



BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744 and 762

[Docket No. 200512-0135]

RIN 0694-AH97

Temporary General License: Extension of Validity

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The U.S. Government has decided to extend through August 13, 2020, the temporary general license to Huawei Technologies Co., Ltd. (Huawei) and one hundred and fourteen of its non-U.S. affiliates on the Entity List. In order to implement this decision, this final rule revises the temporary general license to remove the expiration date of May 15, 2020, and substitutes the date of August 13, 2020. In addition, BIS sought public comments regarding future extensions of the Huawei TGL (85 FR 14428, March 12, 2020) and is in the process of reviewing those comments.

DATES: This rule is effective May 15, 2020, through August 13, 2020. The expiration date of the final rule published on February 18, 2020 (85 FR 8722), is extended until August 13, 2020.

FOR FURTHER INFORMATION CONTACT: Director, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, Phone: (949) 660-0144 or (408) 998-8806 or e-mail your inquiry to: ECDOEXS@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

As published on May 22, 2019 (84 FR 23468), extended and amended through a final rule published on August 21, 2019 (84 FR 43487), and as currently extended through a final rule published on March 12, 2020 (85 FR 14416), this temporary general license authorizes certain activities, including those necessary for the continued

operations of existing networks and equipment as well as the support of existing mobile services, including cybersecurity research critical to maintaining the integrity and reliability of existing and fully operational networks and equipment. Exporters, reexporters, and transferors are required to maintain certifications and other records, to be made available when requested by BIS, regarding their use of the temporary general license.

As published on May 22, 2019 (84 FR 22961), and as revised and clarified by a final rule published on August 21, 2019 (84 FR 43493), any exports, reexports, or in-country transfers of items subject to the EAR to any of the listed Huawei entities as of the effective date they were added to the Entity List continue to require a license, with the exception of transactions explicitly authorized by the temporary general license and eligible for export, reexport, or transfer (in-country) prior to May 16, 2019 without a license or under a license exception. License applications will continue to be reviewed under a presumption of denial, as stated in the Entity List entries for the listed Huawei entities. No persons are relieved of other obligations under the EAR, including but not limited to licensing requirements to the People's Republic of China (PRC or China) or other destinations and the requirements of part 744 of the EAR. The temporary general license also does not authorize any activities or transactions involving Country Group E countries (*i.e.*, Cuba, Iran, North Korea, Sudan, and Syria) or foreign nationals.

Extension of validity

At this time, the U.S. Government has decided to extend the temporary general license until August 13, 2020. In order to implement this U.S. Government decision, this

final rule revises the temporary general license to remove the date of May 15, 2020 and substitutes the date of August 13, 2020 in three places in Supplement No. 7 to part 744: the introductory text; paragraph (b)(1); and paragraph (c).

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801-4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. As set forth in Section 1768 of ECRA, all delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that were made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (previously, 50 U.S.C. 4601 et seq.) (as in effect prior to August 13, 2018 and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) or the Export Administration Regulations, and were in effect as of August 13, 2018, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of ECRA.

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. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under 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 42.5 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. Pursuant to section 1762 of ECRA, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. 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 Subjects

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 762

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

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. 4801-4852; 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. 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 September 19, 2019, 83 FR 49633 (September 20, 2019); Notice of November 12, 2019, 84 FR 61817 (November 13, 2019).

2. Supplement No. 7 to part 744 is amended by revising the first sentence of the introductory text, paragraph (b)(1), and paragraph (c) introductory text to read as follows:

Supplement No. 7 to Part 744—Temporary General License

Notwithstanding the requirements and other provisions of Supplement No. 4 to this part, which became effective as to Huawei Technologies Co., Ltd. (Huawei), Shenzhen, Guangdong, China on May 16, 2019, and its non-U.S. affiliates listed in Supplement No. 4 to this part on, as applicable, May 16, 2019 or August 19, 2019, the licensing and other requirements in the EAR as of May 15, 2019, are restored in part as of May 20, 2019, and through August 13, 2020, pertaining to exports, reexports, and transfers (in-country) of items subject to the EAR to any of the listed Huawei entities. *

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(b) * * *

(1) This temporary general license is effective from May 20, 2019, through August 13, 2020.

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(c) *Authorized transactions.* This temporary general license allows, from May 20, 2019, through August 13, 2020, the following:

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Richard E. Ashooh,

Assistant Secretary

for Export Administration.

[FR Doc. 2020-10614 Filed: 5/15/2020 8:45 am; Publication Date: 5/18/2020]