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15 CFR Ch. VII (1-1-04 Edition)

SUPPLEMENT NO. 5 TO PART 742—CHECKLIST ON ENCRYPTION AND OTHER “INFORMATION SECURITY” FUNCTIONS

SUPPLEMENT NO. 6 TO PART 742—GUIDELINES FOR SUBMITTING REVIEW REQUESTS FOR ENCRYPTION ITEMS

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; 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; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

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**PART 742—CONTROL POLICY—CCL
BASED CONTROLS**

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§ 742.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. In addition to describing the reasons for control and licensing requirements and policies, this part describes any applicable contract sanctity provisions that may apply to specific controls and includes a description of any multilateral regime under which specific controls are maintained.

(b) *Reasons for control listed on the CCL not covered by this part.* This part describes the license requirements and the licensing policies for all the “Reasons for Control” that are listed on the Commerce Control List (CCL) except “Short Supply” and “U.N. Sanctions,” which do not appear on the Country Chart.

(1) *Short Supply.* ECCNs containing items subject to short supply controls (“SS”) refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude

petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil); 1C982 (certain other petroleum products); 1C983 (Natural gas liquids and other natural gas derivatives); 1C984 (certain manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy)); and 1C988 (Western red cedar (*Thuja plicata*) logs and timber, and rough, dressed and worked lumber containing wane).

(2) *U.N. Sanctions.* The United Nations imposes sanctions, short of complete embargoes, against certain countries which may result in controls that supplement those otherwise maintained under the EAR for that particular country. This part does not address license requirements and licensing policies for controls implementing U.N. sanctions. CCL entries containing items subject to U.N. sanctions will refer the exporter to part 746 of the EAR, Embargoes and Other Special Controls, for any supplemental controls that may apply to exports and re-exports involving these countries.

(c) *Exports and reexports involving Cuba, Libya, Iraq, Iran, and the Bosnian Serb-controlled areas of Bosnia-Herzegovina.* This part does not cover license requirements and licensing policies that apply to exports and re-exports to embargoed destinations (Cuba, Libya, Iraq, Iran and the Bosnian-Serb controlled areas of Bosnia-Herzegovina). These comprehensive embargoes cover a broader range of items than those reflected in the CCL. If you are exporting or reexporting to any of these destinations, you should first review part 746 of the EAR, Embargoes and Other Special Controls.

(d) *Anti-terrorism Controls on Cuba, Libya, Iran, Iraq, North Korea, Sudan and Syria.* Commerce maintains anti-terrorism controls on Iran, North Korea, Syria and Sudan under section 6(a) of the Export Administration Act. Items controlled under section 6(a) to these three countries are described in Supplement No. 2 to part 742. Commerce also maintains controls under section 6(j) of the EAA to Cuba, Libya, Iraq, Iran, North Korea, Sudan and Syria. Items controlled to these seven countries under EAA section 6(j) are

also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to Cuba, Libya, North Korea, Iran, Iraq, Sudan or Syria. As noted in paragraph (c) of this section, if you are exporting or reexporting to Cuba, Libya, Iran, and Iraq, you should review Part 746 of the EAR, Embargoes and Other Special Controls.

(e) *End-user and end-use based controls.* This part does not cover prohibitions and licensing requirements for exports of items not included on the CCL that are subject to end-use and end-user controls: certain nuclear end-uses; certain missile end-uses; certain chemical and biological weapons end-uses; certain naval nuclear propulsion end-uses; certain activities of U.S. persons; certain exports to and for the use of certain foreign vessels or aircraft; and certain exports to all countries for Libyan aircraft. Licensing requirements and policies for these exports are contained in part 744 of the EAR.

(f) *Overlapping license policies.* Many items on the CCL are subject to more than one type of control (e.g., national security (NS), missile technology (MT), nuclear nonproliferation (NP), regional stability (RS)). In addition, applications for all items on the CCL, other than those controlled for short supply reasons, may be reviewed for missile technology (see § 742.5(b)(3) of this part), nuclear nonproliferation (see § 742.3(b)(2) of this part), or chemical and biological weapons (see § 742.2(b)(3) of this part), if the end-use or end-user may be involved in certain proliferation activities. Finally, many multilaterally controlled items are reviewed for anti-terrorism reasons if they are destined for a terrorism-supporting country (see paragraph (d) of this section). Your application for a license will be reviewed under all applicable licensing policies. A license will be issued only if an application can be approved under all applicable licensing policies.

[61 FR 12786, Mar. 25, 1996, as amended at 62 FR 25458, May 9, 1997; 65 FR 38151, June 19, 2000]