

BUREAU OF INDUSTRY AND SECURITY



**BIS
UPDATE
2017**

CONFERENCE ON
EXPORT CONTROLS
AND POLICY



U.S. DEPARTMENT OF COMMERCE • BUREAU OF INDUSTRY AND SECURITY

BIS UPDATE 2017 CONFERENCE ON EXPORT CONTROLS AND POLICY



Recapping the Rules:
Regulatory Review



U.S. DEPARTMENT OF COMMERCE • BUREAU OF INDUSTRY AND SECURITY

Export Administration Regulations Update

Hillary Hess
Regulatory Policy Division, Director
U.S. Department of Commerce
Bureau of Industry and Security (BIS)



Changes in Regulatory Process

- **E.O. 13771** titled “Reducing Regulation and Controlling Regulatory Costs.”
- Effective Fiscal Years (FY) 2017 and beyond.
- 2 for 1: One new regulation = two regulations repealed
- New costs will be offset by elimination of costs
- Applies to significant rules





Overview of Review

- Country Policy
- Regime Rules
- Commerce Control List Review
- Prohibited/Restricted End Users & Validated End User Program



U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY



Country Policy

- Revisions to Sudan Licensing Policy
 - Jan. 17, 2017, 82 FR 4781
- Support Document Requirements With Respect to Hong Kong
 - Jan. 19, 2017, 82 FR 6216
- Amendments to the EAR Implementing an Additional Phase of India-U.S. Export Control Cooperation
 - Jan. 19, 2017, 82 FR 6218



U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY



Country Policy cont'd

- Burma: Amendment of the Export Administration Regulations Consistent with an Executive Order that Terminated U.S. Government Sanctions
 - December 27, 2016, 81 FR 94962
- Amendment to the Export Administration Regulations: Removal of Special Iraq Reconstruction License (final rule)
 - December 5, 2016, 81 FR 87424



U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY



Country Policy cont'd

- Amendments to the Export Administration Regulations: Update of Arms Embargoes on Cote d'Ivoire, Liberia, Sri Lanka and Vietnam and Recognition of India as Member of the Missile Technology Control Regime (final rule)
 - November 4, 2016, 81 FR 76859



U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

Regime Rules

- Wassenaar Arrangement 2016 Plenary Agreement Implementation
 - August 15, 2017, 82 FR 38764
- Revisions to the EAR Based on the 2016 Missile Technology Control Regime Plenary Agreements
 - July 7, 2017, 82 FR 31442
- Wassenaar Arrangement 2015 Plenary Agreements; Corrections
 - June 14, 2017, 82 FR 27108



Regime Rules cont'd

- Implementation of the February 2016 Australia Group (AG) Intersessional Decisions and the June 2016 AG Plenary Understandings
 - December 16, 2016, 81 FR 90983





Commerce Control List Review (including USML to CCL review)

- Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control under the USML
 - Jan. 10, 2017, 81 FR 2875
- Increase of Controls: Infrared Detection Items
 - Notice, Jan. 13, 2017, 81 FR 4287
- Removal of Certain Nuclear Nonproliferation (NP) Column 2 Controls – Additional Delay in Implementation of ECCN 3D991 Controls on Certain Software
 - Feb. 1, 2017, 82 FR 8893




Prohibited/Restricted End Users (“proscribed persons”)

- **Unverified List**
 - Apr. 6, 2017, 82 FR 16730
- **Entity List revisions**
 - BIS has published 8 Entity List related rules, as of Aug. 1, 2017.

Note 1: Additional information is provided in subsequent slides for 2017 Entity List related rules.



Entity List Rules: Overview

Description	Number of rules
Russian sanctions related Entity List rules	3 rules , including a conforming change to an OFAC GL, included in one of the other Entity List rules.
ZTE related rules, including Temporary General License (TGL) and Entity List rules	2 rules (TGL extension; <u>and</u> ZTE removal, addition, and TGL removal)
Other Entity List rules	3 rules , including one that made a conforming change for an OFAC general license.



Entity List Activity: Russian sanctions

Date/FR cite	EL changes
Jan. 4, 2017 (82 FR 722)	5 additions (§ 744.11)
Apr. 18, 2017 (82 FR 18217)	1 modification to conform to OFAC general license
Jun. 22, 2017 (82 FR 28405)	10 additions (§ 744.11)

Note: Jan. 10, 2017 (82 FR 2883) included a number of other Entity List changes, but also included 1 modification to conform to an OFAC general license.



Entity List Activity: ZTE related

Date/FR cite	EL changes
Feb. 24, 2017 (82 FR 11505)	TGL extension of validity, but removed completely on Mar. 29, 2017
Mar. 29, 2017 (82 FR 15458)	ZTE removal (2 entries), 1 addition, and removal of TGL



Note: The 2017 ZTE related rules include references to the earlier ZTE related rules. The earlier ZTE related rules provide additional context on ZTE's addition to the Entity List, creation of the TGL and TGL extensions.

Entity List Activity: Other Entity List rules

Date/FR cite	EL changes
*Jan. 10, 2017 (82 FR 2883)	5 additions (§ 744.11), 1 removal (§ 744.16), and 5 modifications
Mar. 29, 2017 (82 FR 15461)	7 removals (§ 744.16)
May 26, 2017 (82 FR 24242)	16 additions (§ 744.11), and 2 modifications



***Note:** Jan. 10, 2017 final rule included a number of Other Entity List changes, but also included 1 modification to conform to an OFAC general license for a sanctioned Russian sanctioned entity.

List of Validated End Users Update

- Amendment to the Export Administration Regulations: Removal of Semiconductor Manufacturing International Corporation from the List of Validated End-Users in the People's Republic of China
- December 5, 2016, 81 FR 87246

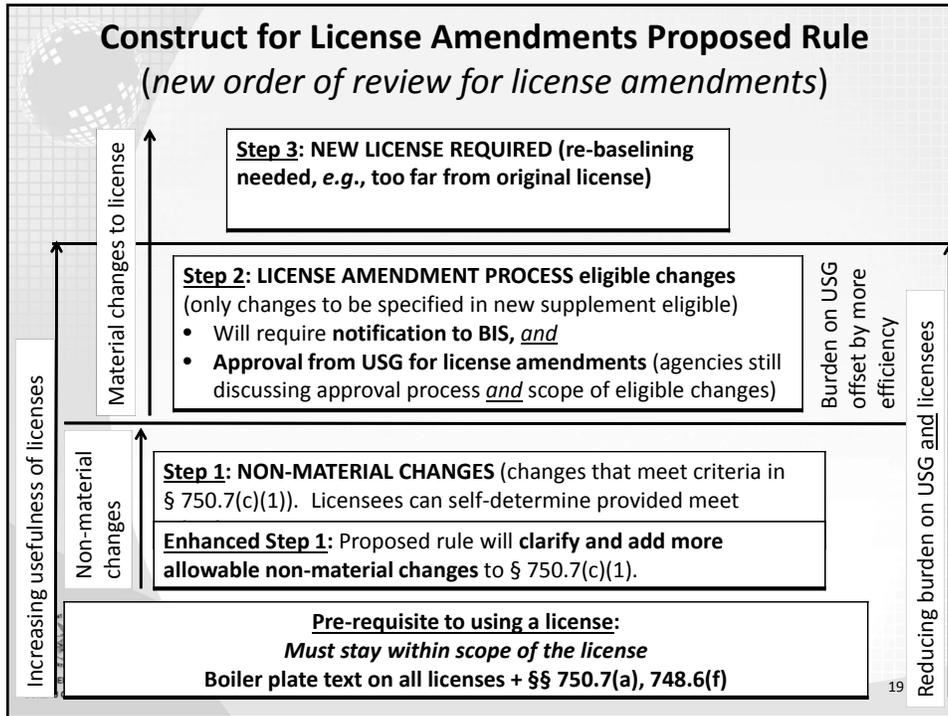


License Amendments Proposed Rule

- *This rule will propose the following changes:*
- **Adopting a license amendment process**, including making changes to SNAP-R system to allow for licensees to request certain changes (amendments) to currently valid licenses;
- **Updating permissible non-material changes that can be made to licenses**, by making certain clarifications and expansions to the section of the EAR that specifies what changes may be made to a BIS license without contacting BIS; *and*
- **Adopting a more efficient process for requesting license transfers**, by adopting a process to allow submission of requests for license transfers to be made via SNAP-R system *and* expand the process to allow requests to transfer reexport and in-country transfer licenses.



Note: Publication anticipated by end of 2017/early 2018, *and* will likely be done as a "pilot project" for new license amendment process.



Benefits of Adopting License Amendment Process

Benefit	Description
1	Reinforce need for licensees to stay within the scope of a license.
2	Improve usefulness of licenses for licensees by creating a more efficient and transparent process for requesting changes.
3	Reduce number of new licenses that need to be reviewed, which will reduce burden on agencies, provided license amendment process is implemented efficiently.
4	Reduce burden on BIS for processing changes to licenses on paper (§§ 750.7(c)(2), (g)(2), and 750.10) <i>and</i> reduce burden on licensees for submitting such paper-based requests.
5	Improve data integrity and traceability for licensed transactions.

U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

20

Recent Regulatory Developments

- Here are some recent regulatory developments that are likely of interest:



Other Improvements on the Horizon

- New web-based portal for advisory opinions and *de minimis* reports coming soon. BIS is working on adding a web-based portal to the BIS website to allow the electronic submission of advisory opinion requests and *de minimis* reports. BIS anticipates the new portal will be available for use in late 2017/early 2018.
- New web-based decision tool for deemed exports coming soon. BIS is close to completing the new deemed export decision tool. BIS anticipates going live with our next decision tool in late 2017/early 2018.



Contact Information

- Regulatory Policy Division:
 - rpd2@bis.doc.gov
 - 202-482-2440



Update 2017 App

Instructions to download the 2017 Annual Update Conference App to your smartphone or tablet:

- Search in your preferred app store: "Attendee Hub". When installation is complete, search for "Update 2017", then download the 2017 Update Conference app.
- URL: <https://crowd.cc/update2017> App URL: <https://crowd.cc/s/15eIS>
- Verify the account with password "update2017".
- Be sure to allow push notifications as we will connect with you during the conference with session surveys, announcements, and more!



U.S. DEPARTMENT OF COMMERCE • BUREAU OF INDUSTRY AND SECURITY