

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Parts 740 and 744**

[Docket No. 071018609-7611-01]

RIN 0694-AE17

**Burma: Revision of the Export Administration Regulations****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

**SUMMARY:** In response to the Government of Burma's continued repression of the democratic opposition in Burma, and consistent with Executive Order 13310 of July 28, 2003 and Executive Order 13448 of October 18, 2007, this final rule amends the Export Administration Regulations (EAR) to move Burma into more restrictive country groupings and impose a license requirement for exports, reexports or transfers of most items subject to the EAR to persons listed in or designated pursuant to Executive Orders 13310 and 13448.

**DATES:** *Effective Date:* This rule is effective October 24, 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-AE17 (Burma), by any of the following methods:

*E-mail:* [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov) Include "RIN 0694-AE17 (Burma)" 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-AE17 (Burma).

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](mailto: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-AE17 (Burma))—all comments on the latter should be

submitted by one of the three methods outlined above.

**FOR FURTHER INFORMATION CONTACT:** Joan Roberts, Acting Director, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044; Telephone: (202) 482-4252, or E-mail: [jroberts@bis.doc.gov](mailto:jroberts@bis.doc.gov).

**SUPPLEMENTARY INFORMATION****Background**

The United States enacted an arms embargo against Burma in 1993 (58 FR 33293). Additionally, in 2003, pursuant to Executive Order 13310 (July 28, 2003) and other relevant authorities, the U.S. imposed economic sanctions, including a ban on all imports from Burma, a ban on the export of financial services by U.S. persons to Burma, and an asset freeze on certain Burmese individuals and entities. Executive Order 13310 listed certain persons in its Annex and set forth criteria for designation of additional persons.

In response to the Government of Burma's continued repression of the democratic opposition in Burma, the President issued Executive Order (E.O.) 13448 of October 18, 2007, listing certain persons in the Annex as subject to sanctions administered by the Department of the Treasury, Office of Foreign Assets Control (OFAC) and setting forth criteria for designation of additional persons by OFAC. Consistent with Executive Orders 13310 and 13448, and the Trade Sanctions Reform and Export Enhancement Act (Title IX of Pub. L. 106-387), this final rule amends the EAR to impose a license requirement for exports, reexports or transfers of items subject to the EAR to persons listed in or designated pursuant to Executive Orders 13310 or 13448, except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to those orders. All persons listed in or designated pursuant to these Executive Orders are identified with the reference [BURMA] on OFAC's list of Specially Designated Nationals and Blocked Persons set forth in Appendix A to 31 CFR Chapter V and on OFAC's Web site at <http://www.treas.gov/OFAC>. This rule creates a new § 744.22 to set forth this new license requirement.

Further, in part 740 of the EAR (License Exceptions), this rule moves Burma from Computer Tier 1 to Computer Tier 3, restricting access to high-performance computers and related technology and software under License Exception APP (Section 740.7).

In Supplement No. 1 to part 740 (Country Groups), this rule moves Burma from Country Group B (countries raising few national security concerns) to Country Group D:1 (countries raising national security concerns), which further limits the number of license exceptions available for exports to Burma. Burma will remain in Country Group D:3 (countries raising proliferation concerns related to chemical and biological weapons).

Consistent with the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), a foreign policy report was submitted to Congress on October 19, 2007, notifying Congress of the imposition of foreign policy-based licensing requirements reflected in this rule.

Although the EAA expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the EAR in effect under the International Emergency Economic Powers Act.

**Saving Clause**

Shipments of items removed from eligibility for export or reexport under a license exception or without a license (i.e., under the designator "NLR") as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on November 23, 2007, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previously applicable license exception or without a license (NLR) so long as they are exported or reexported before December 10, 2007. Any such items not actually exported or reexported before midnight, on December 10, 2007, require a license in accordance with this regulation.

**Rulemaking Requirements**

1. This final rule has been determined to be significant for purposes of E.O. 12866. U.S. trade with Burma is generally limited to non-strategic goods (e.g., biotechnology, electronic, and life sciences). In 2006, the value of trade between the two countries totaled \$7.5 million. Since 1997, BIS has processed only 21 license applications, approving 14 valued at \$3.31 million for exports primarily for items in the oil sector. The changes made by this rule primarily affect strategic items controlled for national security reasons, including high-performance computers. This

analysis demonstrates that this rule is not expected to impact significantly U.S. trade with Burma as a whole but is tailored to effectively prevent the benefit of trade to certain persons in Burma or related to the situation in Burma, as identified, in order to implement an important U.S. foreign policy objective.

2. Notwithstanding any other provision of 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 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 rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694-0088, "Multi-Purpose Application," and carries a burden hour estimate of 58 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) 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, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**List of Subjects**

*15 CFR Part 740*

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

*15 CFR Part 744*

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, parts 740 and 744 of the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

**PART 740—[AMENDED]**

■ 1. The authority citation for part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901-911, Pub. L. 106-387; 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. Section 740.7 is amended by:
  - a. Removing "Burma" from paragraph (c); and
  - b. Revising paragraph (d)(1) to read as follows:

**§ 740.7 Computers (APP).**

\* \* \* \* \*

(d) *Computer Tier 3 destinations.* (1) *Eligible destinations.* Eligible destinations under paragraph (d) of this section are: Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia & Herzegovina, Burma, Cambodia, China (People's Republic of), Comoros, Croatia, Djibouti, Egypt, Georgia, India, Iraq, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Lebanon, Libya, Macau, Macedonia (The Former Yugoslav Republic of), Mauritania, Moldova, Mongolia, Montenegro, Morocco, Oman, Pakistan, Qatar, Russia, Saudi Arabia, Serbia, Tajikistan, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, and Yemen.

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- 3. Supplement No. 1 to part 740—Country Groups is amended by:
  - a. Removing the entry "Burma" from Country Group B; and
  - b. Adding an entry "Burma" to Country Group D to read as follows:

**Supplement No. 1 to Part 740—Country Groups**

\* \* \* \* \*

**COUNTRY GROUP D**

Country	[D:1] National Security	[D:2] Nuclear	[D:3] Chemical & Biological	[D:4] Missile Technology
Burma .....	X		X	

**PART 744—[AMENDED]**

■ 4. The authority citation for part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994

Comp., p. 950; E.O. 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; E.O. 13310, 68 FR 44853, 3 CFR 2003 Comp., p. 241; E.O. 13448; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of October 27, 2006, 71 FR 64109 (October 31, 2006); Notice of

August 15, 2007, 72 FR 46137 (August 16, 2007).

■ 5. A new § 744.22 is added to read as follows:

**§ 744.22 Restrictions on Exports, Reexports and Transfers to Persons Listed in or Designated Pursuant to Executive Orders 13310 and 13448.**

Consistent with Executive Order 13310 of July 28, 2003 and Executive

Order 13448 of October 18, 2007 (“Blocking Property and Prohibiting Certain Transactions Related to Burma”), BIS maintains restrictions on exports, reexports, and transfers to persons listed in or designated pursuant to Executive Orders 13310 and 13448. These persons include individuals and entities listed in the Annexes to Executive Orders 13310 or 13448, as well as other persons designated pursuant to criteria set forth in those orders.

(a) *License Requirements.* (1) A license requirement applies to the export, reexport, or transfer of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448) to—

(i) Persons listed in the Annexes to Executive Order 13310 of July 28, 2003 or Executive Order 13448 of October 18, 2007; or

(ii) Persons designated pursuant to Executive Order 13310 or Executive Order 13448.

**Note to paragraph (a)(1):** OFAC includes these persons with the reference [BURMA] on its list of Specially Designated Nationals and Blocked Persons set forth in Appendix A to 31 CFR Chapter V and on its Web site at <http://www.treas.gov/OFAC>.

(2) To avoid duplication, U.S. persons are not required to seek separate BIS authorization for an export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to both the EAR and regulations maintained by OFAC. Therefore, if OFAC authorizes an export from the United States or an export, reexport, or transfer by a U.S. person to a person identified in paragraph (a) of this section, no separate authorization from BIS is necessary.

(3) U.S. persons must seek authorization from BIS for the export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448) but not subject to regulations maintained by OFAC.

(4) Non-U.S. persons must seek authorization from BIS for the export from abroad, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448).

(5) Any export, reexport, or transfer to a person identified in paragraph (a) of this section by a U.S. person of any item subject both to the EAR and regulations maintained by OFAC and not authorized by OFAC is a violation of the EAR.

(6) Any export, reexport, or transfer by a U.S. person to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448) that is not subject to regulations maintained by OFAC and not authorized by BIS is a violation of the EAR. Any export from abroad, reexport, or transfer by a non-U.S. person to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448) and not authorized by BIS is a violation of the EAR.

(7) These licensing requirements supplement any other requirements set forth elsewhere in the EAR.

(b) *Exceptions.* No License Exceptions or other BIS authorizations are available for export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448).

(c) *Licensing policy.* Applications for licenses for the export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices classified as EAR99 and destined for entities listed in or designated pursuant to Executive Orders 13310 and 13448) will generally be denied. You should consult with OFAC concerning transactions subject to OFAC licensing requirements.

(d) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section, except as available under 31 CFR 537.210(c).

Dated: October 18, 2007.

**Christopher A. Padilla,**  
*Assistant Secretary for Export Administration.*

[FR Doc. E7-20962 Filed 10-23-07; 8:45 am]

BILLING CODE 3510-33-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9339]

RIN 1545-BG44

#### Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to final and temporary regulations (TD 9339) that were published in the **Federal Register** on Friday, September 14, 2007 (72 FR 52470) providing guidance to state and local governments that issue qualified zone academy bonds and to banks, insurance companies, and other taxpayers that hold those bonds on the program requirements for qualified zone academy bonds.

**DATES:** The correction is effective October 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Timothy L. Jones or Zoran Stojanovic, (202) 622-3980 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final and temporary regulations (TD 9339) that are the subject of this correction are under section 1397E of the Internal Revenue Code.

##### Need for Correction

As published, final and temporary regulations (TD 9339) contain an error that may prove to be misleading and are in need of clarification.

##### List of Subject in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following amendment:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

*Authority:* 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.1397E-1T is amended by revising paragraph (i)(6) to read as follows:

**§ 1.1397E-1T Qualified zone academy bonds (temporary).**

\* \* \* \* \*