxi) Ltd.	3B001.a, 3B001.b, 3B001.c, 3B001.e, and 3B001.f.	SK hynix Semiconductor (Wuxi) Ltd., Lot K7-1, Wuxi High-tech Zone, Comprehensive Bonded Zone, Wuxi New District, Jiangsu Province, China 214028.	75 FR 62462, 10/12/10. 77 FR 40258, 7/9/12. 78 FR 3319, 1/16/13. 78 FR [INSERT PAGE NUMBER], 11/20/2013.
*	*	*	*	*

Dated: November 14, 2013.  
**Kevin J. Wolf,**  
*Assistant Secretary for Export Administration.*  
 [FR Doc. 2013-27809 Filed 11-19-13; 8:45 am]  
**BILLING CODE 3510-33-P**

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**20 CFR Part 655**

**RIN 1205-AB66**

**Attestation Process for Employers Using F-1 Students in Off-Campus Work**

**AGENCY:** Employment and Training Administration, Department of Labor, in concurrence with the Wage and Hour Division, Department of Labor.

**ACTION:** Final rule; rescission of regulations.

**SUMMARY:** This final rule rescinds the regulations which provided rules governing employers seeking to hire F-1 foreign students as part-time workers off-campus. These subparts became obsolete after the authorizing statute and its two-year extension expired in 1996. Accordingly, the Department of Labor (the Department) is taking this action to remove regulations that no longer have force and effect.

**DATES:** Effective November 20, 2013.

**FOR FURTHER INFORMATION CONTACT:** William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Room C-4312, Employment & Training Administration, U.S. Department of Labor, 200

Constitution Avenue NW., Washington, DC 20210. Telephone number: 202-693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-693-2768.

**SUPPLEMENTARY INFORMATION:** Section 221 of the Immigration Act of 1990 (IMMACT) (Pub L. 101-649; 104 Stat. 4978) as amended by section 303(b)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Pub. L. 102-232; 105 Stat. 1733), supplemented sections 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C 1101(a)(15)(F)) by creating a pilot program, of limited duration. The pilot program permitted nonimmigrant foreign students to be admitted as F-1 nonimmigrant students to work off-campus if: (1) The alien had completed one academic year as an F-1 nonimmigrant and was maintaining good academic standing at the educational institution; (2) the alien would not be employed off-campus for more than 20 hours per week during the academic term; and (3) the employer provided an attestation to the Department of Labor and to the educational institution that it unsuccessfully recruited for the position for at least 60 days and would pay the higher of the actual wage at the worksite or the prevailing wage for the occupation in the area of employment. IMMACT, Sec 221(a). IMMACT established the program as a 3-year pilot to end September 30, 1994. The Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103-416; 108 Stat. 4319) revived and

extended the program through September 30, 1996. The program expired on September 30, 1996, and was never extended.

The Department implemented the F-1 visa pilot program through regulations at 20 CFR part 655 subparts J and K. See 56 FR 56860 (Nov. 6, 1991), as amended by 59 FR 64776 (Dec. 15, 1994), 60 FR 61210 (Nov. 29, 1995). Because of the expiration of the statutory program, these regulations are currently without force and effect and should be rescinded.

The Department has determined that it is unnecessary to publish the rescission of these regulations as a proposed rule, as generally required by the Administrative Procedure Act (“APA”), 5 U.S.C. 553(b). The statutory provisions governing the pilot program have expired, and this rule simply rescinds the implementing regulations, which no longer have force and effect. Therefore, good cause exists for dispensing with the notice and comment requirements of the APA. 5 U.S.C. 553(b)(B). For the same reasons, good cause exists to make this rule effective immediately upon publication of this rule. 5 U.S.C. 553(d)(3).

**Administrative Information**

*A. Executive Order 12866*

This final rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this rule is not a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department has also determined that this rule is not “economically significant” as defined in section 3(f)(1)