

II. Basis for CAPS Expansion

A. Purpose

CAPS is designed to provide managers at the lowest organizational level the authority, control, and flexibility to recruit, retain, develop, recognize, and motivate its workforce, while ensuring adequate accountability and oversight.

The ESO is a new organization designed to deliver common business support and mission-enabling services in the functional areas of human resources, acquisition, information technology financial management, and other areas as determined necessary. The mission of the ESO is to: Enhance customer experience through the efficient delivery of high-quality mission-enabling services; increase service transparency and accountability; and enable employees, currently performing these functions, to dedicate more time to the unique mission needs of their organization. The expansion of CAPS coverage to include the ESO, should improve the organization's ability to recruit and retain a high-quality workforce to meet the organization's mission.

DoC's CAPS allows for modifications of procedures if no new waiver from law or regulation is added. Given that this expansion and modification is in accordance with existing law and regulation and CAPS is a permanent alternative personnel system, the DoC is authorized to make the changes described in this notice.

B. Participating Employees

Employee notification of this expansion will be accomplished by providing employees and managers electronic access to all CAPS policies and procedures, including the eleven previous **Federal Register** Notices. A copy of this **Federal Register** notice will also be accessible electronically upon approval. Supervisor training and informational briefings for employees will be conducted as the ESO undergoes full transition over a period of a few years.

III. Changes to the Project Plan

The CAPS at DoC, published in the **Federal Register** on December 24, 1997 (62 FR 67434), is amended as follows:

1. The following organization will be added to the project plan, Section II D—Participating Organizations

Office of the Secretary (OS), Office of the Deputy Secretary, Enterprise Services Organization (ESO)

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-085-2016]

Foreign-Trade Zone (FTZ) 76—Danbury, Connecticut Notification of Proposed Production Activity; MannKind Corporation, (Fumaryl Diketopiperazone (FDKP) Carrier/ Receptor Powder), Danbury, Connecticut

MannKind Corporation (MannKind) submitted a notification of proposed production activity to the FTZ Board for its facility in Danbury, Connecticut within Subzone 76B. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on December 21, 2016.

MannKind currently has authority to use the facility for the production of Technosphere Insulin[®], an inhalable insulin made by a combination of imported fumaryl diketopiperazone (FDKP) and domestic material active ingredients. MannKind's current request would add a finished product to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MannKind from customs duty payments on the foreign-status components used in export production. On its domestic sales, MannKind would be able to choose the duty rate during customs entry procedures that applies to FDKP carrier/receptor powder (duty rate 6.5%) for the foreign-status components and materials in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 15, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site, which is accessible via www.trade.gov/ftz.

For further information, contact Juanita H. Chen at Juanita.Chen@trade.gov or (202) 482-1378.

Dated: December 28, 2016.

Elizabeth Whiteman,
Acting Executive Secretary.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Dane Francisco Delgado, Inmate Number: 60114-379, Eden, Correctional Institution, P.O. Box 605, Eden, TX 76837; Order Denying Export Privileges

On November 4, 2014, in the U.S. District Court for the Southern District of Texas, Dane Francisco Delgado ("Delgado"), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) ("AECA"). Specifically, Delgado knowingly and willfully conspired with persons known and unknown to export, furnish, and cause to be exported from the United States to Mexico defense articles designated on the United States Munitions List without having first obtained from the Department of State a license or written authorization for such export. Delgado was sentenced to 60 months in prison, three years of supervised release, and a \$100 assessment.

Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations")¹ provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act ("EAA"), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Delgado’s conviction for violating the AECA, and has provided notice and an opportunity for Delgado to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has received a submission from Delgado.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Delgado’s export privileges under the Regulations for a period of 10 years from the date of Delgado’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Delgado had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until November 4, 2024, Dane Francisco Delgado, with a last known address of Inmate Number: 60114–379, Eden, Correctional Institution, P.O. Box 605, Eden, TX 76837, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Delgado by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Delgado may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Delgado. This Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 4, 2024.

Issued this 29th day of December, 2016.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–00015 Filed 1–5–17; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Robert Luba, Inmate Number: 65986–050, USP Canaan, U.S. Penitentiary, Satellite Camp, P.O. Box 200, Waymart, PA 18472; Order Denying Export Privileges

On April 25, 2016, in the U.S. District Court for the District of New Jersey, Robert Luba (“Luba”), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Luba knowingly and willfully exported and caused to be exported from the United States to India a defense article, that is, the technical drawing for the NSSN Class Submarine, Torpedo Tube, Open Breech Door, Gagging Collar A, Drawing Number 7072856, which was designated as a defense article on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Luba was sentenced six months in prison, three years of supervised release, \$173,736.67 in restitution, and a \$200 assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)¹ provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (“EAA”), the EAR, or any order, license or authorization

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at <http://uscode.house.gov>)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).