

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 14. The authority citation for part 150 continues to read as follows:

Authority: Atomic Energy Act secs. 161, 181, 223, 234 (42 U.S.C. 2201, 2021, 2231, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 594 (2005).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

§ 150.15 [Amended]

■ 15. In § 150.15, remove paragraph (a)(9).

Dated at Rockville, Maryland, this 23rd day of September, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

[FR Doc. 2014-23257 Filed 9-29-14; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 732, 738, 743, 748, 752, 762, 772, and 774

[Docket No. 140613501-4501-01]

RIN 0694-AG13

Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) proposes to continue updating export controls under the Export Administration Regulations (EAR) consistent with the Retrospective Regulatory Review Initiative that directs BIS and other Federal Government Agencies to streamline regulations and reduce unnecessary regulatory burdens on the public. Specifically, in this rule, BIS proposes to amend the EAR by

removing the Special Comprehensive License authorization. This rule also proposes conforming amendments.

DATES: Comments must be received no later than October 30, 2014.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. The identification number for this rulemaking is BIS-2014-0021.

- By email directly to publiccomments@bis.doc.gov. Include RIN 0694-AG13 in the subject line.

- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694-AG13.

FOR FURTHER INFORMATION CONTACT:

Thomas Andrukonis, Director, Export Management and Compliance Division, Office of Exporter Services, Bureau of Industry and Security, by telephone at (202) 482-8016 or by email at Thomas.Andrukonis@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

Origin and Historical Advantages of the Special Comprehensive License

The restructuring and reorganizing of the Export Administration Regulations (EAR) that were finalized in 1997 established provisions for the Special Comprehensive License (SCL) in part 752 of the EAR (61 FR 12714, March 25, 1996, as amended by 62 FR 25451, May 9, 1997).

In keeping with the purpose of those reforms, which was to “simplify, clarify and make regulations more user-friendly,” the SCL made licensing more efficient and practical by consolidating authorizations for activities (e.g., bulk exports and reexports of items as well as certain other activities) and extending periods that had been authorized under the following special licenses: Project, Distribution, Service Supply, Service Facilities, Aircraft and Vessel Repair Station Procedure, and Special Chemical Licenses. With the implementation of the SCL, those special licenses were discontinued. BIS was confident that the more flexible SCL and a pre-approved internal control program (ICP) would advance the agency’s fundamental mission of ensuring national security without unduly burdening legitimate global trade.

When introduced, SCLs presented certain advantages to exporters and consignees that could not be met by the Validated Licenses (formerly referred to

as Individual Validated Licenses), which was the other licensing option at that time. In return for committing to enhanced administrative responsibilities and compliance requirements, the SCL authorized, among other things:

- Exports and reexports of multiple shipments of all items subject to the EAR, with the exception of items prohibited by statute or regulation (*inter alia*, items controlled for missile technology and short supply reasons) and items identified as being of significant strategic and proliferation concern;

- Exports and reexports of multiple shipments of items to all destinations, except to embargoed and terrorist supporting destinations (i.e., destinations in Country Groups E:1 and E:2 in Supplement No. 1 to Part 740 of the EAR), and countries that BIS may designate on a case-by-case basis;

- Possible authorization by prior approved consignees abroad of servicing, support services, stocking spare parts, maintenance, capital expansion, scientific data acquisition support, reselling and reexporting items in the form received, and other activities, on a case-by-case basis;

- Exports and reexports of items for a period of four years; and

- Exports and reexports by an SCL holder to approved consignees and directly to the consignees’ customers, the end-users (known as drop shipping).

In a recent review of the SCL, it became apparent that the purposes served by an SCL and the advantages it provided have been overtaken by changes to the EAR, including changes that have occurred since the implementation of the President’s Export Control Reform (ECR) (See “Initial Implementation of Export Control Reform Rule” (73 FR 22660, April 16, 2013), effective October 15, 2013; “Improving Regulatory Review” (Executive Order 13563 of January 18, 2011); and BIS’s “Notice of Inquiry: Retrospective Regulatory Review Under E.O. 13563” (76 FR 47527, August, 5, 2011.).

At the direction of the President, in August, 2009, BIS in conjunction with other agencies that have export control-related jurisdiction began an interagency initiative to reform the export control system. The reform’s objective has been to help strengthen our national security and the competitiveness of key U.S. manufacturing and technology sectors while simultaneously enabling export control officials to better focus government resources on transactions that pose the most concern. Some of the

results of this reform effort include broadening EAR provisions so that they are not more restrictive than similar provisions in the International Traffic in Arms Regulations. Such broadening included extending the validity period of most BIS licenses from two years to four years, and allowing shipments to and among approved end-users.

For purposes of the Retrospective Regulatory Review, the President reaffirmed the principles, structures, and definitions that were established in Executive Order 12866 of September 30, 1993, and which govern present-day regulatory review. Further, the President directed agencies to improve their regulations by pursuing regulatory reviews that ensure public participation, the best regulatory tools, weighing the benefits and costs of regulations, and making regulations consistent, easier to read and focused on measurable results.

BIS's proposal to discontinue the SCL authorization advances the objectives of the Retrospective Regulatory Review. Additionally, this proposed rule addresses concerns about the utility and unduly burdensome requirements associated with the SCL expressed by the exporting public in comments submitted in response to the August 5, 2011, BIS "Notice of Inquiry, Retrospective Regulatory Review Under E.O. 13563." One commenter responding to that Notice of Inquiry stated that the SCL rule is the most rigorous and burdensome license. The commenter claimed that the SCL rule needs "greater regulatory clarity, less administrative burden and greater return on resource." The commenter went on to note that SCL holders and consignees could get a better return on the resources expended for the license and on compliance efforts if more activities were authorized, such as manufacturing, if eligible items were expanded and if small changes or edits to an SCL could be made without the need for multiple forms and without the extensive processing time of the interagency license review. Finally, the commenter stated that the time and costs associated with the management and administrative burden of the SCL outweigh the benefit of the license especially when a license must be obtained for items that are not SCL eligible. Another commenter recommended the "deletion" of the SCL provision and stated that the provision "may no longer be practical" because of the creation of License Exception STA.

BIS has issued fewer than a dozen SCLs, and this limited number of license holders and the low volume of trade under SCLs are further indicators that the present and future value of an

SCL is outweighed by the burdens exporters experience in applying for and administering an SCL. Included among these burdens are the high monetary and resource cost incurred by the SCL holders and their consignees related to:

- Applying for the SCL or an amendment, which involves large volumes of detailed documentation to support that application or amendment;
- Developing, administering, and maintaining ICPs, which requires extensive time and resources to implement and revise; and
- Traveling and conducting internal audits or preparing for U.S. Government audits overseas or domestically, which involves several weeks per year of company staff time to prepare for, conduct and assess, in addition to the travel expenses necessary to carry out the overseas audits of consignees.

The U.S. Government also incurs high costs in administering and enforcing the SCL program internationally for such a limited number of SCL holders, whose licenses involve a low volume of trade, which could otherwise be more efficiently administered under the EAR.

Augmented Advantages of the EAR's Licenses and Other Authorizations

BIS's implementation of the President's initiatives has increased the scope of the availability, ease of applying for, and practical and economic usefulness of export licenses and license exceptions under the EAR, while facilitating better compliance by the exporting public through expanded outreach. The President's initiatives have included the following changes to the EAR:

- A four-year export or reexport validity period with agency consideration of a request for an extended validity period on a case-by-case basis;
- The option to export, reexport, or transfer (in-country) to and among approved end-users on a license, under certain conditions; and
- The expansion of License Exception Temporary imports, exports, and reexports, and transfers (in-country) (TMP) (Section 740.9), which now authorizes temporary exports to a U.S. person's foreign subsidiary, affiliates, or facility abroad outside of Country Group B, and will, upon request, authorize the retention of items abroad beyond one year, up to a total of four years.

Also worth noting are other potentially beneficial changes over time under the EAR. They include:

- Easier license application-filing procedures where exporters now have

the ability to save and work on license information that they then can submit to BIS via the Simplified Network Application Process—Redesign System, or SNAP-R;

- Shorter license application processing times, typically without pre-license consultations, ICP requirements, or post-license system reviews;
- No requirement for reports for all items exported or reexported;
- Licenses that could include items controlled for Missile Technology, Short Supply and other reasons excluded from the SCL; and
- No expiration for an authorization allowing U.S., foreign, affiliated or unaffiliated parties to export and reexport approved items to approved validated end-users (VEUs).

These streamlined, more flexible and varied authorizations are available, as appropriate, to facilitate more efficient and practical means of exporting, reexporting and transferring (in-country) items subject to export controls under the EAR without the burdens imposed by an SCL. More importantly, the amendments proposed in this rule eventually will lead to more efficient administration and enforcement of export controls under the EAR.

Description of Proposed Changes

Primary Provisions for the SCL: Part 752—Special Comprehensive License

BIS proposes to discontinue the SCL authorization, and therefore remove the text of the SCL provisions located at part 752 (Sections 752.1 through 752.17 and Supplements No. 1 through No. 5 to part 752) of the EAR. In addition, BIS proposes to reserve part 752.

Conforming Amendments

BIS also proposes conforming amendments that would remove references to the SCL authorization in other parts of the EAR. The SCL-related provisions that BIS proposes to remove from the EAR are set out according to part number as follows:

Part 730—General Information

- The reference to the SCL in the second sentence of paragraph (a)(5) of section 730.8 (How to proceed and where to get help); and

Part 730—Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers:

- References to the SCL in control numbers 0694–0088 (Simplified Network Application Processing + System (SNAP+) and the Multipurpose Export License Application) and 0607–0152 (Automated Export System (AES) Program); and

- The collection of information authorized under control number 0694-0089 (Special Comprehensive License Procedure).

Part 732—Steps for Using the EAR

- The reference to the SCL with regard to Destination Control Statements in paragraph (b) of section 732.5 (Steps regarding shipper's export declaration or automated export system record, Destination Control Statements, And Recordkeeping); and
- The specific obligations imposed on parties to an SCL that appear in paragraph (d) of section 732.6 (Steps for other requirements).

Part 738—Commerce Control List Overview and the Country Chart

- References to the SCL in paragraph (b)(3) of section 738.4 (Determining whether a license is required), which provides a sample CCL entry for determining whether a license is required.

Part 743—Special Reporting and Notification

- The reporting requirement for exports of certain commodities, software, and technology controlled under the Wassenaar Arrangement when the items are authorized under the SCL procedure from paragraph (b)(2) of section 743.1 (Wassenaar Arrangement); and
- The reporting requirement for exports of certain items listed on the Wassenaar Arrangement Munitions List and the UN Register of Conventional Arms when those items are authorized under the SCL procedure from paragraph (b)(2) of section 743.4 (Conventional arms reporting).

Part 748—Applications (Classification, Advisory, and License) and Documentation

References and provisions related to the SCL in the following paragraphs:

- Paragraph (d), introductory text, of section 748.1 (General provisions), which provides that SCL export and reexport license applications are exempted from electronic filing requirements;
- Paragraph (h) of section 748.4 (Basic guidance related to applying for a license), which provides that emergency processing is not available for SCL applications;
- Paragraphs (a) (Scope) and (d) (Role of individual users) of section 748.7 (Registering for electronic submission of license application and related documents);
- Paragraph (a)(6) of section 748.9 (Support documents for license

applications), which provides that SCL applications are exempted from the support documents requirement;

- Paragraph (a)(1)(iii) of section 748.12 (Special provisions for support documents), which provides that an item removed from SCL eligibility would have a grace period of 45 days for complying with support documents requirements for a license application for the item; and
- The reference to SCL as a type of application in "Block 5," the entire "Block 8" of "Supplement No. 1 to Part 748-BIS-748P, BIS-748P-A; Items Appendix; and BIS-748P-B; End-User Appendix; Multipurpose Application Instructions".

Part 762—Recordkeeping

References and provisions related to the SCL in the following paragraphs:

- Paragraphs (b)(31) "§ 752.7, Direct shipment to customers," (b)(32) "§ 752.9, Action on SCL applications," (b)(33) "§ 752.10, Changes to the SCL," (b)(34) "§ 752.11, Internal Control Programs," (b)(35) "§ 752.12, Recordkeeping requirements," (b)(36) "§ 752.13, Inspection of records," (b)(37) "§ 752.14, System reviews," and (b)(38) "§ 752.15, Export clearance" of section 762.2 (Records to be retained).

Part 772—Definitions of Terms

- The definition of "Controlled in Fact" from section 772.1 (Definitions of terms as used in the Export Administration Regulations (EAR)).

Part 774—The Commerce Control List

- Reference to the SCL in the "REPORTING REQUIREMENTS" section of all applicable ECCNs.

Transition Guidance

BIS proposes that all SCLs would expire one year from the date of publication of a final rule that removes SCL provisions from the EAR, or the expiration date of the SCL under the particular terms of the license, whichever is earlier. During that transition period, which could be up to one year after the publication of the final rule, BIS will not accept amendments, including renewals, to outstanding SCLs. After the publication of the final rule, SCL holders may choose to apply for four-year individual licenses for exporting and reexporting items under the EAR or use available license exceptions. Finally, as with all transactions subject to the EAR, the applicable recordkeeping requirements under 15 CFR part 762 will continue to apply to SCL transactions until the applicable retention requirements are fulfilled.

Request for Comments

BIS seeks comments on this proposed rule. BIS will consider all comments received on or before October 30, 2014. All comments (including any personally identifying information or information for which a claim of confidentiality is asserted either in those comments or their transmittal emails) will be made available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via Regulations.gov, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. See methods for submitting comments in the ADDRESSES section of this rule.

Export Administration Act

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., 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and extended most recently by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), 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 as amended by Executive Order 13637.

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 a significant regulatory action, although not economically significant, under section 3(f) of Executive Order 12866 for purposes of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. This rule amends collections previously approved by the Office of Management and Budget (OMB) under Control Numbers 0694-0088, "Simplified Network Application Processing + System (SNAP+) and the

Multi-Purpose Application," which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS-748; 0694-0089, "Special Comprehensive License," which carries a burden hour estimate of 40 hours to complete an application, 30 minutes to complete annual extension requests, 4 hours to complete amendments, and six hours to perform recordkeeping and internal control program annual certifications; and 0694-0152, "Automated Export System (AES) Program," which carries a burden hour estimate of three minutes or 0.05 hours per electronic submission. This requirement has been submitted to OMB for approval.

The total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and the aforementioned OMB Control Numbers would be expected to decrease as a result of this proposed removal of part 752 of the EAR and related provisions this rule if the rule is eventually issued in final form, thereby reducing burden hours associated with approved collections related to the EAR.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce at the ADDRESSES above, and email to OMB at OIRA_Submission@omb.eop.gov, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person 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. Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*). The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted in final form,

would not have a significant economic impact on a substantial number of small entities.

Economic Impact. BIS believes this rule will reduce the economic impact on impacted entities because although this rule would eliminate the availability of the SCL, such entities could still obtain individual validated licenses from BIS to export their product. In fact, the other licenses available are less burdensome and require fewer compliance/reporting measures than those associated with SCL. It would be an overall reduction in burden for an SCL holder to transition to one of the other available licenses authorized under the EAR. For example, under the SCL, a license holder was required to implement a specific internal control program (ICP). Under a license established under the ECR, the impacted entities would be measured by their ultimate compliance with the EAR. Also with a license established under the ECR, SCL holders can transition to a four-year license through the validated license process. In addition, they have the availability of license exception Strategic Trade Authorization (STA), which allows shipments of higher-end controlled items than allowed under the SCL, when conditions are met. Also, impacted entities would have the convenience of applying for a license via the Simplified Network Application Process-Redesign (SNAP-R) System, an updated system for electronically filing export and reexport license applications.

Number of Small Entities. The types entities that would be directly impacted by this action include manufactures, oil and gas exploration and production companies, and exporters and reexporters of various equipment. Based on a review of current Special Comprehensive License (SCL) holders, there are less than a dozen entities that have outstanding licenses for items on the CCL. Due to the nature of the SCL, BIS expects that most of the current license holders would be considered large entities under the Small Business Administration's size standards. However, BIS does not collect data on the size or annual revenue of these entities, and thus some of these entities may be considered small under the SBA size standards. Also, although small entities are not the primary users of the SCL, BIS acknowledges that small entities may have been parties to SCL transactions. To assist in the evaluation of a significant economic impact of this rule on a substantial number of small entities, BIS welcomes comments to explain how and to what extent your business or organization could be affected, if your business or organization

is a small entity and if adoption of any of the amendments discussed in this proposed rulemaking could have a significant financial impact on your operations.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 732, 748, and 752

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

15 CFR Parts 738 and 772

Exports.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

15 CFR 774

Exports, Reporting and recordkeeping requirements.

Accordingly, under the authority of 50 U.S.C. 1701 *et seq.*, parts 730, 732, 738, 743, 748, 752, 762, 772 and 774 of the Export Administration Regulations (15 CFR parts 730-774) are proposed to be amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for part 730 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. 2151 note; 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. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; 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. 13099, 63 FR 45167, 3 CFR, 1998

Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of January 21, 2014, 79 FR 3721 (January 22, 2014); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 730.8 [Amended]

■ 2. Section 730.8 is amended by removing the next to last sentence in paragraph (a)(5).

Supplement No. 1 to Part 730 [Amended]

■ 3. Supplement No. 1 to Part 730 is amended by:

- a. Revising the entry in the "Reference in the EAR" Column for "Collection number" "0694-0088" to read "parts 746 and 748; § 762.2(b).";
- b. Removing the entire entry for "Collection number" "0694-0089"; and
- c. Removing the citations to "752.7(b)" and "752.15(a)" from the "Reference in the EAR" Column for "Collection number" "0607-0152".

PART 732—[AMENDED]

■ 4. The authority citation for 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 7, 2014, 79 FR 46959 (August 11, 2014).

■ 5. Section 732.5 is amended by revising the next to last sentence of paragraph (b) to read as follows:

§ 732.5 Steps Regarding Shipper's Export Declaration or Automated Export System Record, Destination Control Statements, And Recordkeeping.

* * * * *

(b) *Step 28: Destination Control Statement* * * * DCS requirements do not apply to reexports * * *

* * * * *

§ 732.6 [Amended]

■ 6. Section 732.6 is amended by removing and reserving paragraph (d).

PART 738—[AMENDED]

■ 7. 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 7, 2014, 79 FR 46959 (August 11, 2014).

§ 738.4 [Amended]

■ 8. Section 738.4 is amended by removing the phrase "or Special Comprehensive License" at the end of the sixth sentence in paragraph (b)(3).

PART 743—[AMENDED]

■ 9. The authority citation for part 743 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); 78 FR 16129; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 743.1 [Amended]

■ 10. Section 743.1 is amended by removing and reserving paragraph (b)(2).

§ 743.4 [Amended]

■ 11. Section 743.4 is amended by removing and reserving paragraph (b)(2).

PART 748—[AMENDED]

■ 12. 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 7, 2014, 79 FR 46959 (August 11, 2014).

§ 748.1 [Amended]

■ 13. Section 748.1 is amended by removing the phrase "Special Comprehensive License or" from the parenthetical in the first sentence in paragraph (d), introductory text.

§ 748.4 [Amended]

■ 14. Section 748.4 is amended by removing the next to last sentence in paragraph (h).

§ 748.7 [Amended]

■ 15. Section 748.7 is amended by removing the phrase "Special Comprehensive License and" from the parenthetical in the second sentence in paragraph (a) and from the parenthetical in the first sentence in paragraph (d).

§ 748.9 [Amended]

■ 16. Section 748.9 is amended by removing and reserving paragraph (a)(6).

§ 748.12 [Amended]

■ 17. Section 748.12 is amended by:

- a. Removing the semicolon and the word "or" at the end of paragraph (a)(1)(ii)

■ b. Adding a period at the end of paragraph (a)(1)(ii); and

■ c. Removing paragraph (a)(1)(iii).

Supplement No. 1 to Part 748 [Amended]

■ 18. Supplement No. 1 to Part 748 is amended by:

- a. Removing the next to last sentence and the caption, "Special Comprehensive License" that precedes it in paragraph "Block 5;" and
- b. Removing and reserving paragraph "Block 8".

PART 752—[REMOVED AND RESERVED]

■ 19. Remove and reserve part 752.

PART 762—[AMENDED]

■ 20. The authority citation for part 762 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 762.2 [Amended]

■ 21. Section 762.2 is amended by removing and reserving paragraphs (b)(31) through (38).

PART 772—[AMENDED]

■ 22. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 772.1 [Amended]

■ 23. Section 772.1 is amended by removing the definition "Controlled In Fact."

PART 774—[AMENDED]

■ 24. The authority citation for 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 7, 2014, 79 FR 46959 (August 11, 2014).

Supplement No. 1 to Part 774 [Amended]

■ 25. Supplement No. 1 to part 774 (the Commerce Control List) is amended by removing the phrase "Special

Comprehensive Licenses," wherever it is found.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014-23078 Filed 9-29-14; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM14-13-000]

Communications Reliability Standards

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to approve Communications Reliability Standard COM-001-2 and Operating Personnel Communications Protocols Reliability Standard COM-002-4, developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. The Commission believes that the proposed Reliability Standards will enhance reliability over the currently-effective COM standards in several respects by, among other things, requiring adoption of predefined communication protocols, annual assessment of those protocols and operating personnel's adherence thereto, training on the protocols, and use of three-part communications. However, the Commission proposes to direct NERC to modify proposed Reliability Standard COM-001-2 to include internal communications capabilities.

DATES: Comments are due December 1, 2014.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through <http://www.ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional

information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Vincent Le (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-6204, Vincent.le@ferc.gov.

Michael Gandolfo (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-6817, Michael.gandolfo@ferc.gov.

Julie Greenisen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502-6362, julie.greenisen@ferc.gov.

Robert T. Stroh (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502-8473, Robert.Stroh@ferc.gov.

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act (FPA),¹ the Commission proposes to approve two Reliability Standards, COM-001-2 (Communications) and COM-002-4 (Operating Personnel Communications Protocols), developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. In addition, the Commission proposes to approve three new terms to be added to the NERC Glossary of Terms, and the violation risk factors, violation severity levels, and proposed implementation plan for both revised standards.

2. Proposed Reliability Standard COM-001-2 is intended to establish a clear set of requirements for the communications capabilities that applicable functional entities must have in place and maintain. Proposed Reliability Standard COM-002-4 requires applicable entities to develop communication protocols with certain minimum requirements, including use of three-part communication when issuing Operating Instructions.²

¹ 16 U.S.C. 824o (2012).

² NERC proposes to define Operating Instruction as "[a] command by operating personnel responsible for the Real-time operation of the interconnected Bulk Electric System to change or preserve the state, status, output, or input of an Element of the Bulk Electric System or Facility of the Bulk Electric System. (A discussion of general

Proposed Reliability Standard COM-002-4 also sets out certain communications training requirements for all issuers and recipients of Operating Instructions, and establishes a flexible enforcement approach for failure to use three-part communication during non-emergencies and a "zero-tolerance" enforcement approach for failure to use three-part communications during an emergency.

3. The Commission believes that the proposed Reliability Standards will enhance reliability over the currently-effective COM standards in several respects. For example, the proposed Reliability Standards expand applicability to include generator operators and distribution providers and eliminate certain ambiguities in the currently-effective standard. Thus, the Commission proposes to approve the modified COM standards. However, the Commission seeks additional information and explanation on responsibility for use of three-part communication by transmission owners and generation owners that receive Operating Instructions. In addition, the Commission proposes to direct NERC to modify proposed Reliability Standard COM-001-2 to include internal communication capabilities, and seeks additional information on the lack of a testing requirement for distribution providers and generator operators in COM-001-2 and on the intended meaning and use of the proposed terms Interpersonal Communication and Alternative Interpersonal Communication.

I. Background

A. Regulatory Background

4. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.³ Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or by the Commission independently.⁴ In 2006, the Commission certified NERC as the ERO pursuant to FPA section 215.⁵

5. The Commission approved Reliability Standard COM-001-1 in

information and of potential options or alternatives . . . is not considered an Operating Instruction.)"

³ 16 U.S.C. 824o(c) and (d).

⁴ See *id.* 824o(e).

⁵ *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g & compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

RECORD OF PUBLIC COMMENTS

PROPOSED RULEMAKING: *Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions, 79 FR 66288 (September 30, 2014)*

Comments due October 30, 2014

No.	SOURCE	SIGNER(S) OF COMMENT	DATE	NUMBER OF PAGES
1.	Western Geco LLC	John Elmer	11/21/14	2
2.	Petroleum Geo-Services, Inc.	Maria Ragazzo	11/27/14	2
3.	Oceaneering International, Inc.	Kevin F. Kerins	11/29/14	10



WesternGeco LLC
10001 Richmond Ave.
Houston, TX 77042
USA

October 17, 2014

US Department of Commerce
Bureau of Industry and Security
14th Street and Pennsylvania Ave. NW
Washington, D.C. 20230
USA

Re: Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions

As per the notification in the Federal Register, WesternGeco is aware that BIS is proposing to discontinue the Special Comprehensive License Program.

WesternGeco is a global Oilfield Seismic Service company and as such exports many dual-use items to many different end-users and consignees to a variety of different countries.

As WesternGeco is committed to compliance with all export controls under the Export Administration Act and the Export Administration Regulations, we do have some comments as to how the discontinuation of the SCL program will impact our Company.

- Currently WesternGeco holds 1 special comprehensive license. With the removal of this license we will be required to maintain multiple export and re-export licenses due to the number of consignees, end-users and dual-use products that WesternGeco moves between distribution hubs, seismic vessels and manufacturing/repair centers.
- Currently, amendments requests are made to our existing SCL approximately two times per year. These requests are typically for additions of End Users/Consignees, end destination countries, commodities and change to quantity/value of our controlled items. As we would be unable to make amendments to export/re-export licenses, this will increase the number of licenses managed, requiring additional internal resources and increasing the chance of accidental administrative inaccuracy.
- In addition the longer processing time required to obtain a new license (vs update to SCL) could pose a risk to WesternGeco's ability to bid for new business, as the nature of the oilfield business can have limited lead time for new opportunities. If export/re-export licenses could be issued to include all countries except for those under sanction/embargo; this would mitigate this risk. Would BIS entertain this as a possibility for the replacement licenses?
- Additionally, with increased number of licenses used on our transactions, this leaves room for increased administrative inaccuracy by freight forwarders.
- As an alternative to using export licenses, BIS has made available many license exemption options to Exports. However, the majority of our commodities fall under ECCN 6A001.a.2; and

WesternGeco LLC
October 17, 2014
Page 2

since the only license exemption allowed would be TMP (Temporary Export), this is not a practical or viable solution for the nature of our operations.

For the above listed reasons, WesternGeco supports the continuance of the existing Special Comprehensive License Program. Notwithstanding the foregoing, WesternGeco is dedicated to ensuring the integrity of our internal Trade Compliance procedures, and will adhere to any and all future changes to the EAR. Regardless of any changes, WesternGeco will continue to fulfill all requirements of US and international laws and conventions.

Regards,



John Elmer
Trade Compliance and Customs Manager
Tel.: 713-689-6887
Email: jelmer@slb.com



October 27, 2014

Thomas Andrukonis
Director, Export Management and Compliance Division
Office of Exporter Services
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
Room 2099B
14th Street and Pennsylvania Avenue NW
Washington, DC 20230

Re: RIN 0694—AG13; Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions

Dear Mr. Andrukonis:

By notice published September 30, 2014, the Bureau of Industry and Security (BIS) proposed amendments to the Export Administration Regulations (EAR), particularly the removal of the Special Comprehensive License (SCL) authorization (hereinafter referred to as the "Proposed Amendment"). 79 Fed. Reg. 58704. In response to the Proposed Amendment, Petroleum Geo-Services ("PGS" or the "Company") submits these comments in response to the Proposed Amendment. PGS is the holder of SCL V000008-3, validated on August 30, 2013, with a current expiration date of August 31, 2017.

PGS generally supports the updates to the general licensing policy resulting from the implementation of the President's Export Control Reform. However, PGS requests that BIS's general licensing policy going forward continues to recognize the benefits provided by the SCL authorization program. The Company thus requests that BIS revoke the Proposed Amendment and continue the SCL authorization program.

BIS recognizes in the Proposed Amendment that "the SCL made licensing more efficient and practical by consolidating authorizations for activities (e.g., bulk exports and reexports of items as well as certain other activities)..." PGS wholeheartedly agrees with this conclusion. However, BIS also states in the Proposed Amendment that "the advantages [the SCL authorization program] provided have been overtaken by changes to the EAR", including the ability via a single Validated License to export items to multiple destinations, to multiple approved end users, and for a period of up to four years. While PGS agrees that the current Validated License program offers these advantages, which were previously only available via an SCL, there are additional advantages the SCL offers to the Company that do not (and to a great extent, could not) exist within the Validated License program. These advantages are discussed below.

Ease of Tracking and Compliance with License Conditions. An advantage to the SCL is that the SCL is a single license, and is therefore much easier for PGS to track. Given the volume of PGS's business, removal of the SCL authorization program would force the Company to apply for, and track, a large number of Validated Licenses, each with its own expiration date. It would also, of course, require BIS and other U.S. government agencies to consider each and every individual Validated License application submitted by PGS, rather than being able to consider only a single SCL application.



Initial Validity Period. The SCL has a four-year validity period, just as a Validated License can be granted for up to four years. However, a Validated License's validity period is not automatically four years, as the validity period is entirely within government discretion. To the extent that PGS would be unable to plan on a four-year validity period when applying for an individual Validated License, this fact would make planning for medium- and long-term operations onerous.

Extensions. In addition, unlike the Validated License program, the SCL program allows for an SCL to be extended for an additional four years, without submitting an entirely new SCL application. Although a Validated License can be extended beyond its initial validity period, this extension is available on a case-by-case basis only. The process for requesting such an extension to the validity period of a Validated License is also more onerous, and the extension to be granted would not necessarily be for another four years, but would in all likelihood be a much shorter time period.

Amendments. The SCL process gives the Company the ability to submit amendments to the SCL without being required to submit a new SCL application. The ability to add or remove end users, change the names of end users, add licensable equipment to be exported or reexported, etc. all make the SCL a beneficial resource for high-volume exporters with a global presence, like PGS. Making many of these types of amendments to a Validated License, under the current process, is not possible. Rather, BIS requires a Validated License holder to submit a new application for a Replacement License. Due to the nature of PGS's business, PGS must make amendments to the SCL on a regular basis. If PGS had to switch to using Validated Licenses, it would be extremely onerous to apply for a Replacement License or a new Validated License every time that an amendment to an existing Validated License needed to be made.

The SCL also contains a single set of license conditions. This set of license conditions apply to all transactions performed by PGS pursuant to the SCL, and thus, the SCL makes it easier for PGS to ensure compliance with all relevant license conditions for any individual transaction. It is the Company's experience that license conditions can and do vary from one Validated License to the next. It is thus almost certain that the license conditions imposed on the Company would vary from Validated License to Validated License. Given the large number of Validated Licenses that PGS would need for its operations, this would make compliance with all the different sets of license conditions very difficult, if not next to impossible.

PGS appreciates the advantages the SCL program offers, which allows the Company to operate its business effectively, with minimal interruptions, and in compliance with U.S. export control laws and regulations. PGS believes that the SCL program offers both efficiency to PGS, as well as effectiveness, as the Company believes that its compliance obligations are much more easily met by operating its business pursuant to a single SCL. For these reasons, we urge BIS to maintain the benefits of SCL authorization for PGS and for similarly situated exporters, and revoke the Proposed Amendment.

Sincerely,

A handwritten signature in blue ink that reads "Maria Ragazzo".

Maria Ragazzo
Head of Legal, North and South America
Petroleum Geo-Services

Oceaneering International, Inc.

11911 FM 529
Houston, Texas 77041-3000
Telephone: (713) 329-4500
Fax: (713) 329-4951
www.oceaneering.com

October 29, 2014

Via E-Mail (publiccomments@bis.doc.gov)

Ms. Hillary Hess
Director, Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
14th Street and Pennsylvania Avenue, N.W.
Room 2099B
Washington, DC 20230

Re: Oceaneering International, Inc.: Comments in Response to Proposed Rule Regarding Removal of Special Comprehensive License Provisions (RIN 0694-AG13)

Dear Ms. Hess:

Oceaneering International, Inc. ("Oceaneering" or "the Company") submits these comments in response to the proposed rule published in the *Federal Register* on September 30, 2014, titled "Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions" (the "Proposed Rule").¹ Oceaneering has held a Special Comprehensive License ("SCL") issued by the Bureau of Industry and Security ("BIS") for more than three years. This authorization has provided Oceaneering with needed flexibility as it competes in the fast-moving international marketplace for subsea remotely operated vehicles ("ROVs") to support oil and gas exploration and production. Today, Oceaneering is the largest provider in the world of Work Class ROVs, and has been strengthening and investing in its U.S. manufacturing base in southern Louisiana.

For the reasons set forth herein, Oceaneering respectfully requests that BIS *not* remove the SCL authorization in Part 752 of the Export Administration Regulations ("EAR"). Removal of the SCL authorization would have a significant negative impact on Oceaneering and put it at a competitive disadvantage with respect to foreign ROV manufacturers, who generally function under less restrictive export control regimes or with the benefit of flexible licensing such as the SCL affords. Indeed, if Oceaneering is no longer able to rely on the SCL, it may need to shift

¹ 79 Fed. Reg. 58,704 (Sept. 30, 2014).

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 2

more of its ROV production to its manufacturing site in the United Kingdom, since none of the proposed alternatives cited by BIS would fill the void that elimination of the SCL would create.

Oceaneering respectfully submits that BIS weigh these negative consequences against the benefits it cites of removing the SCL, which appear to be centered on streamlining the regulations and removing an authorization that a few exporters described as being burdensome in its compliance requirements.

Below, we set forth background on Oceaneering and its ROV operations, and provide details about Oceaneering's reliance on its SCL. We then explain why the benefits of the SCL outweigh any compliance burdens, discuss the economic harm Oceaneering would sustain if the SCL were eliminated, and explain why Oceaneering believes the SCL advances U.S. national security and foreign policy interests.

I. Background

A. Oceaneering and Its ROV Business Operations

Oceaneering, headquartered in Houston, Texas, was founded in 1964 in Morgan City, Louisiana as an air and mixed-gas diving business operating in the Gulf of Mexico. The Company has since grown to be a global provider of diversified engineered products and services, primarily to the offshore oil-and-gas industry.

Oceaneering's ROV business line is the largest manufacturer and operator of Work Class² ROVs worldwide, and is the leading provider of ROVs to the oil and gas industry. Oceaneering manufactures its ROVs in Morgan City, Louisiana and Aberdeen, Scotland.

The ROVs Oceaneering manufactures in the United States are controlled for export purposes on the Commerce Control List ("CCL") of the EAR. Many of these ROVs are controlled under Export Control Classification Number ("ECCN") 8A001.c.2 because they (a) are unmanned and tethered, (b) are designed to operate at depths exceeding 1,000 meters, and (c) have a fiber-optic data link between the ROV and a control system aboard the rig or vessel from which the ROV is operated. These ROVs, which Oceaneering currently exports and reexports under the authority of its SCL, are described herein as "Controlled ROVs."

The Controlled ROVs are used to perform a variety of drill support and underwater construction services for oil and gas companies (and their contractors/subcontractors) in the U.S. Gulf of Mexico and offshore of numerous other oil-and-gas producing countries. Oceaneering's ROV business model involves assignments of a repetitive nature that include regular exports and

² The Work Class ROV is a type of ROV that is powered both hydraulically and electronically, and is capable of performing subsea work (rather than just taking subsea images or video). It is typically equipped with a manipulator and grabber, and can be modified for specific applications. The Work Class ROV is commonly used in deepwater exploration and production, including for drilling and construction, pipeline inspection, and salvage efforts.



Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 3

reexports of ROVs for various reasons, including: shipment to a foreign location for mobilization (installation) on a vessel or rig; travel onboard the vessel/rig on which the ROV has been mobilized for deployment at the initial work location, which may be offshore of a different country than the country where mobilization occurred; travel onboard the vessel/rig to new work location(s) offshore of different countries; and demobilization (removal) from the vessel/rig and shipment to a different foreign country for mobilization on a new vessel/rig, or to an onshore Oceaneering location for storage, maintenance, or upgrade. Oceaneering maintains ownership and control over its ROVs from the time they are mobilized aboard rigs and vessels until they are demobilized, often after several years of use.

B. Oceaneering's Reliance on its SCL

Oceaneering relies heavily on its SCL. At present, for example, Oceaneering has 325 Controlled ROVs deployed around the world. Of these, 109 Controlled ROVs are deployed in or offshore of the United States, and 216 are deployed in or offshore of foreign countries, including 108 in locations that require authorization from BIS.

Oceaneering has exported or reexported 80 Controlled ROVs to these countries under the authority of its SCL. The remaining 28 Controlled ROVs deployed to these countries were exported or reexported under individual licenses ("IVLs") issued by BIS prior to Oceaneering's receipt of the SCL. When Oceaneering needs to deploy these 28 ROVs to different countries, it plans to rely on the SCL to do so, assuming that authorization is still available.

Oceaneering also relies on its SCL to export and reexport EAR-controlled spare parts for its ROVs, such as fiber-optic umbilical cables (ECCN 8A002.a.3), transponders (ECCN 6A001.a.1.d), and underwater television equipment (ECCN 8A002.d.1). As ROV components grow more sophisticated, Oceaneering increasingly must deploy controlled spare parts to replace components classified as EAR99 (e.g., the replacement of a black-and-white standard definition camera on an ROV with a high-definition color camera).

C. The Competitive Environment

Oceaneering competes with numerous foreign suppliers of ROV services. Many of these foreign suppliers build their own ROV systems or purchase systems from ROV manufacturers outside the United States. Moreover, many of these foreign companies appear to face less stringent export-related restrictions on their ROVs than does Oceaneering.

Unmanned, tethered submersibles such as the Controlled ROVs do appear on the Wassenaar Arrangement's Sensitive List of Dual-Use Goods and Technologies at 8.A.1.c, and some (although not all) of Oceaneering's major competitors are based in Wassenaar member countries such as the United Kingdom. However, the United Kingdom and numerous other Wassenaar member countries have broadly authorized the export of 8.A.1.c unmanned, tethered submersibles under global/general licenses or license exceptions. For example, the United Kingdom has issued Open General Export License (oil and gas exploration: dual-use items), which permits any item listed in an attached "Schedule 1"—including unmanned, tethered submersibles—to be exported from the United Kingdom, or from any other EU Member

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 4

State "by any person established in the United Kingdom," to any of the destinations listed in a schedule, subject to certain conditions. The Open General Export License's ("OGEL's") schedule of eligible destinations is long, and includes many countries for which the EAR require licensing to export/reexport Controlled ROVs and for which License Exception Strategic Trade Authorization (License Exception STA) is unavailable; these include a number of countries to which Oceaneering deploys its Controlled ROVs. The UK also offers fast (generally two-week) processing on flexible, individualized licenses, which impose significantly less restrictive conditions on their use than IVLs issued by BIS, including (but not limited to) fewer restrictions on reexports.

In short, Oceaneering faces a highly competitive international marketplace for its ROV services, and for the reasons described below, Oceaneering's SCL is critical to enabling the Company to compete effectively for business with its foreign competitors while continuing to manufacture Controlled ROVs in the United States. Thus, it is especially important to the Company—and to its ability to maintain its U.S. manufacturing base—to be able to comment on the Proposed Rule.

II. Reasons the SCL Authorization Should Be Retained

A. The Benefits of the SCL Greatly Outweigh Its Burdens

In Oceaneering's case, the administrative and compliance benefits of its SCL greatly outweigh any administrative burden it imposes.

Before Oceaneering received its SCL, it had to submit numerous, repetitive applications for IVLs to mobilize and deploy Controlled ROVs abroad. In fact, between August 2008 and January 2011 (when Oceaneering applied for its SCL), Oceaneering applied for and obtained 148 IVLs for the export and reexport of its Controlled ROVs and 14 IVLs for spare parts.

Not only was applying for IVLs tedious, time-consuming, and repetitious, it also made it difficult for Oceaneering to bid on short-term work that required the immediate transfer of a Controlled ROV to a new vessel or rig. Per instructions from BIS, Oceaneering had to apply for and obtain a new IVL whenever it transferred an ROV to a vessel/rig not specified on the original IVL.

Further, Oceaneering sometimes had to rely on IVLs for the export and reexport of controlled spare parts for its ROVs. Oceaneering was in some circumstances able to use two license exceptions for spare parts' exports—license exceptions for Shipments to Country Group B Countries (License Exception GBS) and for Servicing and Replacement of Parts and Equipment (License Exception RPL). However, restrictions on the use of those exceptions significantly limited Oceaneering's ability to benefit from them. For example, the Company lacked the flexibility to export critical, controlled spare parts for storage in its warehouses abroad under License Exception RPL, because the license exception expressly excludes from its coverage exports of parts, components, accessories, or attachments to be held abroad as spares for

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 5

future use.³ Thus, the Company could only rely on the license exception to rapidly deploy a part to a disabled ROV at a high cost when the need for a replacement part arose. Oceaneering also could not rely on License Exception RPL to replace components classified as EAR99 with spare parts controlled under ECCNs, because the license exception only authorizes a "one-for-one" replacement of parts that were previously lawfully exported/reexported.⁴ Moreover, Oceaneering often could not rely on License Exception GBS, because that license exception authorizes exports and reexports of only a fraction of the controlled spare parts needed for the Company's ROVs.

Oceaneering's SCL has nearly eliminated the Company's need for IVLs in its ROV business. Because Oceaneering affiliates are listed as ultimate consignees on the SCL rather than the vessels and rigs to which the Controlled ROVs are deployed, the SCL permits Oceaneering to transfer Controlled ROVs (within the authorized territory, and within the terms of the SCL) among rigs and vessels without seeking separate licensing. Oceaneering also is able to rely on its SCL rather than IVLs or restrictive license exceptions to transfer controlled spare parts for ROVs. This gives Oceaneering the flexibility to bid on short-term work that would require the immediate transfer of a Controlled ROV or spare part to a new vessel or rig.

Moreover, the stringent requirements for obtaining and relying on an SCL caused Oceaneering to develop a robust Internal Control Program that has had a positive impact on reinforcing EAR compliance at the Company. Oceaneering submits that BIS should not view the compliance requirements of the SCL as a reason to eliminate it. Rather, the compliance obligations of the SCL have a positive impact by promoting BIS's goal of ensuring compliance with the EAR, for those who choose to use the SCL.

B. No Current Alternatives Replace the SCL

Importantly, *none* of the changes to the EAR described in the preamble to the Proposed Rule as "facilitat[ing] more efficient and practical means of exporting, reexporting and transferring (in-country) items subject to . . . the EAR without the burdens imposed by an SCL" would make up for Oceaneering's loss of its SCL—or even come close to doing so.⁵

1. License Exception STA

In the preamble to the Proposed Rule, BIS touts the relatively recent availability of License Exception STA as supplanting the need for SCL authorizations. However, License Exception STA does not solve Oceaneering's authorization needs.

³ EAR § 740.10(a)(3)(ii).

⁴ EAR § 740.10(a).

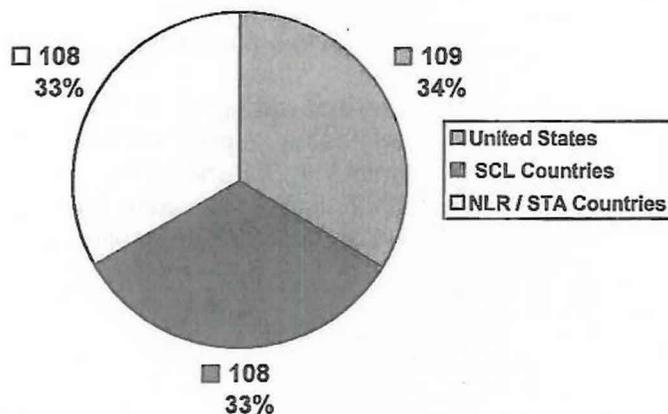
⁵ 79 Fed. Reg. 58,704, at 58,705, 58,707.

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 6

Of the Controlled ROVs that Oceaneering currently has deployed abroad, approximately one-third are deployed to countries for which export licensing is required and License Exception STA is unavailable. These Controlled ROVs are currently working in or offshore of 16 countries that are not in Country Group A:5 (Part 740, Supp. No. 1 of the EAR), to which License Exception STA exports and reexports can be made. Further, ECCN 8A001 ROVs are not eligible for export to the STA countries in Country Group A:6.

The pie chart below shows the respective numbers and percentages of Oceaneering's Controlled ROVs currently deployed to the United States, no-license-required ("NLR") countries and/or countries eligible for exports under License Exception STA, and countries for which export licensing is required and License Exception STA is unavailable ("SCL countries"). As this information clearly indicates, the availability of License Exception STA does not eliminate or even significantly limit Oceaneering's need for its SCL.

Controlled ROV Deployments Worldwide



2. License Exception TMP

License Exception TMP also does not provide a workable, alternative avenue for Oceaneering to export and reexport Controlled ROVs without relying on a license. Section 740.9(a) of the EAR provides that exporters cannot rely on this license exception to export/reexport a Controlled ROV if they have prior knowledge that the ROV will remain abroad beyond the one-year term of the license exception, as is often the case with ROVs. For example, the installation of an ROV onto a drilling rig or vessel requires heavy-lift cranes and can take up to a month. After installation, it can be difficult to predict the length of time the ROV will remain abroad, which in many cases can be for years.

Further, if Oceaneering were to learn after an ROV's export/reexport that the ROV would need to remain abroad for more than one year, the Company would need to apply for an IVL to authorize its retention of the ROV abroad past the one-year mark. As described above, IVLs are a cumbersome authorization vehicle for ROV exports/reexports.

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 7

3. *IVL-Related Improvements*

It is true that Oceaneering could now obtain IVLs with a four-year (or potentially longer) validity period, rather than a two-year validity period. However, ROVs move frequently to new locations, and thus a longer license validity period is not necessarily advantageous, and certainly does not substantially alleviate Oceaneering's licensing burdens if the SCL is eliminated.

Additionally, in Oceaneering's experience, the process and procedures for obtaining IVLs are not noticeably simpler or more expeditious than they were when the Company first received its SCL in August 2011. SNAP-R dates to 2006 and thus is not new; the Company used SNAP-R to file IVLs prior to receiving its SCL. Application processing times also have not grown appreciably shorter. Indeed, BIS has reported that its average processing time to review a license application was 29 days in fiscal year 2010,⁶ and 26 days in fiscal year 2013.⁷

Finally, unlike the SCL, the "option to export, reexport, or transfer (in-country) to and among approved end-users on a[n] [IVL], under certain conditions,"⁸ would not allow Oceaneering to bid on short-term work that would require the immediate transfer of a Controlled ROV to a new vessel or rig not specifically identified as an ultimate consignee on the existing IVL. Rather, given BIS's approach to ROV license applications, Oceaneering would have to apply for and obtain a new IVL to transfer the ROV to the new vessel/rig.

4. *VEU Program*

The Validated End-User ("VEU") Program also would not be of benefit to Oceaneering in its current form. VEUs are currently limited to a handful of Chinese and Indian companies, none of which do business with Oceaneering or even appear to operate in the oil and gas sector.

In sum, none of the regulatory alternatives that BIS has discussed in the preamble to the Proposed Rule eliminates the unique and important advantages that the SCL provides to at least some exporters, such as Oceaneering.

C. Benefits of the SCL to BIS and Other Exporters

In support of removing the SCL authorization from the EAR, the preamble to the Proposed Rule notes that the "U.S. Government [] incurs high costs in administering and enforcing the SCL program internationally for [the] limited number of SCL holders, whose licenses involve a low volume of trade."⁹ While Oceaneering must defer to BIS on the costs of administering and

⁶ Bureau of Industry and Security, *Annual Report to the Congress for Fiscal Year 2010*, at 6, available at http://www.bis.doc.gov/index.php/forms-documents/doc_view/656-bis-annual-report-2010.

⁷ Bureau of Industry and Security, *Annual Report to the Congress for Fiscal Year 2013*, at 8, available at http://www.bis.doc.gov/index.php/forms-documents/doc_view/866-bis-annual-report-to-congress-for-fiscal-year-2013.

⁸ See 79 Fed. Reg. 58,704, at 58,705.

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 8

enforcing the SCL program, and cannot speak to the volume of trade in which other SCL holders may engage, the Company respectfully submits that its SCL has saved BIS from having to process and administer several hundred IVLs that the Company otherwise would have had to submit to meet business needs. Oceaneering is willing to work closely with BIS to help reduce future costs to the U.S. Government of administration of its SCL. For example, the Company would be willing to send employees to Washington to meet with BIS officials in order to reduce the cost to BIS of SCL audits.

As for the administrative burden that the SCL may impose on other SCL holders, Oceaneering believes that its fellow SCL holders are capable of evaluating whether the benefits of the SCL outweigh any administrative burdens it imposes. Just because two public comments from industry in 2012 expressed reservations about the benefits of the SCL does not mean that other U.S. companies like Oceaneering do not benefit significantly from the license.¹⁰ Maintaining the status quo merely gives U.S. companies the *opportunity* to avail themselves of the SCL if they determine that the license's benefits outweigh its burdens. No companies need do so if in their particular situations the benefits do not outweigh the burdens, as they do for Oceaneering.

III. Eliminating the SCL Would Significantly Harm Oceaneering's Southern Louisiana Manufacturing Base

Since Oceaneering's founding in Morgan City, Louisiana 50 years ago, it has invested heavily in Morgan City's economy. Although Oceaneering is now headquartered in Houston, Texas, the Company has remained committed to Morgan City, and continues to make Morgan City its base for the development and manufacture of ROV systems in the United States.

Oceaneering's SCL has made it possible for the Company to compete with its foreign competitors using Controlled ROVs, allowing Oceaneering to ramp up its domestic manufacture of Controlled ROVs in Morgan City. In 2012, Oceaneering completed construction of a new, 30,000-square-foot manufacturing facility in Morgan City at a cost of \$5.7 million. This capital investment directly created 200 new jobs (paying an average wage of \$60,000 per year) in a state whose economy was battered by Hurricane Katrina and the Deepwater Horizon oil spill, and was estimated to indirectly create another approximately 400 jobs.¹¹

⁹ *Id.*

¹⁰ BIS quotes these two comments in its preamble to the Proposed Rule. *See id.* Notably, however, neither comment unequivocally called for the elimination of the SCL without a comparable substitute. One comment merely advocated clarifying and simplifying the SCL, and expanding its scope—not eliminating it. *See* TechAmerica Comments on Retrospective Regulatory Review Under E.O. 13563, at 2-3 (Feb. 1, 2012). The other comment suggested that the SCL "may no longer be practical," and recommended "either the deletion of this section or for it to be replaced with an Intra-Company License." *See* General Electric Company Comments on Retrospective Regulatory Review Under E.O. 13563, at 3 (Feb. 1, 2012).

¹¹ Leslie Turk, *Oceaneering adding 200 jobs at MC facility*, *Acadiana Business*, Apr. 10, 2012.

Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 9

Oceaneering today manufactures approximately \$200 million worth of ROV systems annually in Morgan City, and has plans to spend \$9.4 million to build a new warehouse complex in Morgan City to support its ROV business. Oceaneering also spends approximately \$130 million annually on ROV parts, components, and materials sourced from the United States, and pays approximately \$20 million annually to U.S. companies to ship its ROV systems globally.

However, if BIS terminates Oceaneering's SCL, it could force the Company to shift a significant portion of its ROV manufacturing to the United Kingdom in order to compete effectively with its major foreign competitors, and may call into question the construction of the planned new warehouse complex. Such a move would result in the loss of numerous jobs in Morgan City, and significantly reduce the amount the Company spends on ROV parts, components, and materials sourced from the United States.

IV. The SCL Strengthens U.S. National Security and Foreign Policy

The Proposed Rule does not suggest that eliminating the SCL furthers U.S. national security or foreign policy. This is unsurprising, since the SCL provides an impetus for companies like Oceaneering to develop and implement comprehensive Internal Control Plans that facilitate compliance with the EAR. These plans are reviewed by BIS and compliance with them is subject to BIS audit. Oceaneering's SCL also does not increase diversion risk by imposing less rigorous conditions on its use than did Oceaneering's IVLs. Rather, the SCL contains the same license conditions previously agreed to by the Defense Technology Security Administration and BIS for Oceaneering's IVLs.

In sum, the benefits to Oceaneering of its SCL have greatly outweighed the burdens the license has imposed, and if BIS were to eliminate the SCL it would make it very difficult for the Company to compete with its major competitors in the ROV industry without shifting its ROV development and production focus to its facility abroad. Oceaneering also believes that the SCL may benefit BIS and other SCL holders, advances U.S. national security and foreign policy interests, and keeps ROV technical advancements and new developments in the United States at our Morgan City facility as opposed to the United Kingdom. Accordingly, Oceaneering respectfully submits that BIS should not eliminate the SCL, but instead maintain the status quo and give the Company and its fellow SCL holders the opportunity to continue to rely on the SCL for exports and reexports should they elect to do so.

* * * * *

Please do not hesitate to contact the undersigned, by telephone at (713) 329-4780 or by e-mail at kkerins@oceaneering.com if you have any questions or need any additional information. You also may contact our outside counsel on export control matters at Covington & Burling LLP: Kim Strosnider (kstrosnider@cov.com; (202) 662-5816) or Steve Bartenstein (sbartenstein@cov.com; (202) 662-5471).

Thank you very much for considering these comments.



Ms. Hillary Hess
Regulatory Policy Division
October 29, 2014
Page 10

Respectfully submitted,

OCEANEERING INTERNATIONAL, INC.

A handwritten signature in black ink, appearing to read "Kevin F. Kerins". The signature is fluid and cursive, with a large initial "K" and "F".

Kevin F. Kerins
Senior Vice President – ROVs

cc: Thomas Andrukonis, Director, Export Management and Compliance Division