

5. *Department of Commerce, National Oceanic and Atmospheric Administration (NOAA)* Holly A. Bamford, Assistant Administrator for Ocean Services and Coastal Zone Management, Career SES (New Member); Russell F. Smith, III, Deputy Assistant Secretary for International Fisheries, Non-Career SES, Political Advisor (New Member)
6. *Department of Commerce, National Telecommunications and Information Administration (NTIA)* Angela M. Simpson, Deputy Assistant Secretary for Communications and Information, Non-Career SES, Political Advisor (New Member)

Dated: October 1, 2014.

Denise A. Yaag,

Director, Office of Executive Resources, Office of Human Resources Management, Office of the Secretary/Office of the CFO/ASA, Department of Commerce.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Temporarily Denying Export Privileges

X-TREME Motors LLC a/k/a XTREME Motors, 2496 South 1900 West, West Haven, Utah 84401
and

XTREME Outdoor Store a/k/a XTREME Outdoors, 2496 South 1900 West, West Haven, Utah 84401
and

Tyson Preece, 3930 West Old Highway Road, Morgan, Utah 84050
and

Corey Justin Preece a/k/a Corey Preece a/k/a Justin Preece, 1245 South Morgan Valley Drive, Morgan, Utah 84050
and

Toby Green, 480 West 175 North, Morgan, Utah 84050

Pursuant to Section 766.24 of the Export Administration Regulations (the “Regulations” or “EAR”),¹ the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce, through its Office of Export Enforcement (“OEE”), has requested that I issue an Order temporarily denying, for a period of 180

days, the export privileges under the Regulations of: X-TREME Motors LLC, also known as XTREME Motors; XTREME Outdoor Store, also known as XTREME Outdoors; Tyson Preece; Corey Justin Preece, also known as Corey Preece or Justin Preece; and Toby Green. Corporate filings with the Utah Secretary of State list both Preeces and Green as officers of X-TREME Motors LLC. X-TREME Motors LLC is a Utah-based company that holds itself out as selling all-terrain vehicle, dirt bike and snowmobile parts. XTREME Outdoors Store is an on-line vendor for tactical gear and equipment such as rifle scopes, and shares the same address and phone number with X-TREME Motors LLC. Corey Justin Preece is listed as the registrant of XTREME Outdoor Store’s Web site using the name Justin Preece.

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent’s export privileges upon a showing that the order is necessary in the public interest to prevent an “imminent violation” of the Regulations. 15 CFR 766.24(b)(1) and 776.24(d). “A violation may be ‘imminent’ either in time or degree of likelihood.” 15 CFR 766.24(b)(3). BIS may show “either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.” *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge “is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]” *Id.* A “lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.” *Id.*

In its request, BIS has presented evidence that X-TREME Motors LLC and XTREME Outdoors (collectively “X-TREME”) have repeatedly engaged in conducted prohibited by the Regulations by exporting items controlled for Crime Control reasons without the required licenses to various destinations, including Russia and China. In order to evade detection by law enforcement, X-TREME has intentionally provided false information on Customs Declarations by stating the packages contain various ATV parts. Since September 1, 2014, the U.S. Government has identified over 200 shipments exported or intended for export where X-TREME mislabeled the contents. The U.S. Government has detained approximately 50 of those shipments, including approximately 20

shipments of rifle scopes to destinations that would require an export license from BIS. A search of BIS’s licensing database reveals no licensing history as to any of these shipments of riflescopes.

For example, one detained shipment from on or about September 4, 2014, included a Model XPS-3 holographic weapon sight classified under ECCN 0A987 and controlled for Crime Control reasons. The shipment was destined for Russia, and as such required a Department of Commerce license pursuant to Section 742.7 of the Regulations. The Customs Declaration submitted to the United States Postal Service falsely labeled the contents of the shipment as “ATV GRIPS.” X-TREME MOTORS LLC was listed as the shipper. Affixed to the product box containing the XPS-3 weapon sight is a manufacturer’s sticker warning that the item “is controlled under the Export Administration Regulations (EAR) [ECCN 0A987]” and may not be exported without U.S. Department of Commerce authorization. (Parenthetical and brackets in original). Despite having notice that a license was required to export the item, no license was sought or obtained for this attempted export.

On or about September 10, 2014, the U.S. Government detained another shipment destined for Russia containing a Taser Model C2 stun gun, classified under ECCN 0A985, and controlled for Crime Control reasons. A Department of Commerce license was required to export the item to Russia pursuant to Section 742.7 of the Regulations. The Customs Declaration listed the shipper as X-TREME MOTORS LLC and again falsely indicated that the contents of the shipment were “ATV GRIPS.” Similarly, no license was obtained.

A third example involves a shipment detained on or about September 4, 2014, which included two 16-ounce cans of Oleoresin Capsicum Spray (or pepper spray), classified under ECCN 1A984, and controlled for Crime Control reasons. The Customs Declaration indicated that the shipment was destined for Russia. The export therefore required a Department of Commerce license pursuant to Section 742.7 of the Regulations. The Customs Declaration identified X-TREME MOTORS LLC as the shipper, and again falsely stated that the contents of the shipment were “ATV GRIPS.” As with the other exports and attempted exports referenced above, no license was obtained.

I find that the evidence presented by BIS demonstrates that a violation of the Regulations is imminent in both time and degree of likelihood. The numerous repeated and willful violations of the

¹ The Regulations are currently codified at 15 CFR parts 730–774 (2014). The EAR issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (“EAA”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (2006 & Supp. IV 2010).

Regulations by X-TREME that have occurred since September 1, 2014, are strong indicators that future violations are likely absent the issuance of a TDO. As such, a TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with X-TREME in export transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the EAR.

Additionally, Section 766.23 of the Regulations provides that “[i]n order to prevent evasion, certain types of orders under this part may be made applicable not only to the respondent, but also to other persons then or thereafter related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. Orders that may be made applicable to related persons include those that deny or affect export privileges, including temporary denial orders. . . .” 15 CFR 766.23(a). As stated above, both Preeces and Green are both listed as officers of X-TREME Motors LLC on corporate filings with the Utah Secretary of State’s office, and Corey Justin Preece is also listed as the registrant of the XTREME Outdoor Store Web site. Other open source information indicates that Green and Tyson Preece are listed as principals or owners of X-TREME Motors LLC. As such, I find that both Preeces and Green are related to X-TREME Motors LLCs based on their positions of responsibility and that their additions to the order is necessary to prevent evasion.

Accordingly, I find that an order denying the export privileges of X-TREME Motors LLC, XTREME Outdoor Store, Tyson Preece, Corey Justin Preece, and Toby Green is necessary, in the public interest, to prevent an imminent violation of the EAR.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS’s showing of an imminent violation in accordance with Section 766.24 of the Regulations.

It is therefore ordered:

First, that X-TREME MOTORS LLC, a/k/a XTREME MOTORS, 2496 South 1900 West, West Haven, Utah 84401; XTREME OUTDOOR STORE, a/k/a XTREME OUTDOORS, 2496 South 1900 West, West Haven, Utah 84401; TYSON PREECE, 3930 West Old Highway Road, Morgan, Utah 84050; COREY JUSTIN PREECE, a/k/a COREY PREECE, a/k/a JUSTIN PREECE, 1245 South Morgan Valley Drive, Morgan, Utah 84050; and TOBY GREEN, 480 West 175 North, Morgan, Utah 84050, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a

“Denied Person” and collectively the “Denied Persons”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Export Administration Regulations (“EAR”), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

In accordance with the provisions of Section 766.24(e) of the EAR, X-TREME Motors LLC and/or XTREME Outdoor Store may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Tyson Preece, Corey Justin Preece and/or Toby Green may, at any time, appeal their inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. X-TREME Motors LLC and/or XTREME Outdoor Store may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be sent to X-TREME Motors LLC, XTREME Outdoor Store, and each related person, and shall be published in the **Federal Register**.

This Order is effective upon issuance and shall remain in effect for 180 days.

Dated: September 30, 2014.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Membership of the Bureau of Industry and Security Performance Review Board

AGENCY: Bureau of Industry and Security, Department of Commerce.