

**U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
REGULATIONS AND PROCEDURES TECHNICAL ADVISORY COMMITTEE**

CHARTER

1. Committee's Official Designation (Title). Regulations and Procedures Technical Advisory Committee (RPTAC or Committee).

2. Authority. This charter is hereby renewed and revised, consistent with Sections 1754 and 1768 of the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. §§ 4801-4852) and the Export Administration Regulations (EAR) (15 C.F.R. Parts 730-774), and the provisions of the Federal Advisory Committee Act (FACA), as amended, (5 U.S.C. App.). The Assistant Secretary for Export Administration, Bureau of Industry and Security (BIS), made the following determinations necessary for the continuation of the work of the Committee:

- Representatives of a substantial segment of industries affected by the Export Administration Regulations (EAR) have requested the appointment of this technical advisory committee.
- The scope and impact of the EAR are difficult to evaluate because of the broad range of technologies affected by the EAR, the rapid pace and global diffusion of technological development, and the overall complexities of licensing procedures.

Consistent with Section 14 of the FACA, the Committee has recommended that the charter be renewed. The Committee was initially chartered in 1985 under the authority of the Export Administration Act of 1979, as amended, (EAA) (50 U.S.C. 4601 *et seq.*). The Committee has advised the Department under renewed charters since that time, consistent with the authorities set forth in the EAA and EAR.¹

¹ Until August 13, 2018, the EAA provided the primary legal basis for the Committee. During periods in which the EAA was in lapse, the President, through executive orders, continued the Export Administration Regulations (EAR) in effect under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. §§ 1701, *et seq.* (2012)). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the ECRA. While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. The procedures and criteria for the establishment and operation of Technical Advisory Committees are laid out in the EAR in Supplement No. 2 to 15 C.F.R. Part 730.

3. Objectives and Scope of Activities. The objectives of the Committee are to advise and assist the Secretary of Commerce (Secretary) and other Federal agencies and officials with respect to actions designed to carry out the policy set forth in Section 1752 of ECRA. The Committee will be consulted where a recognized need of the Department of Commerce exists with respect to questions involving the development and revision of the EAR.

The Committee's activities include evaluation and commentary on data and other information available from the Department, other reliable sources, and its own experience. The Committee will provide advice to the Department with respect to these matters. The Committee will also provide recommendations regarding emerging dual-use technologies and will provide input as to how, when, and whether such technologies should be controlled for certain purposes. In doing so, the Committee may, in coordination with the BIS's Designated Federal Officer, work with the Emerging Technology Technical Advisory Committee.

4. Description of Duties. The Committee functions solely as an advisory body in accordance with the provisions of the FACA. Operations of the Committee will be overseen by the Assistant Secretary for Export Administration in consultation with the Under Secretary for Industry and Security. The Committee will provide advice to the Department with respect to matters listed above in Section 3. The Chairperson will submit an annual report and an annual plan to the Department. The report will describe the Committee's membership, functions, activities, and such related matters as would be informative to the public consistent with the policy of the Freedom of Information Act, 5 U.S.C. § 552, including a summary of the efforts of the Committee during the year and any recommendations agreed on by the Committee.

5. Agency or Official to Whom the Committee Reports. The Committee reports to the Assistant Secretary for Export Administration, BIS, U.S. Department of Commerce.

6. Support. The Office of Technology Evaluation, BIS, provides administrative support services for the Committee.

7. Estimated Annual Operating Costs and Staff Years. The estimated annual operating cost of the RPTAC is \$45,226, which includes an estimated 0.3 person/year of staff support. Committee members will not be compensated for their services; nor will they be reimbursed for travel, subsistence, and other expenses incurred by them in connection with their duties as members of the Committee.

8. Designated Federal Officer (DFO). The Assistant Secretary for Export Administration, in consultation with the Under Secretary of Commerce for Industry and Security, will designate a full-time or permanent part-time employee of BIS to serve as the DFO for the Committee in accordance with agency procedures. The DFO will approve or call all of the Committee and subcommittee meetings, prepare and approve all meeting agendas, attend all Committee and subcommittee meetings, adjourn any meetings when the DFO determines adjournment to be in the public interest, and chair Committee meetings when directed to do so by the Assistant Secretary for Export Administration.

9. Estimated Number and Frequency of Meetings. The RPTAC meets quarterly at the call of the Chairperson, unless the Chairperson determines, in consultation with other members of the Committee, that such a meeting is not necessary to achieve the purposes of ECRA and the EAR. Meetings and work of the Committee shall be consistent with the provisions of FACA.

10. Duration. Continuing.

11. Termination. This charter will terminate two years from the date of its filing of this charter with the appropriate U.S. Senate and House of Representatives Oversight Committees unless earlier terminated or renewed by proper authority.

12. Membership and Designation. All members are appointed by and serve at the pleasure of the Secretary. Membership shall not exceed 50 members. Non-government members are qualified representatives of industries associated with the export of items subject to control under the EAR. Government members are, to the extent possible, specialists in the administration of export controls. To help ensure committee membership represents a range and balance of views, the Department will periodically solicit nominations for membership through various means, such as a Federal Register Notice, the BIS website, and/or outreach to industry associations, as well as academic, research, and development institutions. The length of a member's term shall be four years. A member may be reappointed for additional terms except that, consistent with Supplement No. 2 to 15 C.F.R. Part 730, the industry members shall not serve on the Committee for more than four consecutive years. Members who do not attend four consecutive Committee meetings will have their membership terminated.

The Committee shall elect a chairperson. The Secretary of Commerce and/or the Under Secretary of Commerce for Industry and Security may recommend candidates for Chairperson for the Committee's non-exclusive consideration. It is desired that the Chairperson serve only a two-year term. However, the Chairperson may be re-elected as Chairperson, subject to continuation of the Committee.

Members will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Non-federal members serve in a representative capacity and not as special government employees. Federal members serve as regular government employees.

All members must be able to qualify for a Secret security clearance or a security clearance at a level sufficient to perform their work on the Committee.

Members shall not reference or otherwise utilize their membership on the Committee in connection with public statements made in their personal capacities without a disclaimer that the views expressed are their own and do not represent the views of the Committee, BIS or the Department of Commerce.

13. Subcommittees. The Assistant Secretary for Export Administration, in consultation with the Under Secretary of Commerce for Industry and Security, may establish such subcommittees from among Committee members as may be necessary, subject to the provisions of FACA, the

FACA implementing regulations and applicable Department of Commerce guidance. Any subcommittees established must report back to the parent committee, and must not provide advice and work products directly to the agency. Subcommittee members must be approved by the Assistant Secretary for Export Administration.

14. Recordkeeping. The records of the Committee, formally or informally, established subcommittees, or other subgroups of the Committee, shall be handled in accordance with General Records Schedule 6.2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. § 552.



Chief Financial Officer and Assistant Secretary
for Administration

08/16/2020
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