

(c) Bombardier must perform an analysis to show that the design, manufacturing processes, and the airworthiness limitations section of the instructions for continued airworthiness include all practical measures to prevent, and detect and correct, failures of structural lightning protection features due to manufacturing variability, aging, wear, corrosion, and likely damage.

Issued in Renton, Washington, on February 25, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 748

[Docket No. 150206120-5120-01]

RIN 0694-AG50

#### **Amendments to Existing Validated End-User Authorization in the People's Republic of China: Samsung China Semiconductor Co. Ltd.**

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

**ACTION:** Final rule.

**SUMMARY:** In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the existing authorization for Validated End User Samsung China Semiconductor Co. Ltd. (Samsung China) in the People's Republic of China (PRC). Specifically, BIS amends Supplement No. 7 to Part 748 of the EAR to add two items to Samsung China's eligible items that may be exported, reexported or transferred (in country) to the company's eligible facilities (also known as "eligible destinations") in the PRC.

**DATES:** This rule is effective March 5, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mi-Yong Kim, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Phone: 202-482-5991; Fax: 202-482-3911; Email: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:**

## Background

### *Authorization Validated End-User*

Validated End-Users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEUs, as well as the dates they were so designated, and their respective eligible destinations and items are identified in Supplement No. 7 to Part 748 of the EAR. Under the terms described in that supplement, VEUs may obtain eligible items without an export license from BIS, in conformity with Section 748.15 of the EAR. Eligible items vary between VEUs and may include commodities, software, and technology, except those controlled for missile technology or crime control reasons on the Commerce Control List (CCL) (part 774 of the EAR).

VEUs are 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. The End-User Review Committee (ERC), composed of representatives from the Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for administering the VEU program. BIS amended the EAR in a final rule published on June 19, 2007 (72 FR 33646) to create Authorization VEU.

### **Amendment to Existing VEU Authorization for Samsung China Semiconductor Co. Ltd (Samsung China) in the People's Republic of China (PRC)**

#### *Revision to the List of "Eligible Items (by ECCN)" for Samsung China*

In this final rule, BIS amends Supplement No. 7 to Part 748 to add two Export Control Classification Numbers (ECCNs), 2B006.a and 2B006.b.1.d, to the list of items that may be exported, reexported or transferred (in-country) to Samsung China's facility in the PRC under Authorization VEU. The revised list of eligible items for Samsung China is as follows:

#### *Eligible Items (by ECCN) That May Be Exported, Reexported or Transferred (In-Country) to the Eligible Destination Identified Under Samsung China Semiconductor Co. Ltd.'s Validated End-User Authorization*

1C350.c.3, 1C350.d.7, 2B006.a, 2B006.b.1.d, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and

3E001 (limited to "technology" for items classified under 3C002 and 3C004 and "technology" for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).

## Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, 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 7, 2014, 79 FR 46959 (August 11, 2014) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). 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, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS-748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, 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 of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694-0088 are not expected to increase significantly as a result of this rule. Notwithstanding any other provisions 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

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

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because they are unnecessary. In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313 (July 6, 2006) (proposed rule), and 72 FR 33646 (June 19, 2007) (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy. Publication of this rule in other than final form is unnecessary because the authorizations granted in the rule are consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. In addition, as with license applications, VEU authorization applications contain confidential

business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such applications. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as the interagency reviews license applications, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and the measurement of such information against the VEU authorization criteria. Given the nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEUs were developed with public comments, allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because the delay would be contrary to the public interest. BIS is simply amending the authorization of an existing VEU by adding two ECCNs to the list of eligible items that may be sent to that VEU, consistent with established objectives and parameters administered and

enforced by the responsible designated departmental representatives to the End-User Review Committee. Delaying this action's effectiveness could cause confusion regarding which items are authorized by the U.S. Government and in turn stifle the purpose of the VEU Program. Accordingly, it is contrary to the public interest to delay this rule's effectiveness.

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 under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

**List of Subjects in 15 CFR Part 748**

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

Accordingly, part 748 of the EAR (15 CFR parts 730-774) 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 7, 2014, 79 FR 46959 (August 11, 2014).

■ 2. Amend Supplement No. 7 to Part 748 by revising the entry for “Samsung China Semiconductor Co. Ltd.” in “China (People’s Republic of)” 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**

Country	Validated end-user	Eligible items (by ECCN)	Eligible destination	Federal Register citation
Nothing in this Supplement shall be deemed to supersede other provisions in the EAR, including but not limited to § 748.15(c).				
*	*	*	*	*
	Samsung China Semiconductor Co. Ltd.	1C350.c.3, 2B006.b.1.d, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and 3E001 (limited to “technology” for items classified under 3C002 and 3C004 and “technology” for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).	Samsung China Semiconductor Co. Ltd. No. 1999, North Xiaohe Road Xi’an, China 710119.	78 FR 41291, 7/10/13. 78 FR 69535, 11/20/13. 79 FR 30713, 5/29/14. 80 FR [INSERT PAGE NUMBER], March 5, 2015.
*	*	*	*	*

Dated: February 27, 2015.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 895

#### Banned Devices

##### *CFR Correction*

In Title 21 of the Code of Federal Regulations, Parts 800 to 1299, revised as of April 1, 2014, on page 594, in § 895.21, remove the undesignated paragraph following paragraph (d)(8).

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1980

[Docket Number: OSHA-2011-0126]

RIN 1218-AC53

#### Procedures for the Handling of Retaliation Complaints Under Section 806 of the Sarbanes-Oxley Act of 2002, as Amended

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document provides the final text of regulations governing employee protection (retaliation or whistleblower) claims under section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley or Act), which was amended by sections 922 and 929A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), enacted on July 21, 2010. An interim final rule (IFR) governing these provisions and request for comment was published in the **Federal Register** on November 3, 2011. Five comments were received. This rule responds to those comments and establishes the final procedures and time frames for the handling of retaliation complaints under Sarbanes-Oxley, including procedures and time frames for employee complaints to the Occupational Safety

and Health Administration (OSHA), investigations by OSHA, appeals of OSHA determinations to an administrative law judge (ALJ) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the Administrative Review Board (ARB) (acting on behalf of the Secretary of Labor), and judicial review of the Secretary of Labor's final decision. It also sets forth the Secretary of Labor's interpretations of the Sarbanes-Oxley whistleblower provision on certain matters.

**DATES:** This final rule is effective on March 5, 2015.

**FOR FURTHER INFORMATION CONTACT:** Brian Broecker, Directorate of Whistleblower Protection Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-4624, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-2199; email: [OSHA.DWPP@dol.gov](mailto:OSHA.DWPP@dol.gov). This is not a toll-free number. This **Federal Register** publication is available in alternative formats. The alternative formats available are large print, electronic file on computer disk (Word Perfect, ASCII, Mates with Duxbury Braille System) and audiotape.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Sarbanes-Oxley was first enacted on July 30, 2002. Title VIII is designated as the Corporate and Criminal Fraud Accountability Act of 2002. Section 806, codified at 18 U.S.C. 1514A, is the "whistleblower provision," which provides protection to employees against retaliation by certain persons covered under the Act for engaging in specified protected activity. The Act generally was designed to protect investors by ensuring corporate responsibility, enhancing public disclosure, and improving the quality and transparency of financial reporting and auditing. The whistleblower provision is intended to protect employees who report fraudulent activity and violations of Securities Exchange Commission (SEC) rules and regulations that can harm innocent investors in publicly traded companies.

Dodd-Frank amended the Sarbanes-Oxley whistleblower provision, 18 U.S.C. 1514A. The regulatory revisions described herein reflect these statutory amendments and also seek to clarify and improve OSHA's procedures for handling Sarbanes-Oxley whistleblower claims, as well as to set forth OSHA's interpretations of the Act. To the extent possible within the bounds of applicable statutory language, these

revised regulations are designed to be consistent with the procedures applied to claims under other whistleblower statutes administered by OSHA, including the Surface Transportation Assistance Act of 1982 (STAA), 29 CFR part 1978; the National Transit Systems Security Act (NTSSA) and the Federal Railroad Safety Act (FRSA), 29 CFR part 1982; the Consumer Product Safety Improvement Act of 2008 (CPSIA), 29 CFR part 1983; the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, as amended, 29 CFR part 24; the Affordable Care Act (ACA), 29 CFR part 1984; the Consumer Financial Protection Act (CFPA), 29 CFR part 1985; the Seaman's Protection Act (SPA), 29 CFR part 1986; and the FDA Food Safety Modernization Act (FSMA), 29 CFR part 1987.

##### **II. Summary of Statutory Procedures and Statutory Changes to the Sarbanes-Oxley Whistleblower Provision**

Sarbanes-Oxley's whistleblower provision, as amended by Dodd-Frank, includes procedures that allow a covered employee to file a complaint with the Secretary of Labor (Secretary)<sup>1</sup> not later than 180 days after the alleged retaliation or after the employee learns of the alleged retaliation. Sarbanes-Oxley further provides that the rules and procedures set forth in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. 42121(b), govern in Sarbanes-Oxley actions. 18 U.S.C. 1514A(b)(2)(A). Accordingly, upon receipt of the complaint, the Secretary must provide written notice to the person or persons named in the complaint alleged to have violated the Act (respondent) of the filing of the complaint, the allegations contained in the complaint, the substance of the evidence supporting the complaint, and the rights afforded the respondent throughout the investigation. The Secretary must then, within 60 days of receipt of the complaint, afford the respondent an opportunity to submit a

<sup>1</sup> The regulatory provisions in this part have been written and organized to be consistent with other whistleblower regulations promulgated by OSHA to the extent possible within the bounds of the statutory language of Sarbanes-Oxley. Responsibility for receiving and investigating complaints under Sarbanes-Oxley has been delegated to the Assistant Secretary for Occupational Safety and Health. Secretary of Labor's Order No. 01-2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012). Hearings on determinations by the Assistant Secretary are conducted by the Office of Administrative Law Judges, and appeals from decisions by administrative law judges are decided by the ARB. Secretary of Labor's Order 2-2012 (Oct. 19, 2012), 77 FR 69378 (Nov. 16, 2012).