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*Acting Program Director for Air Traffic
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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Chapter VII

[Docket No. 980922243-8243-01]

Request for Comments on Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export
Administration, Commerce.

ACTION: Request for comments on
foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BXA is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

Under the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), foreign policy controls expire one year after imposition unless they are extended. The EAA requires a report to Congress whenever foreign policy-based export controls are extended. Although the EAA expired on August 20, 1994, the President, invoking the International Emergency Powers Act (IEEPA), continued in effect the export control system in place under the provisions of the Act and the Export Administration Regulations, to the extent permitted by law (Executive Order 12924 of August 19, 1994 and Notices of August 15, 1995, August 14, 1996, August 13, 1997, and August 13, 1998). The Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls and requesting comments on such controls. Foreign Policy controls need to be extended in January 1999.

DATES: Comments must be received by November 12, 1998, to assure full consideration in the formulation of export control policies as they relate to foreign policy-based controls.

ADDRESSES: Written comments (three copies) should be sent to Patricia Muldonian, Regulatory Policy Division

(Room 2096), Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

James Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482-4196. Copies of the current Annual Foreign Policy Report to the Congress are available at our website: www.bxa.doc.gov and copies may also be requested by calling the Office of Strategic Trade.

SUPPLEMENTARY INFORMATION: The current foreign policy controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Special Country Controls). These controls apply to: high performance computers (§ 742.12); significant items (SI): Commercial communications satellites and hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14); encryption items (§ 742.15 and § 744.9); crime control and detection commodities (§ 742.7); specially designed implements of torture (§ 742.11); regional stability commodities and equipment (§ 742.6); equipment and related technical data used in the design, development, production, or use of missiles (§ 742.5 and § 744.3); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§ 742.2 and § 744.4); activities of U.S. persons in transactions related to missile technology or chemical or biological weapons proliferation in named countries (§ 744.6); nuclear propulsion (§ 744.5); aircraft and vessels (§ 744.7); embargoed countries (part 746); countries designated as supporters of acts of international terrorism (§§ 742.8, 742.9, 742.10, 746.2, 746.3, 746.5, and 746.7); and, Libya (§§ 744.8 and 746.4). Attention is also given in this context to the controls on nuclear-related commodities and technology (§ 744.2 and § 744.2), which are, in part, implemented under section 309(c) of the Nuclear Non Proliferation Act.

Effective January 21, 1997, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria the Departments of Commerce and State consider in determining whether to continue or revise U.S. foreign policy controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;

4. The reaction of other countries to the extension of such controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

5. The effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and

6. The ability of the United States to enforce the controls effectively. BXA is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in industry information relating to the following:

1. Specific data or case summaries that illustrate the effect of foreign policy controls on sales of U.S. products to third countries (i.e., those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy controls.

2. Information on controls maintained by U.S. trade partners (i.e., to what extent do they have similar controls on goods and technology on a worldwide basis or to specific destinations)?

3. Information on licensing policies or practices by our foreign trade partners which are similar to U.S. foreign policy controls, including license review criteria, use of conditions, requirements for pre and post shipment verifications (preferably supported by examples of

approvals, denials and foreign regulations.

4. Suggestions for revisions to foreign policy controls that would (if there are any differences) bring them more into line with multilateral practice.

5. Comments or suggestions as to actions that would make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy controls on the trade or acquisitions by intended targets of the controls.

7. Data or other information as to the effect of foreign policy controls on overall trade, either for individual firms or for individual industrial sectors.

8. Suggestions as to how to measure the effect of foreign policy controls on trade.

9. Information on the use of foreign policy controls on targeted countries, entities, or individuals.

BXA is also interested in comments relating generally to the extension or revision of existing foreign policy controls. Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

BXA will consider requests for confidential treatment. The information for which confidential treatment is requested should be submitted to BXA separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." BXA will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by BXA as confidential will be protected from public disclosure to the extent permitted by law. Communications between agencies of the United States Government or with foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the

Freedom of Information Records Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from Margaret Cornejo, BXA Freedom of Information Officer, at the above address or by calling (202) 482-2593.

Dated: October 5, 1998.

R. Roger Majak,

Assistant Secretary for Export Administration.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1-98-151]

RIN 2115-AE84

Regulated Navigation Area: Navigable Waters Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent Regulated Navigation Area (RNA) within the navigable waters of the First Coast Guard District to increase operational safety for towing vessels and tank barges. The proposed rule would require four sets of measure for towing vessels and tank barges operating in the waters of the Northeastern United States, including positive control for barges, enhanced communications, voyage planning, and areas of restricted navigation. These measures should reduce the risk of oil spills from the many tank barges operating in the waters of the region, and so too reduce the risk of environmental damage to the unique and extremely sensitive marine environment.

DATES: Comments must arrive on or before November 12, 1998.

ADDRESSES: You may mail or deliver comments to Commander (m), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02210-3350. The First

District Commander maintains the public docket for this rulemaking. Comments, and documents, as indicated in this preamble, will become part of this docket and will be available for inspection and copying at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Rich Klein, c/o Commander (m), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02210-3350; telephone 617-223-8243.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1-98-151) and the specific section of this document to which each comment applies, and give a reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

No public meeting is planned.

Persons may request a public meeting by writing to the Project Officer at the address listed under ADDRESSES. If it is determined that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This rulemaking is proposed to improve the navigational safety for towing vessels and tank barges operating in the waters of the Northeastern United States. Between January 1992 and December 1996, there have been 289 marine casualties involving tank barges in the First Coast Guard District. Not all of these casualties were major or significant, but several resulted in oil spills.

During 1996 and 1997, there were 12 marine casualties involving engine failure with tugs while they were towing tank barges in the waters of the First Coast Guard District. At least four of those tank barges were loaded with a combined cargo totaling about 21 million gallons of petroleum products.