

§ 740.8

on or after January 23, 2000, but on or before August 13, 2000, reports are required for computers with a CTP greater than 6,500 MTOPS; for exports occurring on or after August 14, 2000, but on or before February 25, 2001, reports are required for computers with a CTP greater than 12,500 MTOPS; and for exports occurring on or after February 26, 2001, reports are required for computers with a CTP greater than 28,000 MTOPS. Post-shipment reports must be submitted in accordance with the provisions of this paragraph (d)(5)(v), and all relevant records of such exports must be kept in accordance with part 762 of the EAR.

(A) *Information that must be included in each post-shipment report.* No later than the last day of the month following the month in which the export takes place, the exporter must submit the following information to BXA at the address listed in paragraph (d)(5)(v)(B) of this section:

- (1) Exporter name, address, and telephone number;
 - (2) NDAA notification number;
 - (3) Date of export;
 - (4) End-user name, point of contact, address, telephone number;
 - (5) Carrier;
 - (6) Air waybill or bill of lading number;
 - (7) Commodity description, quantities—listed by model numbers, serial numbers, and CTP level in MTOPS; and
- (8) Certification line for exporters to sign and date. The exporter must certify that the information contained in the report is accurate to the best of his or her knowledge.

NOTE TO PARAGRAPH (d)(5)(v)(A): For exports authorized under License Exception CTP to the Peoples Republic of China (PRC), you must submit the PRC End-User Certificate Number identifying the transaction for which the End-User Certificate Number applies.

(B) *Mailing address.* A copy of the post-shipment report[s] required under paragraph (d)(5)(v)(A) of this section shall be delivered to one of the following addresses. Note that BXA will not accept reports sent C.O.D.

(1) For deliveries by U.S. postal service: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Attn: Office of Enforcement

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Analysis HPC Team, Room 4065, Washington, D.C. 20044.

(2) For courier deliveries: U.S. Department of Commerce, Office of Enforcement Analysis HPC Team, Room 4065, 14th Street and Constitution Ave. NW, Washington, DC 20230.

(e) *Restrictions.* (1) Computers eligible for License Exception CTP may not be accessed either physically or computationally by nationals of Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria, except commercial consignees described in Supplement No. 3 to part 742 of the EAR are prohibited only from giving such nationals user-accessible programmability.

(2) Computers eligible for License Exception CTP may not be reexported/retransferred without prior authorization from BXA i.e., a license, a permissive reexport, another License Exception, or “No License Required”. This restriction must be conveyed to the consignee, via the Destination Control Statement, see § 758.6 of the EAR. Additionally, the end-use and end-user restrictions in paragraph (d)(3) of this section must be conveyed to any consignee in Computer Tier 3.

(f) *Reporting requirements.* In addition to the reporting requirements set forth in paragraph (d) of this section, see § 743.1 of the EAR for additional reporting requirements of certain items under License Exception CTP.

[61 FR 64276, Dec. 4, 1996, as amended at 61 FR 67449, Dec. 23, 1996; 63 FR 5450, Feb. 3, 1998; 63 FR 63142, Nov. 12, 1998; 64 FR 2430, Jan. 14, 1999; 64 FR 28908, May 28, 1999; 64 FR 42011, Aug. 3, 1999; 64 FR 60341, Nov. 5, 1999; 65 FR 12921, Mar. 10, 2000; 65 FR 14859, Mar. 20, 2000; 65 FR 42569, July 10, 2000; 65 FR 60854, Oct. 13, 2000; 65 FR 66170, Nov. 3, 2000]

§ 740.8 Key management infrastructure (KMI).

(a) *Scope.* License Exception KMI authorizes the export and reexport of certain encryption software and equipment.

(b) *Eligible commodities and software.* (1) Recovery encryption commodities and software of any key length controlled under ECCNs 5A002 and 5D002 that have been classified after a technical review through a classification request. Key escrow and key recovery commodities and software must meet

the criteria identified in Supplement No. 4 to part 742 of the EAR.

(2) For such classification requests, indicate "License Exception KMI" in block 9 on Form BXA-748P. Submit the original request to BXA in accordance with § 748.3 of the EAR and send a copy of the request to:

Attn: KMI Encryption Request Coordinator,
9800 Savage Road, Suite 6131, Fort Meade,
MD 20755-6000.

(c) *Eligible destinations.* License Exception KMI is available for all destinations, except Cuba, Libya, North Korea, Iraq, Iran, Syria, and Sudan.

(d) *Reporting requirements.* (1) You must provide semiannual reports to BXA identifying:

(i) Ultimate consignee; specific end-user name and address, if available; and country of ultimate destination; and

(ii) Quantities of each encryption item shipped.

(2) You must submit reports no later than February 1 and no later than August 1 of any given year.

[61 FR 68579, Dec. 30, 1996, as amended at 63 FR 50520, Sept. 22, 1998; 63 FR 72159, Dec. 31, 1998; 65 FR 2496, Jan. 14, 2000]

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

This License Exception authorizes various temporary exports and reexports; exports and reexports of items temporarily in the United States; and exports and reexports of beta test software.

(a) *Temporary exports and reexports—*
(1) *Scope.* You may export and reexport commodities and software for temporary use abroad (including use in international waters) subject to the conditions and exclusions described in paragraph (a)(4) of this section. Commodities and software shipped as temporary exports or reexports under the provisions of this paragraph (a) must be returned to the country from which they were exported as soon as practicable but, except in circumstances described in this section, no later than one year from the date of export. This requirement does not apply if the commodities and software are consumed or destroyed in the normal course of authorized temporary use abroad or an extension or other disposition is per-

mitted by the EAR or in writing by BXA.

(2) *Eligible commodities and software.* The following commodities and software are eligible to be shipped under this paragraph (a):

(i) *Tools of trade.* Usual and reasonable kinds and quantities of tools of trade (commodities and software) for use by the exporter or employees of the exporter in a lawful enterprise or undertaking of the exporter. Eligible tools of trade may include, but are not limited to, such equipment and software as is necessary to commission or service goods, provided that the equipment or software is appropriate for this purpose and that all goods to be commissioned or serviced are of foreign origin, or if subject to the EAR, have been legally exported or reexported. The tools of trade must remain under the effective control of the exporter or the exporter's employee (see part 772 of the EAR for a definition of "effective control"). The shipment of tools of trade may accompany the individual departing from the United States or may be shipped unaccompanied within one month before the individual's departure from the United States, or at any time after departure. No tools of the trade may be taken to Country Group E:2 (see Supplement No. 1 to part 740) or Sudan. For exports under this License Exception of laptop computers loaded with encryption software, refer to item interpretation 13 in § 770.2 of the EAR.

(ii) *Kits consisting of replacement parts.* Kits consisting of replacement parts may be exported or reexported to all destinations, except Country Group E:2 (see Supplement No. 1 to part 740), provided that:

(A) The parts would qualify for shipment under paragraph (a)(2)(ii)(C) of this section if exported as one-for-one replacements;

(B) The kits remain under effective control of the exporter or an employee of the exporter; and

(C) All parts in the kit are returned, except that one-for-one replacements may be made in accordance with the requirements of License Exception RPL and the defective parts returned (see "parts", § 740.10(a) of this part).