

extending upward from 1,200 feet above the surface bounded on the north along V-2, on the east along V-254; on the south along lat. 45°30'00"N., to long. 107°40'00"W., on the west along long. 107°40'00"W., to V-2; excluding that airspace within Federal airways, the Billings, the Forsyth and the Miles City, MT, Class E airspace areas.

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Issued in Seattle, Washington, on April 30, 1999.

Daniel A. Boyle,

*Assistant Manager, Air Traffic Division,
Northwest Mountain Region.*

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 746

[Docket No. 990427108-9108-01]

RIN 0694-AB93

Exports to Cuba

AGENCY: Bureau of Export
Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce, Bureau of Export Administration is amending the Export Administration Regulations to implement a part of the January 5, 1999, Presidential initiative to enhance the United States' support of the Cuban people to promote a transition to democracy. This final rule authorizes the issuance of licenses for exports of food and certain agricultural commodities sold to individuals and independent non-governmental entities in Cuba. This rule will increase the number of license applications submitted to the Department of Commerce for exports to Cuba.

DATES: This rule is effective May 10, 1999.

FOR FURTHER INFORMATION CONTACT: James Lewis, Director, Office of Strategic Trade and Foreign Policy, Bureau of Export Administration, Telephone: (202) 482-0092.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1999, the President announced that the United States will initiate certain actions to enhance support of the Cuban people to promote transition to democracy. In doing this, the U.S. seeks to assist and support the Cuban people without strengthening the current Cuban government. The objective is to promote the development and evolution of an independent civil society to help promote a transition to

a free, independent, and prosperous nation.

These measures are consistent with the Cuban Democracy Act of 1992, as amended, and the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996. The President is authorized to furnish assistance and provide other support for individuals and independent non-governmental organizations in Cuba.

Under the President's initiative, the Department of Commerce, Bureau of Export Administration (BXA) may approve, on a case-by-case basis, applications for exports of food (both solids and liquids) and certain agricultural commodities for sale to independent non-governmental entities (i.e., individuals and other entities that are not controlled, owned or operated by the Cuban government) in Cuba. For purposes of the new initiative, "independent non-governmental entities" is defined to include religious groups, private farmers, and private sector undertakings such as family restaurants. When submitting applications, applicants must demonstrate on the license application that the prospective end-user or class of end-users is independent from the Cuban government. Include such information in Block 24, Additional Information, on Form BXA-748P. The U.S. Government will review this information within 30 days. Agricultural commodities that may be authorized for sale under the new policy include, but are not limited to, insecticides, pesticides, herbicides, seeds and fertilizer. Agricultural equipment is not eligible for consideration under this policy.

Consistent with existing practice, the Department of Treasury, Office of Foreign Assets Control (OFAC) will generally authorize financial transactions (e.g., purchase price, shipping and handling charges) related to export sales of food or agricultural commodities specifically authorized by BXA. Therefore, an export sale of food authorized by Commerce will not require additional specific authorization from OFAC for shipping, obtaining payments or other financial transactions. Licenses may be authorized to pay for local warehousing and transportation services provided that charges and fees levied for delivery are customary and reasonable.

Exporters are advised to indicate on their license applications for the export of food and agricultural commodities whether they plan to deliver such commodities to Cuba by vessel or aircraft. An export license must be obtained from BXA for vessels to transport licensed commodities to Cuba.

Authorization for the vessel and for necessary ship stores may be requested at the time of application for the export of food or agricultural commodities for sale in Cuba under the new policy. However, note that authorization must be obtained from OFAC for the return of such vessels to the United States within 180 days of leaving Cuba. OFAC is publishing elsewhere in this issue of the **Federal Register** a separate regulation that allows the return of such vessels under a General License, provided that all items have been authorized via applicable Federal regulations. Aircraft flying to Cuba to deliver commodities licensed under this policy must be eligible for License Exception AVS (see § 740.15 of the EAR) or must be specifically licensed by BXA.

The President also called for expansion of people-to-people contacts between the United States and Cuba by facilitating travel of persons from the United States to Cuba and from Cuba to the United States, and streamlining licensing procedures for authorizing such travel. Pursuant to the President's initiative, BXA will also review, on a case-by-case basis, license applications requesting authorization to use private aircraft for temporary sojourn for travel to Cuba involving educational, cultural, journalistic, religious, or athletic exchanges and other people-to-people contacts. This policy furthers the President's March 1998 initiative, under which BXA is already reviewing, with a presumption of approval, applications for temporary exports of private aircraft involving humanitarian aid and assistance programs. This policy is applicable to temporary sojourn flights from the U.S. to Cuba of aircraft not eligible for BXA License Exception AVS (see § 740.15 of the EAR), and that require specific authorization from BXA. Note that aircraft may fly on regularly scheduled charter flights to Cuba generally under License Exception AVS. OFAC must authorize travel by U.S. persons associated with such flights. Any commodities included on the aircraft that do not qualify for License Exception BAG (see § 740.14 of the EAR) or License Exception TMP (see § 740.9 of the EAR) require a specific Commerce license authorizing the export of such items to Cuba.

As another part of this initiative, other agencies will authorize direct charter flights to Cuba departing from U.S. cities other than Miami by separate notice. The United States is also seeking to reestablish direct mail between the United States and Cuba. This measure requires the agreement of the Cuban

government. BXA reminds exporters that the mailing of gift packages through U.S. mail still constitutes an export and must meet the content, frequency and dollar value requirements of §§ 746.2(a)(1)(viii) and 740.12 of the EAR, or be specifically licensed by BXA.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, extended by Presidential notice of August 13, 1998 (63 FR 44121, August 17, 1998).

Rulemaking Requirements

1. This interim rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information previously approved by the Office of Management and Budget under control number 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 45 minutes per manual submission and 40 minutes per electronic submission. In addition, miscellaneous and recordkeeping activities account for 12 minutes per submission. As a result of this rule, the paper work burden on the public is increased by 22 hours on an annual basis.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

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 (Sec. 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 interim final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 15 CFR Part 746

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, 15 CFR chapter VII, subchapter C, is amended as follows:

PART 746—[AMENDED]

1. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c, 6004; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 13, 1997 (62 FR 43629, August 15, 1997); Notice of August 13, 1998 (63 FR 44121, August 13, 1998).

2. Section 746.2 is amended by adding a new paragraph (b)(4)(iii) to read as follows:

§ 746.2 Cuba.

* * * * *

(b) * * *

(4) * * *

(iii) Exports of food (both solids and liquids) and agricultural commodities may be approved, on case-by-case basis, for use by independent non-government entities in Cuba. Such entities may not be controlled, owned or operated by the Cuban government. Applicants must demonstrate on the license application in Block 24, Additional Information, that the prospective class or classes of end-users are independent from the Cuban government.

(A) Agricultural commodities that will be considered for approval include, but are not limited to, insecticides, herbicides, pesticides, seeds and fertilizer. Agricultural equipment is not eligible under this paragraph (b)(4)(iii) for sale to Cuba.

(B) For purposes of this paragraph (b), independent non-government entities include, but are not limited to, religious groups, private farmers, and private sector undertakings such as family restaurants.

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Dated: May 10, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99-12132 Filed 5-10-99; 3:39 pm]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Sales of Food and Agricultural Inputs; Remittances; Educational, Religious, and Other Activities; Travel-Related Transactions; U.S. Intellectual Property

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: Pursuant to the President's announcement of January 5, 1999, the Treasury Department is amending the Cuban Assets Control Regulations to modify certain provisions with respect to remittances and travel-related transactions and to make other clarifying and conforming amendments to the regulations. The regulations also implement a statutory provision excluding from an existing general license transactions involving certain intellectual property used in connection with a business or assets that were confiscated.

EFFECTIVE DATE: May 10, 1999.

FOR FURTHER INFORMATION CONTACT:

Dennis P. Wood, Chief, Compliance Programs Division (tel.: 202/622-2490); Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480); Charles L. Bishop, OFAC-Miami Sanctions Coordinator (tel.: 305/810-5140); or William B. Hoffman, Chief Counsel (tel.: 202/622-2410); Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

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