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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 160106014-6728-04]

RIN 0694-AG82

Temporary General License: Extension of Validity

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: On March 24, 2016, the Bureau of Industry and Security (BIS) published a final rule, Temporary General License. The March 24 final rule created a temporary general license that restored, for a specified time period, the licensing requirements and

policies under the Export Administration Regulations (EAR) for exports, reexports, and transfers (in-country) as of March 7, 2016, to two entities (ZTE Corporation and ZTE Kangxun) that were added to the Entity List on March 8, 2016. At this time, the U.S. Government has decided to extend the temporary general license until February 27, 2017. In order to implement this decision, this final rule revises the temporary general license to remove the expiration date of November 28, 2016, and to substitute the date of February 27, 2017. This final rule makes no other changes to the EAR.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through February 27, 2017. The expiration date of the final rule published on March 24, 2016 (81 FR 15633) is extended until February 27, 2017.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, E-mail: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2016, the Bureau of Industry and Security (BIS) published a final rule, Temporary General License (81 FR 15633). The March 24 final rule amended the EAR

by adding Supplement No. 7 to part 744 to create a temporary general license that returned, until June 30, 2016, the licensing and other policies of the EAR regarding exports, reexports, and transfers (in-country) to Zhongxing Telecommunications Equipment (ZTE) Corporation and ZTE Kangxun to that which were in effect prior to their addition to the Entity List on March 8, 2016.

On June 28, 2016, BIS published a final rule, Temporary General License: Extension of Validity (81 FR 41799), which extended the validity of the temporary general license until August 30, 2016. On August 19, 2016, BIS published a final rule, Temporary General License: Extension of Validity (81 FR 55372), which extended, for a second time, the validity of the Temporary General License until November 28, 2016. Details regarding the scope of the listing are at 81 FR 12004 (Mar. 8, 2016), (“Additions to the Entity List”). Details regarding the Temporary General License can be found in the March 24 final rule and in Supplement No. 7 to Part 744 – Temporary General License.

BIS issued the March 24 final rule, and the June 28 and August 19 extension of validity final rules, in connection with a request to remove or modify the listings. The March 24 final rule, and the June 28 and August 19 final rules, specified that the temporary general license was renewable if the U.S. Government determined, in its sole discretion, that ZTE Corporation and ZTE Kangxun were performing their undertakings to the U.S. Government in a timely manner and otherwise cooperating with the U.S. Government in resolving the matter which led to the two entities’ listing.

At this time, the U.S. Government has decided to extend the temporary general license until February 27, 2017. In order to implement this U.S. Government decision, this final rule revises the temporary general license to remove the date of November 28, 2016, and substitute the date of February 27, 2017. This final rule makes no other changes to the EAR.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 4, 2016, 81 FR 52587 (August 8, 2016), has continued the Export Administration Regulations 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, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not

significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K_Seehra@omb.eop.gov, or by fax to (202) 395-7285.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). If this rule were delayed

to allow for notice and comment and a delay in effective date, then the national security and foreign policy objectives of this rule would be harmed. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subject in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; 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. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; 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; Notice of November 12,

2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016).

Supplement No. 7 to Part 744 – [AMENDED]

2. In Supplement No. 7 to part 744, remove “November 28, 2016” and add in its place “February 27, 2017”.

Dated: November 14, 2016

Kevin J. Wolf,

Assistant Secretary for Export Administration

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