

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 748**

[Docket No. 070817469-7596-01]

RIN 0694-AE11

Approved End-Users and Respective Eligible Items for the People's Republic of China (PRC) Under Authorization Validated End-User (VEU)**AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to list names of end-users in the People's Republic of China (PRC) approved to receive exports, reexports and transfers of certain items under Authorization Validated End-User (VEU). In a final rule published in the **Federal Register**, BIS revised and clarified U.S. export control policy for the PRC, establishing Authorization VEU and identifying the PRC as the initial eligible destination. This rule identifies five specific validated end-users.

DATES: This rule is effective November 19, 2007. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694-AE11 (VEU), by any of the following methods:

E-mail: publiccomments@bis.doc.gov
Include "RIN 0694-AE11 (VEU)" in the subject line of the message.

Fax: (202) 482-3355. Please alert the Regulatory Policy Division, by calling (202) 482-2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Sheila Quarterman, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, Attn: RIN 0694-AE11 (VEU).

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044. Comments on this collection of

information should be submitted separately from comments on the final rule (i.e. RIN 0694-AE11 (VEU))—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Michael Rithmire, Chairman, End-User Review Committee, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044; by telephone (202) 482-6105; or by e-mail to mrithmir@bis.doc.gov.

SUPPLEMENTARY INFORMATION:**Background***Authorization Validated End-User (VEU): Initial List of Approved End-Users, Eligible Items and Destinations*

Consistent with U.S. Government policy to facilitate trade for civilian end-users in the PRC, BIS amended the EAR in a final rule on June 19, 2007 (72 FR 33646) by creating a new authorization for "validated end-users" (VEUs) located in eligible destinations to which eligible items (commodities, software and technology, except those controlled for missile technology or crime control reasons) may be exported, reexported or transferred without a license, in conformance with Section 748.15 of the EAR. As established in the June 19 rule, the PRC is the initial destination eligible for exports, reexports and transfers under Authorization VEU.

Authorization VEU is a mechanism to facilitate increased high-technology exports to companies in the PRC that have a record of using such items responsibly. VEU's will be able to obtain eligible items that are on the Commerce Control List without having to wait for their suppliers to obtain export licenses from BIS. A wide range of items are eligible for Authorization VEU. In addition, Authorization VEU may be used by foreign reexporters, and does not have an expiration date.

This final rule amends Supplement No. 7 to Part 748 of the EAR to identify five companies with 14 eligible facilities in the PRC as VEU's and to identify the items that may be exported, reexported, or transferred to them. The VEU's listed in Supplement No. 7 to Part 748 were reviewed and approved by the U.S. Government in accordance with the provisions of Section 748.15 and Supplement Nos. 8 and 9 to Part 748 of the EAR.

Approving these five end-users as VEU's is expected to facilitate exports to civilian end-users in the PRC. After analyzing historical licensing data, BIS anticipates that approval of these five companies as VEU's should significantly reduce the value of trade that requires

a license for export or reexport to the PRC. Approximately \$54 million of items described as "eligible items" in this notice were licensed for export to these five end-users in 2006. This \$54 million represents about 18% of all licensed exports to the PRC in 2006. Approval of these companies as VEU's also represents a significant savings of time for suppliers and end-users. Authorization VEU will eliminate the burden on exporters and reexporters of preparing license applications and on BIS for processing such applications, as exports and reexports will be made without licenses. This savings will enable exporters and reexporters to supply the VEU's much more quickly, thus enhancing the competitiveness of the exporters, reexporters, and end-users in the PRC.

To ensure appropriate facilitation of exports and reexports, on-site reviews of the VEU's may be warranted pursuant to paragraph 748.15(a)(2) and Section 7(iv) of Supplement No. 8 to Part 748 of the EAR. If such reviews are warranted, BIS will inform the PRC Ministry of Commerce.

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, p. 783 (2002)), as extended most recently by the Notice of August 15, 2007 (72 FR 46137, August 16, 2007), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking

1. This final 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 nor 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 the OMB under control number 0694-0088, "Multi-Purpose Application", which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748; and for recordkeeping, reporting and review requirements in connection with Authorization Validated End-User, which carries an estimated burden of 30

minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated with the Paperwork Reduction Act and Office and Management and Budget control number 0694–0088 are not expected to increase significantly as a result of this rule.

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

4. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for

public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sheila Quarterman,

Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 748

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

■ Accordingly, part 748 of the Export Administration Regulations (15 CFR Parts 730–799) is amended as follows:

PART 748—[AMENDED]

■ 1. The authority citation for 15 CFR 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 3, 2006, 71 FR 44551 (August 7, 2006); Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

■ 2. Supplement No. 7 to Part 748 is added to read as follows:

**Supplement No. 7 to Part 748—
Authorization Validated End-User
(VEU): List of Validated End-Users,
Respective Items Eligible for Export,
Reexport and Transfer, and Eligible
Destinations**

Validated End-User	Eligible Items (By ECCN)	Eligible Destination
Applied Materials China, Ltd	2B230; 2B350.g.3; 3B001.b.1; 3B001.c.2; 3B001.e; 3B001.f.2; 3C001; 3C002.	Applied Materials China, Ltd.—Shanghai Depot c/o Shanghai Applied Materials Technical Service Center, 368 Zhang Jiang Road, Pudong Zhangjiang Hi-Tech Park, Shanghai, China 201203. Applied Materials China, Ltd.—Beijing Depot c/o Beijing Applied Materials Technical Service Center, Bldg. 9, Area A, No. 1 North Di Sheng Street, BDA, Beijing, China 100176. Applied Materials China, Ltd.—Wuxi Depot c/o Sinotrans Jiangsu Group Fuchang Co., J5 A-B Wuxi Export Processing Zone 287 Gaolang Road, Wuxi New District, Wuxi Jiangsu China 214028.
BHA Aerocomposite Parts Co., Ltd	1A002.a; 1B001.f; 1C010.b; 1C010.e; 1D001 (limited to “software” specially designed or modified for the “development”, “production” or “use” of equipment controlled by 1B001.f); 1E001 (limited to “technology” according to the General Technology Note for the “development” or “production” of items controlled by 1A002.a, 1B001.f, 1C010.b & .e, and 2B001.a); 2B001.e.1.a; 2D001 (limited to “software,” other than that controlled by 2D002, specially designed or modified for the “development”, “production” or “use” of equipment controlled by 2B001.e.1.a); 2D002 (limited to “software” for electronic devices, even when residing in an electronic device or system, enabling such devices or systems to function as a “numerical control” unit, capable of coordinating simultaneously more than 4 axes for “contouring control” controlled by 2B001.e.1.a).	BHA Aerocomposite Parts Co., Ltd., No. 4–388 Heibei Road, Tanggu Tianjin, China.
National Semiconductor Corporation	3A001.a.5.a.1; 3A001.a.5.a.2; 3A001.a.5.a.3; 3A001.a.5.a.4.	National Semiconductor Hong Kong Limited, Beijing Representative Office, Room 604, CN Resources Building, No. 8 Jianguomenbei A, Beijing, China 100005. National Semiconductor Hong Kong Limited, Shanghai Representative Office, Room 903–905 Central Plaza, No. 227 Huangpi Road, North Shanghai, China 200003.

Validated End-User	Eligible Items (By ECCN)	Eligible Destination
Semiconductor Manufacturing International Corporation.	1C350.c.3; 1C350.d.7; 2B006.b.1; 2B230; 2B350.d.2; 2B350.g.3; 2B350.i.4; 3B001.a; 3B001.b; 3B001.c; 3B001.d; 3B001.e; 3B001.f; 3C001; 3C002; 3C004; 5B002; 5E002 (limited to "technology" according to the General Technology Note for the "production" of integrated circuits controlled by ECCN 5A002 that has been successfully reviewed under the encryption review process specified in §§ 740.17.b.2 or 740.17.b.3 and 742.15 of the EAR).	National Semiconductor Hong Kong Limited, Shenzhen Representative Office, Room 1709 Di Wang Commercial Centre, Shung Hing Square, 5002 Shenna Road East, Shenzhen, China 518008. Semiconductor Manufacturing International (Shanghai) Corporation, 18 Zhang Jiang Rd., Pudong New Area, Shanghai, China 201203. Semiconductor Manufacturing International (Tianjin) Corporation, 19 Xing Hua Avenue, Xi Qing Economic Development Area, Tianjin, China 300385. Semiconductor Manufacturing International (Beijing) Corporation, No. 18 Wen Chang Road, Beijing Economic-Technological Development Area, Beijing, China 100176. Semiconductor Manufacturing International (Chengdu) Corporation, Assembly and Testing (AT2) Facility, 8-8 Kexin Road, Export Processing Zone (West Area), Chengdu, China 611731. Cension Semiconductor Manufacturing Corporation, 3/F, 8-1 Kexin Road, Export Processing Zone (West Area), Chengdu, China 611731. Headquarters and Fab. 1 of HHNEC, No. 1188 Chuan Qiao Rd., Pu Dong, Shanghai, China 201206. Fab. 2 of HHNEC, No. 668 Guo Shou Jing Rd., Zhang Jiang High Tech Park, Pu Dong, Shanghai, China 201203.
Shanghai Hua Hong NEC Electronics Company, Ltd.	1C350.c.3; 1C350.d.7; 2B230; 2B350.d.2 2B350.g.3 2B350.i.4; 3B001.c.2; 3C002; 3C004.	Headquarters and Fab. 1 of HHNEC, No. 1188 Chuan Qiao Rd., Pu Dong, Shanghai, China 201206. Fab. 2 of HHNEC, No. 668 Guo Shou Jing Rd., Zhang Jiang High Tech Park, Pu Dong, Shanghai, China 201203.

Dated: October 16, 2007.

Christopher A. Padilla,
Assistant Secretary for Export
Administration.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

[CBP Dec. 07-82]

Technical Corrections Regarding the Organizational Structure of U.S. Customs and Border Protection

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect changes in the organizational structure of CBP resulting from the establishment of the new Office of International Trade, as well as the nomenclature changes effected by the transfer in 2003 of CBP to the Department of Homeland Security

and the subsequent renaming of the U.S. Customs Service as CBP.

DATES: October 19, 2007.

FOR FURTHER INFORMATION CONTACT: Jacinto P. Juarez, Jr., Regulations and Rulings, Office of International Trade, (202) 572-8752, or Michelle Garcia, Regulations and Rulings, Office of International Trade, (202) 572-8745.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 2002, the President signed the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.*, Public Law 107-296, (the "HSA"), establishing the Department of Homeland Security ("DHS"). Pursuant to section 403(1) of the HSA (6 U.S.C. 203(1)), the United States Customs Service was transferred from the Department of the Treasury to DHS effective March 1, 2003. Under section 1502 of the HSA, the Customs Service was renamed as the "Bureau of Customs and Border Protection". Subsequently, on April 23, 2007, a notice was published in the **Federal Register** (72 FR 20131) informing the public that DHS had changed the name of the Bureau of Customs and Border Protection to "U.S. Customs and Border Protection" effective March 31, 2007.

The HSA reserved customs revenue functions to the Department of the Treasury. Treasury Department Order

No. 100-16 delegated general authority vested in the Secretary of the Treasury over customs revenue functions (with certain specified exceptions) to the Secretary of Homeland Security.

Section 402 of Title IV of the Security and Accountability for Every Port Act of 2006 ("SAFE Port Act"), Public Law 109-347, established a new Office of International Trade (OT) to be headed by an Assistant Commissioner within U.S. Customs and Border Protection (CBP). Section 402(d)(2)(A) and (B) of the SAFE Port Act specifically authorized the Commissioner of CBP to transfer the assets, functions, and personnel of the Office of Strategic Trade (OST) and the Office of Regulations and Rulings (ORR) to OT. Pursuant to his authority under section 402(d)(2)(C), the Commissioner authorized the transfer of certain assets, functions, or personnel within the Office of Field Operations (OFO) to the OT.

Prior to the establishment of OT on October 15, 2006, the functions of trade policy and program development were split among three offices within CBP: the Office of Strategic Trade, the Office of Regulations and Rulings, and the Office of Field Operations. The OT consolidates the trade policy, program development, and compliance measurement functions of CBP into one