

RRD Dart 528, 529, 532, 535, 542, and 552 Series turboprop engines. We need to make the following correction:

§ 39.13 [Corrected]

On page 44631, in the second column, in paragraph (b) of the regulatory section, “2007–02–17” is corrected to read “2007–02–07”.

Issued in Burlington, Massachusetts, on September 29, 2008.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742, 744 and 774

[Docket No. 080307397–81237–01]

RIN 0694–AE33

Revisions to the Export Administration Regulations Based Upon a Systematic Review of the CCL

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to make revisions to the EAR as a result of a systematic review of the Commerce Control List (CCL) that was conducted by the Bureau of Industry and Security (BIS). This rule is the second phase of the regulatory implementation of the results of a review of the CCL that was conducted by BIS starting in 2007. The BIS CCL review benefited from input received from BIS’s Technical Advisory Committees (TACs) and comments that were received from the interested public in response to the publication of a BIS notice of inquiry on July 17, 2007. The revisions in this rule include clarifications to existing controls, eliminating redundant or outdated controls, establishing more focused and rationalized controls, and adding additional controls for clarity or for consistency with international regimes.

DATES: *Effective Date:* This rule is effective: October 6, 2008. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AE33, by any of the following methods:

- *E-mail:*
publiccomments@bis.doc.gov Include

“RIN 0694–AE33” in the subject line of the message.

- *Fax:* (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

- *Mail or Hand Delivery/Courier:* Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE33.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to jseehra@omb.eop.gov, or by fax to (202) 395–7285; and to the U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e. RIN 0694–AE33)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce; by telephone: (202) 482–2440; or by fax: 202–482–3355.

SUPPLEMENTARY INFORMATION

Background

This rule amends the EAR to make various revisions as a result of a systematic review of the CCL that was conducted by BIS. This rule is the second phase of the regulatory implementation of the results of that systematic review of the CCL that was conducted by BIS beginning in 2007. The CCL review benefited from input received from BIS’s Technical Advisory Committees (TACs) and public comments received in response to a notice of inquiry (July 17, 2007, 72 FR 39052).

On April 18, 2008, BIS published the first phase of the regulatory implementation of the CCL review in a rule titled, “Technical Corrections to the Export Administration Regulations based upon a Systematic Review of the CCL” (73 FR 21035). The first CCL review rule focused on making needed technical corrections and clarifications to the CCL. This rule, the second CCL review rule, makes substantive revisions to the EAR, including the CCL. The revisions to the CCL in this rule are

divided into four types of revisions in this background section of the preamble: (I) *Clarifications to Existing Controls*, (II) *Eliminating Redundant or Outdated Controls*, (III) *Establishing More Focused and Rationalized Controls*, and (IV) *Adding Additional Controls for Clarity or for Consistency with International Regimes*.

As a part of the implementation phase of the CCL review, the agency has also taken other non-regulatory actions to improve the public’s understanding of the CCL. These BIS actions have involved publishing certain advisory opinions and creating new web guidance to provide greater clarity to exporters and reexporters regarding existing provisions of the CCL. BIS has also created a new process whereby it has stated its intention to conduct similar types of systematic reviews of the CCL in the future in order to continuously improve the CCL.

This rule makes the following revisions to the Export Administration Regulations (EAR):

1. In Supplement No. 7 to part 742 (Description of Major Weapons Systems), under paragraph (7)(c) (Missiles and Missile Launchers), this rule adds the phrase “except model airplanes” to clarify that the unmanned aerial vehicles (UAVs) subject to this paragraph do not include model airplanes.

2. In § 744.21 (Restrictions on Certain Military End-Uses in the People’s Republic of China (PRC)), this rule makes two changes under paragraph (a) (General Prohibition) to clarify the intended scope of the items subject to this end-use control. Under the introductory text of paragraph (a), this rule clarifies that the items that are subject to the general prohibition are any items listed in Supplement No. 2 to part 744 that are subject to the EAR. Adding the phrase “subject to the EAR” will clarify that this prohibition does not extend to items that are not subject to the EAR, such as information that is publicly available. This change is needed because the § 772.1 definition of the term “item” does not distinguish between those items that are subject to the EAR and those that are not. Given this broad definition, in this paragraph the term “item” should be qualified with the phrase “subject to the EAR”.

The Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) is amended by making various substantive revisions to the CCL that are divided below into four types of revisions: (I) *Clarifications to Existing Controls*, (II) *Eliminating Redundant or Outdated Controls*, (III) *Establishing More Focused and Rationalized*

Controls, and (IV) Adding Additional Controls for Clarity or for Consistency with International Regimes.

I: Clarifications to Existing Controls

1. Revisions to the "Headings" of Existing CCL Entries

This rule is making revisions to the headings of three (3) CCL entries: 2B351, 4D993 and 6A995, to clarify the items controlled under those CCL entries.

ECCN 2B351 is amended by revising the heading to clarify the items controlled under this CCL entry by adding the phrases "as follows" and "see List of Items Controlled".

ECCN 4D993 is amended by adding the phrase, "see List of Items Controlled" at the end of the heading of the CCL entry. This rule also makes revisions to the "Items" paragraph of this ECCN by adding the conjunction "or" between "Items" paragraphs (b) and (c) to clarify the scope of the items controlled under this CCL entry.

ECCN 6A995 is amended by revising the heading to remove the phrase "not controlled by 0B001.h.6, 6A005 or 6A205", and replacing that with the phrase, "see List of Items Controlled" to the heading of this CCL entry. This revision is intended to clarify the scope of the control.

2. Revisions to "Related Controls" in CCL Entries

This rule revises the "Related Controls" paragraphs in the List of Items Controlled section in the following twelve (12) CCL entries: 1C351, 1C352, 1C353, 1C354, 1C360, 2B119, 2B350, 4E992, 7D001, 7D002, 7E002, and 7E101 by adding additional related control references or making changes for greater specificity for the related controls references. BIS includes related control references in CCL entries to assist exporters in classifying items on the CCL and in some cases provides cross-references for items that are listed on the CCL, but are under the export control jurisdiction of other U.S. Government agencies. Several of the public comments received by BIS, as a part of the CCL review process, requested that BIS add these types of additional related controls references to better assist the public in classifying their items using the CCL.

(A) Converting "Related Controls" Paragraphs Into License Requirement Notes

The revisions being made to the "Related Controls" paragraphs under these six (6) CCL entries: 1C351, 1C352, 1C353, 1C354, 1C360, and 2B350 also

involve revising and moving text from the "Related Controls" paragraph to new License Requirement notes for those CCL entries. These revisions make no change to the scope of the items controlled under those CCL entries. However, it was determined during the CCL review, that those "Related Controls" under those CCL entries could be better characterized as "License Requirement Notes". Given that determination, BIS decided it would be helpful to move those "Related Controls" references to new "License Requirement Notes" to better assist exporters and reexporters when classifying their items.

ECCN 1C351 is amended by moving subparagraphs (2) through (4) from the "Related Controls" paragraph to the newly created "License Requirement Notes" and redesignating subparagraph (5) of the "Related Controls" paragraph as a subparagraph (2).

ECCN 1C352 is amended by moving subparagraph (1) from the "Related Controls" paragraph to the newly created "License Requirement Note" and redesignating subparagraph (2) of the "Related Controls" paragraph. This rule also makes some minor revisions for clarity in the text of the new "License Requirement Note".

ECCN 1C353 is amended by moving the first sentence from the "Related Controls" paragraph to the newly created "License Requirement Note", and leaving the second sentence, which references related controls from the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services controls and the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, in the "Related Controls" paragraph.

ECCN 1C354 is amended by moving subparagraph (1) from the "Related Controls" paragraph to the newly created "License Requirement Note" and redesignating subparagraph (2) of the "Related Controls" paragraph. This rule also makes some minor revisions for clarity to the text of the new "License Requirement Note".

ECCN 1C360 is amended by moving subparagraph (1) from the "Related Controls" paragraph to the newly created "License Requirement Note" and redesignating subparagraphs (2) and (3) in the "Related Controls" paragraph as subparagraphs (1) and (2). This rule also makes some minor revisions for clarity for the text in the new "License Requirement Note".

B. Removal of Outdated "Related Controls" References in CCL Entries

The revisions made to the "Related Controls" paragraphs under the following six (6) CCL entries: 1D001, 4E992, 2B119, 7D001, 7D002 and 7E002 all involve removing nonexistent ECCNs that were listed as "Related Controls" references under those CCL entries. ECCN 1D001 had an outdated "Related Controls" reference to the nonexistent 1D102. ECCN 2B119 referred to a nonexistent 2B219, and 4E992 referred to a nonexistent 4E994. Under ECCNs 7D001, 7E001 and 7E002 outdated references to the nonexistent 7A007 are all removed with this rule.

3. Revisions to "Items" Paragraphs in CCL Entries

This rule makes revisions to the "Items" paragraphs under the following two (2) CCL entries: 1C350 and 2B350 to provide greater clarity regarding the items controlled under those CCL entries. These changes include adding additional text under some of these CCL entries, rearranging text of some of these CCL entries to improve readability, or revising the "Items" paragraphs of these CCL entries to clarify the intended scope of the control. Specifically, these revisions include the following:

ECCN 1C350 is amended by adding a sentence at the end of "Note 2" of the "License Requirement Notes" section to make persons aware that although certain mixtures as described in this note may be classified EAR99, a license may still be required for reasons set forth elsewhere in the EAR. This is stated in other parts of the EAR, but this additional text being added to this CCL entry will help make persons aware that although their commodity may not be controlled under this CCL entry, it still may require a license under other parts of the EAR.

ECCN 2B350 is amended by reordering the "Items" paragraph in the List of Items Controlled Section in order to improve the readability of the "Items" paragraph. This rule makes no changes to the items that are controlled under ECCN 2B350. This reordering of the "Items" paragraph for parallelism helps improve the readability of the "Items" paragraph of that ECCN entry. BIS is making this change to better assist the public in classifying their materials under this ECCN. In addition, this rule redesignates the "Technical Note" at the end of the "Items" paragraph in the List of Items Controlled section, as "Technical Note 1", and adds a "Technical Note 2" to define the term "alloy". This new definition of "alloy" clarifies to the public that the metal

alloys in 2B350 are those containing a higher percentage by weight of the stated metal than any other element. Lastly, under this CCL entry, this rule moves the text of the "Related Controls" paragraph to a new "License Requirement Note" to clarify the intended scope of the control.

4. Clarifications to "Items" Paragraphs To Conform With Multilateral Regimes

This rule makes clarifications to the "Items" paragraphs in these two (2) CCL entries: 4A101 and 4A980 to clarify what items are controlled under those entries and to better conform those entries to the language used in multilateral control lists.

ECCN 4A101 is amended by adding a new note at the end of the "Items" paragraph in the List of Items Controlled section to provide a definition for "radiation hardened". "Radiation hardened" is used in paragraph (b) of the "Items" paragraph, but no definition was provided, prior to publication of this rule, for this term. This new note clarifies that under this CCL entry, "radiation hardened" means that the component or equipment is designed or rated to withstand radiation levels which meet or exceed a total irradiation dose of 5×10^5 rads (Si). This revision will assist the public in understanding the types of analog computers, "digital computers" and differential analyzers that are controlled under this ECCN entry.

ECCN 4A980 is amended by adding a new note at the end of the "Items" paragraph to clarify the existing control. This note clarifies that ECCN 4A980 does not control equipment limited to one finger and designed for user authentication or access control.

5. Other Assorted Clarifications to Existing Controls

Category 1 (Materials, Chemicals, "Microorganisms," and Toxins) of the CCL, is amended by adding a new note to the beginning of the category to make the public more aware that the Food and Drug Administration (FDA) and the Drug Enforcement Administration (DEA) may control exports of items subject to the EAR and on the CCL. Public comments submitted for the CCL review suggested that BIS add additional cross-references on the CCL to the FDA and DEA regulations. Supplement No. 3 to Part 730 (Other U.S. Government Departments and Agencies with Export Control Responsibilities) and certain ECCN cross-references to other agencies' controls already accomplish the same type of thing. However, in conducting the CCL review, BIS determined it

would be helpful to the public to add a new note at the beginning of Category 1 to make the public more aware that these other agencies of the U.S. Government may also apply controls to these items. This note makes no changes to the items subject to the EAR.

II. Eliminating Redundant or Outdated Controls

1. ECCN 4A994 is amended by making various revisions to the "Items" paragraph of this CCL entry to remove technically outdated controls and to update certain technical control parameters to better reflect current industry standards. Specifically, this rule deletes paragraphs (d), (e), (g), (h), and (k)(1) of the "Items" paragraph in the List of Items Controlled section of this CCL entry. This change is being made because these controls are technically outdated, so these commodities no longer need to be controlled under this CCL entry. Under paragraph (b) of the "Items" paragraph, this rule clarifies the types of digital computers that are controlled under this CCL entry and increases the Weighted TeraFLOPS (WT) control threshold for this paragraph (b) from 0.00001 WT to 0.0128 WT. In addition, under paragraph (c) of the "Items" paragraph, this rule deletes the technically outdated control parameter that was listed under paragraph (c)(2) prior to publication of this rule. This change to paragraph (c) will specify that "electronic assemblies" covered under this paragraph are those that are designed to be capable of aggregation in configurations of 16 or more processors. Finally, under paragraph (k), this rule clarifies the types of "hybrid computers" and "electronic assemblies" and specially designed components that are controlled under this CCL entry.

2. ECCN 5A991 is amended by removing three outdated entries from the "Items" paragraph under paragraphs (b)(8), (c)(2), and (c)(4) of this CCL entry. In the public comments, people asked for clarifications regarding what commodities were controlled under these three "Items" paragraphs under ECCN 5A991. However, in reviewing these three technical parameters, BIS determined that for each of the commodities controlled under this ECCN, the commodities were either covered under another ECCN (meaning these entries were merely empty boxes on the CCL), or the commodities that were controlled under one of these three "Items" paragraphs were outdated and should appropriately be designated EAR99 (meaning the commodities controlled under these three paragraphs, that were not already controlled under

another ECCN entry, were no longer commonly used by industry or the general public).

III. Establishing More Focused and Rationalized Controls

1. ECCN 1E001 is amended by adding Australia and Norway to the list of countries that are eligible to receive technology controlled under this ECCN under the provisions of License Exception TSR (Technology and software restricted) (§ 740.6), as described under paragraphs (a) or (b) of the License Exception TSR paragraph in the License Exceptions section of this ECCN entry. Prior to publication of this rule, there were seventeen countries that were eligible for License Exception TSR under this CCL entry. When this list of seventeen countries eligible for License Exception TSR was added to the CCL entry on January 15, 1998 (63 FR 2482), Australia and Norway were inadvertently not included, which is being corrected with this rule. With the addition of Australia and Norway, nineteen countries are now eligible to receive technology under License Exception TSR. As with any EAR list-based license exception, the provisions of § 740.2 and the specific provisions of the list-based license exception, in this case License Exception TSR, determine whether a list-based license exception can be used to authorize a specific transaction.

2. ECCN 2B018 is amended by removing an advisory note from the "Items" paragraph and converting that note into License Exception GBS eligibility (Shipments to Country Group B Countries) (15 CFR 740.4). The items that were described in that advisory note, prior to publication of this rule, will now be eligible for License Exception GBS, provided the transaction meets the terms and conditions of License Exception GBS and § 740.2. Under ECCN 2B018, the entire entry is controlled for national security reasons under NS column 1 and regional stability reasons under RS column 2, among others reasons for control. To be eligible for License Exception GBS, the ultimate destination must be subject to a license requirement for national security reasons only on the Commerce Country Chart and the destination must be listed in Country Group B in Supplement No. 1 to Part 740 of the EAR. The only countries listed in Country Group B that do not require a license under RS column 2 are Australia, Japan, New Zealand and countries in North Atlantic Treaty Organization (NATO). Therefore, this new License Exception GBS availability

under this ECCN entry is limited to these countries in Country Group B.

IV. Adding Additional Controls for Clarity or for Consistency With International Regimes

This rule adds new reasons for control to one (1) existing CCL entry: 1E002. This existing CCL entry was intended to have this control at an earlier time, but this control was inadvertently not added to the entry when changes were made to other parts of the EAR (e.g., a NP or MT item was added to the CCL, but the corresponding change to control the related technology or software was not made at that time). This rule adds a new item to one (1) existing CCL entry: 9E101. The EAR were previously amended to include new commodities controlled for MT reasons. However, the EAR omitted the corresponding control on the “technology” related to those commodities.

1. New Reasons for Control Being Added to Existing CCL Entry

ECCN 1E002 is amended by adding a new NP reason for control to this ECCN. This new NP reason for control applies to “technology” for items controlled by 1A002 for NP reasons. This corrects an inadvertent omission from the CCL of this NP reason for control. The intent of the U.S. Government was to have a NP technology control on the NP portion of 1E002.f applicable to the NP portion of 1A002, but in an earlier revision to the CCL this change had not been implemented into the EAR, as intended. This rule corrects that inadvertent omission by adding this NP reason for control to this existing ECCN.

2. New Items Added to Existing CCL Entry

ECCN 9E101 is amended by adding 9C110 to the heading of 9E101 to correct an inadvertent error that occurred when 9C110 was added to the CCL. ECCN 9C110 was added to the CCL on April 2, 2003 (68 FR 16144) to implement a Missile Technology Control Regime (MTCR) Plenary change. However, at the time that change was implemented in the EAR, ECCN 9E101 was not amended to add a Missile Technology (MT) technology control for this new MT commodity controlled under ECCN 9C110. Prior to publication of this rule, ECCN 9E101 controlled “technology” according to the General Technology Note for the “development” or “production” of commodities or software controlled by 9A012, 9A101, 9A104 to 9A111, 9A115 to 9A119, 9D101, 9D103, 9D104 or 9D105. ECCN 9C110 should have been added to the heading in 9E101 when the change

implementing the MTCR Plenary change was made to the EAR, but it was inadvertently left off. This technology for ECCN 9C110 is a current control within the MTCR and should be reflected on the CCL under ECCN 9E101. This rule corrects that inadvertent error by adding this new MT control to the CCL.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of July 23, 2008, 73 FR 43603 (July 25, 2008), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final 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 respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0088, “Multi-Purpose Application,” which carries a burden hour estimate of 58 minutes for a manual or electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

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

5. The other changes made under this rule are nonsubstantive changes that do not meet the criteria noted in the preceding paragraph. For these nonsubstantive changes described in this paragraph, the Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. The changes made by this rule described under this paragraph are not substantive changes, but rather are clarifications to existing controls. These nonsubstantive changes are described under Part I: *Clarifications to Existing Controls* in the Background section of this rule. These nonsubstantive changes include: Revisions to the headings of existing CCL entries; removal of outdated “Related Controls” references in CCL entries; nonsubstantive revisions to “items” paragraphs in CCL entries to improve things, such as readability; and additions of “items” paragraphs for certain items subject to the licensing requirements of the U.S. Department of State. This rule does not alter any right, obligation or prohibition that applies to any person under the Export Administration Regulations (EAR). Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, parts 742, 744 and 774 of the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

PART 742—[AMENDED]

■ 1. The authority citation for 15 CFR part 742 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. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

■ 2. Supplement No. 7 to Part 742 is amended by revising paragraph (7)(c), to read as follows:

**Supplement No. 7 to Part 742—
Description of Major Weapons Systems**

* * * * *

(7) Missiles and Missile Launchers:

* * * * *

(c) Unmanned Aerial Vehicles (UAVs) of any type, including sensors for guidance and control of these systems, except model airplanes.

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PART 744—[AMENDED]

■ 3. The authority citation for 15 CFR part 744 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. 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. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; 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 July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

■ 4. Section 744.21 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 744.21 Restrictions on certain military end-uses in the People's Republic of China (PRC).

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL), you may not export, reexport, or transfer any item subject to the EAR listed in Supplement No. 2 to Part 744 to the PRC without a license if, at the time of the export, reexport, or transfer, you know, meaning either:

* * * * *

PART 774—[AMENDED]

■ 5. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

**Supplement No. 1 to Part 774—
[Amended]**

■ 6. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and “Toxins,” is amended by adding a new Note, immediately following the heading of Category 1, to read as follows:

**Category 1—Materials, Chemicals,
“Microorganisms” & “Toxins”**

Note: The Food and Drug Administration (FDA) and the Drug Enforcement Administration (DEA) may control exports of items subject to the EAR and on the Commerce Control List. BIS provides cross-references to these other agency controls for convenience only. Therefore, please consult relevant FDA and DEA regulations for guidance related to the item you wish to export and do not rely solely on the EAR for information about other agency export control requirements. See Supplement No. 3 to part 730 (Other U.S. Government Departments and Agencies with Export Control Responsibilities) for more information.

* * * * *

■ 7. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and “Toxins,” Export Control Classification Number (ECCN) 1C350 is amended by revising paragraph (b) of Note 2 (*Mixtures*), in the “License Requirement Notes” of the “License Requirements” section, to read as follows:

1C350 Chemicals that may be used as precursors for toxic chemical agents.

License Requirements

* * * * *

License Requirement Notes

* * * * *

2. *Mixtures:*

a. * * *

b. A license is not required under this ECCN for a mixture, when the controlled chemical in the mixture is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are designated EAR99. However, a license may be required for reasons set forth elsewhere in the EAR.

* * * * *

■ 8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals,

“Microorganisms,” and “Toxins,” Export Control Classification Number (ECCN) 1C351 is amended by adding three “License Requirement Notes,” at the end of the “License Requirements” section, and by revising the “Related Controls” paragraph, in the “List of Items Controlled” section, to read as follows:

1C351 Human and zoonotic pathogens and “toxins”, as follows (see List of Items Controlled).

License Requirements

* * * * *

License Requirement Notes

1. All vaccines and “immunotoxins” are excluded from the scope of this entry. Certain medical products and diagnostic and food testing kits that contain biological toxins controlled under paragraph (d) of this entry, with the exception of toxins controlled for CW reasons under d.5 and d.6, are excluded from the scope of this entry. Vaccines, “immunotoxins”, certain medical products, and diagnostic and food testing kits excluded from the scope of this entry are controlled under ECCN 1C991.

2. For the purposes of this entry, only saxitoxin is controlled under paragraph d.6; other members of the paralytic shellfish poison family (e.g. neosaxitoxin) are designated EAR99.

3. Clostridium perfringens strains, other than the epsilon toxin-producing strains of Clostridium perfringens described in c.14, are excluded from the scope of this entry, since they may be used as positive control cultures for food testing and quality control.

List of Items Controlled

Unit: * * *

Related Controls: (1) Certain forms of ricin and saxitoxin in 1C351.d.5. and d.6 are CWC Schedule 1 chemicals (see § 742.18 of the EAR). The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. See § 745.1 of the EAR for notification procedures. See 22 CFR part 121, Category XIV and § 121.7 for additional CWC Schedule 1 chemicals controlled by the Department of State.

(2) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)).

* * * * *

■ 9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and “Toxins,” Export Control Classification Number (ECCN) 1C352 is amended by adding a “License Requirement Note,” at the end of the “License Requirements” section,

and by revising the "Related controls" paragraph, in the "List of Items Controlled section," to read as follows:

1C352 Animal pathogens, as follows (see List of Items Controlled).

License Requirements
* * * *

License Requirement Note

All vaccines are excluded from the scope of this ECCN. See ECCN 1C991 for vaccines.

List of Items Controlled

Unit: * * *

Related Controls: The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)).

* * * *

10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," and "Toxins," Export Control Classification Number (ECCN) 1C353 is amended by adding a "License Requirement Note," at the end of the "License Requirements" section, and by revising the "Related controls" paragraph, in the "List of Items Controlled" section, to read as follows:

1C353 Genetic elements and genetically-modified organisms, as follows (see List of Items Controlled).

License Requirements
* * * *

License Requirement Note

Vaccines that contain genetic elements or genetically modified organisms identified in this ECCN are controlled by ECCN 1C991.

List of Items Controlled

Unit: * * *

Related Controls: The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN, including (but not limited to) genetic elements, recombinant nucleic acids, and recombinant organisms associated with the agents or toxins in ECCN 1C360 (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)).

* * * *

11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," and "Toxins," Export Control Classification Number (ECCN) 1C354 is amended by adding a

"License Requirement Note," at the end of the "License Requirements" section, and by revising the "Related controls" paragraph, in the "List of Items Controlled" section, to read as follows:

1C354 Plant pathogens, as follows (see List of Items Controlled).

License Requirements
* * * *

License Requirement Note

All vaccines are excluded from the scope of this ECCN. See ECCN 1C991 for vaccines.

List of Items Controlled

Unit: \$ value.

Related Controls: The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, maintains controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c)).

* * * *

12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," and "Toxins," Export Control Classification Number (ECCN) 1C360 is amended by adding a "License Requirement Note," at the end of the "License Requirements" section, and by revising the "Related controls" paragraph, in the "List of Items Controlled" section, to read as follows:

1C360 Select agents not controlled under ECCN 1C351, 1C352, or 1C354.

License Requirements
* * * *

License Requirement Note

All vaccines are excluded from the scope of this ECCN. See ECCN 1C991 for vaccines.

List of Items Controlled

Unit: \$ value.

Related Controls: (1) Also see ECCNs 1C351 (AG-controlled human and zoonotic pathogens and "toxins"), 1C352 (AG-controlled animal pathogens), and 1C354 (AG-controlled plant pathogens). (2) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of items controlled by this ECCN (for APHIS, see 7 CFR 331.3(b), 9 CFR 121.3(b), and 9 CFR 121.4(b); for CDC, see 42 CFR 73.3(b) and 42 CFR 73.4(b)).

* * * *

13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," and "Toxins," Export Control Classification Number (ECCN) 1E001 is amended by revising the "License Exceptions" section, to read as follows:

1E001 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A101, 1B (except 1B999), or 1C (except 1C018, 1C355, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C992, 1C995 to 1C999).

* * * *

License Exceptions

CIV: N/A

TSR: Yes, except for the following:

(1) Items controlled for MT reasons; or (2) Exports and reexports to destinations outside of Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, or the United Kingdom of "technology" for the "development" or "production" of the following:

- (a) Items controlled by 1C001; or (b) Items controlled by 1A002.a which are composite structures or laminates having an organic "matrix" and being made from materials listed under 1C010.c or 1C010.d.

* * * *

14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms," and "Toxins," Export Control Classification Number (ECCN) 1E002 is amended by revising the "License Requirements" section to read as follows:

1E002 Other "technology", as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, NP, AT

Table with 2 columns: Control(s) and Country Chart. Rows include NS applies to entire entry, MT applies to 1E002.e, NP applies to "technology" for items controlled by 1A002 for NP reasons, and AT applies to entire entry.

* * * *

15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B018 is amended:

- a. By revising the "License Exceptions" section; and b. By removing the "Advisory Note" at the end of the "Items" paragraph, in the "List of Items Controlled" section, to read as follows:

2B018 Equipment on the Wassenaer Arrangement Munitions List.

* * * *

License Exceptions

LVS: \$3,000, except N/A for Rwanda.

GBS: Yes, as follows, except N/A for Rwanda, MT-controlled items, or

destinations for which a license is required for RS reasons: Equipment used to determine the safety data of explosives as required by the International Convention on the Transport of Dangerous Goods (C.I.M.) Articles 3 and 4 in Annex 1 RID, provided that such equipment will be used only by the railway authorities of current C.I.M. members, or by the Government-accredited testing facilities in those countries, for the testing of explosives to transport safety standards, of the following description:

- a. Equipment for determining the ignition and deflagration temperatures;
- b. Equipment for steel-shell tests;
- c. Drophammers not exceeding 20 kg in weight for determining the sensitivity of explosives to shock;
- d. Equipment for determining the friction sensitivity of explosives when exposed to charges not exceed 36 kg in weight.

CIV: N/A

* * * * *

■ 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B119 is amended by revising the “Related Controls” paragraph, in the “List of Items Controlled” section, to read as follows:

2B119 Balancing machines and related equipment, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: See also 7B101.

Related Definitions: * * *

Items:

* * * * *

■ 17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B350 is amended:

- a. By adding a “License Requirement Note,” at the end of the “License Requirements” section;
- b. By revising the “Related Controls” paragraph, in the “List of Items Controlled” section; and
- c. By revising the “Items” paragraph, in the “List of Items Controlled” section, to read as follows:

2B350 Chemical manufacturing facilities and equipment, except valves controlled by 2A226 or 2A292, as follows (see List of Items Controlled).

License Requirements

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License Requirement Note

This ECCN does not control equipment that is both: (1) Specially designed for use in civil applications (e.g., food processing, pulp and paper processing, or water purification) and (2) inappropriate, by the nature of its design, for use in storing, processing, producing or conducting and controlling the

flow of the chemical weapons precursors controlled by 1C350.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: N/A

Related Definitions: * * *

Items:

a. Reaction vessels or reactors, with or without agitators, with total internal (geometric) volume greater than 0.1 m³ (100 liters) and less than 20 m³ (20,000 liters), where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

- a.1. Alloys with more than 25% nickel and 20% chromium by weight;
- a.2. Nickel or alloys with more than 40% nickel by weight;
- a.3. Fluoropolymers;
- a.4. Glass (including vitrified or enameled coating or glass lining);
- a.5. Tantalum or tantalum alloys;
- a.6. Titanium or titanium alloys;
- a.7. Zirconium or zirconium alloys; or
- a.8. Niobium (columbium) or niobium alloys.

b. Agitators for use in reaction vessels or reactors described in 2B350.a, and impellers, blades or shafts designed for such agitators, where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

- b.1. Alloys with more than 25% nickel and 20% chromium by weight;
- b.2. Nickel or alloys with more than 40% nickel by weight;
- b.3. Fluoropolymers;
- b.4. Glass (including vitrified or enameled coatings or glass lining);
- b.5. Tantalum or tantalum alloys;
- b.6. Titanium or titanium alloys;
- b.7. Zirconium or zirconium alloys; or
- b.8. Niobium (columbium) or niobium alloys.

c. Storage tanks, containers or receivers with a total internal (geometric) volume greater than 0.1 m³ (100 liters) where all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

- c.1. Alloys with more than 25% nickel and 20% chromium by weight;
- c.2. Nickel or alloys with more than 40% nickel by weight;
- c.3. Fluoropolymers;
- c.4. Glass (including vitrified or enameled coatings or glass lining);
- c.5. Tantalum or tantalum alloys;
- c.6. Titanium or titanium alloys;
- c.7. Zirconium or zirconium alloys; or
- c.8. Niobium (columbium) or niobium alloys.

d. Heat exchangers or condensers with a heat transfer surface area of less than 20 m², but greater than 0.15 m², and tubes, plates, coils or blocks (cores) designed for such heat exchangers or condensers, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:

- d.1. Alloys with more than 25% nickel and 20% chromium by weight;

d.2. Nickel or alloys with more than 40% nickel by weight;

- d.3. Fluoropolymers;
- d.4. Glass (including vitrified or enameled coatings or glass lining);
- d.5. Tantalum or tantalum alloys;
- d.6. Titanium or titanium alloys;
- d.7. Zirconium or zirconium alloys;
- d.8. Niobium (columbium) or niobium alloys;
- d.9. Graphite or carbon-graphite;
- d.10. Silicon carbide; or
- d.11. Titanium carbide.

e. Distillation or absorption columns of internal diameter greater than 0.1 m, and liquid distributors, vapor distributors or liquid collectors designed for such distillation or absorption columns, where all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:

- e.1. Alloys with more than 25% nickel and 20% chromium by weight;
- e.2. Nickel or alloys with more than 40% nickel by weight;
- e.3. Fluoropolymers;
- e.4. Glass (including vitrified or enameled coatings or glass lining);
- e.5. Tantalum or tantalum alloys;
- e.6. Titanium or titanium alloys;
- e.7. Zirconium or zirconium alloys;
- e.8. Niobium (columbium) or niobium alloys; or

f. Remotely operated filling equipment in which all surfaces that come in direct contact with the chemical(s) being processed are made from any of the following materials:

- f.1. Alloys with more than 25% nickel and 20% chromium by weight; or
- f.2. Nickel or alloys with more than 40% nickel by weight.

g. Valves with nominal sizes greater than 1.0 cm (d in.), and casings (valve bodies) or preformed casing liners designed for such valves, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

- g.1. Alloys with more than 25% nickel and 20% chromium by weight;
- g.2. Nickel or alloys with more than 40% nickel by weight;
- g.3. Fluoropolymers;
- g.4. Glass or glass lined (including vitrified or enameled coatings);
- g.5. Tantalum or tantalum alloys;
- g.6. Titanium or titanium alloys;
- g.7. Zirconium or zirconium alloys; or
- g.8. Niobium (columbium) or niobium alloys.

h. Multi-walled piping incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) being processed or contained are made from any of the following materials:

- h.1. Alloys with more than 25% nickel and 20% chromium by weight;
- h.2. Nickel or alloys with more than 40% nickel by weight;
- h.3. Fluoropolymers;
- h.4. Glass (including vitrified or enameled coatings or glass lining);
- h.5. Tantalum or tantalum alloys;
- h.6. Titanium or titanium alloys;
- h.7. Zirconium or zirconium alloys;

h.8. Niobium (columbium) or niobium alloys; or

h.9. Graphite or carbon-graphite.

i. Multiple-seal and seal-less pumps with manufacturer's specified maximum flow-rate greater than 0.6 m³/hour, or vacuum pumps with manufacturer's specified maximum flow-rate greater than 5 m³/hour (under standard temperature (273 K (0 °C)) and pressure (101.3 kPa) conditions), and casings (pump bodies), preformed casing liners, impellers, rotors or jet pump nozzles designed for such pumps, in which all surfaces that come into direct contact with the chemical(s) being processed are made from any of the of the following materials:

- i.1. Alloys with more than 25% nickel and 20% chromium by weight;
- i.2. Nickel or alloys with more than 40% nickel by weight;
- i.3. Fluoropolymers;
- i.4. Glass (including vitrified or enameled coatings or glass lining);
- i.5. Tantalum or tantalum alloys;
- i.6. Titanium or titanium alloys;
- i.7. Zirconium or zirconium alloys;
- i.8. Niobium (columbium) or niobium alloys.

i.9. Graphite or carbon-graphite;

i.10. Ceramics; or

i.11. Ferrosilicon.

j. Incinerators designed to destroy chemical warfare agents, chemical weapons precursors controlled by 1C350, or chemical munitions having specially designed waste supply systems, special handling facilities and an average combustion chamber temperature greater than 1000 °C in which all surfaces in the waste supply system that come into direct contact with the waste products are made from or lined with any of the following materials:

j.1. Alloys with more than 25% nickel and 20% chromium by weight;

j.2. Nickel or alloys with more than 40% nickel by weight; or

j.3. Ceramics.

Technical Note 1: Carbon-graphite is a composition consisting primarily of graphite and amorphous carbon, in which the graphite is 8 percent or more by weight of the composition.

Technical Note 2: The metal alloys in 2B350 are those containing a higher percentage by weight of the stated metal than of any other element.

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■ 18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B351 is amended by revising the ECCN heading to read as follows:

2B351 Toxic gas monitoring systems that operate on-line and dedicated detectors therefor, as follows, except those systems and detectors controlled by ECCN 1A004.c (see List of Items Controlled).

* * * * *

■ 19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A101 is

amended by revising the “Items” paragraph, in the “List of Items Controlled” section, to read as follows:

4A101 Analog computers, “digital computers” or digital differential analyzers, other than those controlled by 4A001 designed or modified for use in “missiles”, having any of the following (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

a. Rated for continuous operation at temperatures from below 228 K (−45 °C) to above 328 K (+55 °C); or

b. Designed as ruggedized or ‘radiation hardened’.

Note: ‘Radiation hardened’ means that the component or equipment is designed or rated to withstand radiation levels which meet or exceed a total irradiation dose of 5 × 10⁵ rads (Si).

■ 20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A980 is amended by revising the “Items” paragraph, in the “List of Items Controlled” section, to read as follows:

4A980 Computers for fingerprint equipment, n.e.s.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

The list of items controlled is contained in the ECCN heading.

Note: 4A980 does not control equipment limited to one finger and designed for user authentication or access control.

■ 21. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A994 is amended by revising the “Items” paragraph, in the “List of Items Controlled” section, to read as follows:

4A994 Computers, “electronic assemblies”, and related equipment not controlled by 4A001 or 4A003, and specially designed components therefor.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

Note 1: The control status of the “digital computers” and related equipment described in 4A994 is determined by the control status of other equipment or systems provided:

a. The “digital computers” or related equipment are essential for the operation of the other equipment or systems;

b. The “digital computers” or related equipment are not a “principal element” of the other equipment or systems; and,

N.B. 1: The control status of “signal processing” or “image enhancement” equipment specially designed for other equipment with functions limited to those required for the other equipment is determined even if it exceeds the “principal element” criterion.

N.B. 2: For the control status of “digital computers” or related equipment for telecommunications equipment, see Category 5, Part 1 (Telecommunications).

c. The “technology” for the “digital computers” and related equipment is determined by 4E.

a. Electronic computers and related equipment, and “electronic assemblies” and specially designed components therefor, rated for operation at an ambient temperature above 343 K (70 °C);

b. “Digital computers”, including equipment of “signal processing” or image enhancement”, having an “Adjusted Peak Performance” (“APP”) equal to or greater than 0.0128 Weighted TeraFLOPS (WT);

c. “Electronic assemblies” that are specially designed or modified to enhance performance by aggregation of processors, as follows:

- c.1. Designed to be capable of aggregation in configurations of 16 or more processors;
- c.2. [Reserved];

Note 1: 4A994.c applies only to “electronic assemblies” and programmable interconnections with a “APP” not exceeding the limits in 4A994.b, when shipped as unintegrated “electronic assemblies”. It does not apply to “electronic assemblies” inherently limited by nature of their design for use as related equipment controlled by 4A994.k.

Note 2: 4A994.c does not control any “electronic assembly” specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A994.b.

d. [Reserved];

e. [Reserved];

f. Equipment for “signal processing” or “image enhancement” having an “Adjusted Peak Performance” (“APP”) equal to or greater than [0.0128] Weighted TeraFLOPS WT];

g. [Reserved];

h. [Reserved];

i. Equipment containing “terminal interface equipment” exceeding the limits in 5A991;

j. Equipment specially designed to provide external interconnection of “digital computers” or associated equipment that allows communications at data rates exceeding 80 Mbyte/s.

Note: 4A994.j does not control internal interconnection equipment (e.g., backplanes, buses) passive interconnection equipment, “network access controllers” or “communication channel controllers”.

k. “Hybrid computers” and “electronic assemblies” and specially designed

components therefor containing analog-to-digital converters having all of the following characteristics:

- k.1. 32 channels or more; and,
- k.2. A resolution of 14 bit (plus sign bit) or more with a conversion rate of 200,000 conversions/s or more.

■ 22. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4D993 is amended by revising the ECCN heading and by revising paragraphs (b) and (c) of the “Items” paragraph, in the “List of Items Controlled” section, to read as follows:

4D993 “Program” proof and validation “software”, “software” allowing the automatic generation of “source codes”, and operating system “software” not controlled by 4D003 that are specially designed for real time processing equipment (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

* * * * *

- b. “Software” allowing the automatic generation of “source codes” from data acquired on line from external sensors described in the Commerce Control List; or
- c. Operating system “software” specially designed for “real time processing” equipment that guarantees a “global interrupt latency time” of less than 20 microseconds.

■ 23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4E992 is amended by revising the “Related Controls” paragraph, in the “List of Items Controlled” section, to read as follows:

4E992 “Technology” other than that controlled in 4E001 for the “development”, “production”, or “use” of equipment controlled by 4A994 and 4B994, materials controlled by 4C994, or “software” controlled by 4D993 or 4D994.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: N/A

Related Definitions: * * *

Items:

* * * * *

■ 24. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5—Telecommunications and “Information Security”, Part 1 Telecommunications, Export Control Classification Number (ECCN) 5A991 is amended:

- a. By removing paragraph (b)(8) from the “Items” paragraph in the “List of Items Controlled” section;
- b. By removing and reserving paragraphs (c)(2) and (c)(4) of the “Items” paragraph in the “List of Items Controlled” section, and
- c. By revising the “Note” at the end of paragraph (c)(4) of the “Items” paragraph in the “List of Items Controlled” section, to read as follows:

5A991 Telecommunication equipment, not controlled by 5A001.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

* * * * *

- c. “Stored program controlled” * * *

Note: Statistical multiplexers with digital input and digital output which provide switching are treated as “stored program controlled” switches.

- c.1. “Data (message) switching” equipment or systems designed for “packet-mode operation” and assemblies and components therefor, n.e.s.
- c.2. [Reserved];
- c.3. Routing or switching of ‘datagram’ packets;
- c.4. [Reserved]

Note: The restrictions in 5A991.c.3 do not apply to networks restricted to using only “network access controllers” or to “network access controllers” themselves.

* * * * *

■ 25. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A995 is amended by revising the ECCN heading, to read as follows:

6A995 “Lasers” (see List of Items Controlled).

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■ 26. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7D001 is amended by removing the ECCN reference “7A007,” from the second sentence of the “Related Controls” paragraph in the “List of Items Controlled” section.

■ 27. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7E001 is amended by removing the ECCN reference “7A007,” from the second sentence of the “Related Controls” paragraph in the “List of Items Controlled” section.

■ 28. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export

Control Classification Number (ECCN) 7E002 is amended by removing the ECCN reference “7A007,” from the second sentence of the “Related Controls” paragraph in the “List of Items Controlled” section.

■ 29. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7E101 is amended by revising the “Related Controls” paragraph, in the “List of Items Controlled” section, to read as follows:

7E101 “Technology”, according to the General Technology Note for the “use” of equipment controlled by 7A001 to 7A006, 7A101 to 7A107, 7A115 to 7A117, 7B001, 7B002, 7B003, 7B101, 7B102, 7B103, or 7D101 to 7D103.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: The “technology” related to 7A003.b, 7A005, 7A103.b, 7A105, 7A106, 7A115, 7A116, 7A117, 7B103, software specified in the Related Controls paragraph of ECCN 7D101, 7D102.a, or 7D103 are subject to the export licensing authority of the U.S. Department of State, Directorate of Defense Trade Controls. (See 22 CFR part 121.)

Related Definitions: * * *

Items:

* * * * *

■ 30. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9E101 is amended by revising the ECCN heading, to read as follows:

9E101 “Technology” according to the General Technology Note for the “development”, “production”, or “use” of commodities or software controlled by 9A012, 9A101, 9A104 to 9A111, 9A115 to 9A119, 9C110, 9D101, 9D103, 9D104 or 9D105.

* * * * *

Dated: September 29, 2008.

Christopher R. Wall,

Assistant Secretary for Export Administration.

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DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 6384]

Amendment to the International Arms Traffic in Arms Regulations: Eritrea

AGENCY: Department of State.

ACTION: Final Rule.