



## **DEPARTMENT OF COMMERCE**

### **Bureau of Industry and Security**

#### **15 CFR Part 744**

**[Docket No. 221220-0279]**

**RIN 0694-AJ05**

#### **Modification to the Entity List**

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security is amending the Export Administration Regulations (EAR) by modifying one entity on the Entity List. This final rule modifies one entity on the Entity List under the destination of Russia.

**DATES:** This rule is effective December 21, 2022.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Entity List (supplement No. 4 to part 744 of the EAR (15 CFR parts 730-774)) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the

United States, pursuant to § 744.11(b). The EAR impose additional license requirements on, and limit the availability of, most license exceptions for exports, reexports, and transfers (in-country) where a listed entity is a party to the transaction. The license review policy for each listed entity is identified in the “License Review Policy” column on the Entity List, and the impact on the availability of license exceptions is described in the relevant *Federal Register* document that added the entity to the Entity List. The Bureau of Industry and Security (BIS) places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and makes all decisions to remove or modify an entry by unanimous vote.

#### *Modification to the Entity List*

The agencies represented on the ERC determined to modify Private Military Company ‘Wagner’ on the Entity List, under the destination of Russia. This entry is modified by adding one address, two additional aliases, and a footnote 3 designation. A footnote 3 designation means that an entity has been determined to be a Russian or Belarusian ‘military end user.’ This entity was originally added to the Entity List on June 22, 2017, for having been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States under § 744.11. (82 FR 28405) This entry is being modified because the entity was determined to be a Russian military end user under § 744.21 of the EAR. Licenses for this entity will now be reviewed under a policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. The license

requirements under this entry also extend to any export, reexport and transfer (in-country) to the entity wherever located worldwide.

### *Savings Clause*

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on December 21, 2022, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

### **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.

### **Rulemaking Requirements**

1. This 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 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 commodity classifications, and carries a burden estimate of 29.4 minutes for a manual or electronic submission for a total burden estimate of 33,133 hours. Total burden hours associated with the PRA and OMB control number 0694-0088 are not expected to increase as a result of this rule.

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 the Export Control Reform Act of 2018, 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 in 15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730-774) is amended as follows:

#### **PART 744 – [AMENDED]**

1. The authority citation for 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, 2022, 87 FR 57569 (September 21, 2022); Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

2. Supplement No. 4 to part 744 is amended under RUSSIA by revising the entry for “Private Military Company ‘Wagner’ ” to read as follows:

**Supplement No. 4 to Part 744 – Entity List**

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COUNTRY	ENTITY	LICENSE REQUIREMENT	LICENSE REVIEW POLICY	FEDERAL REGISTER CITATION
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RUSSIA	*****			
	Private Military Company ‘Wagner’, a.k.a., the following five aliases: -Chastnaya Voennaya Kompaniya ‘Vagner’; -Chvk Vagner; -PMC Wagner; -Wagner Group; <i>and</i> -Wagner Group.  15 Zolnaya Street, Saint Petersburg, 195213, Russia.	For all items subject to the EAR. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR). The license requirements under this entry also extend to any export, reexport and transfer (in-country) to the entity wherever located worldwide	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e)	82 FR 28408, 6/22/17. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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**Thea D. Rozman Kendler,**

*Assistant Secretary for Export Administration.*

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