

load, as specified in section 4.3.3(c) of this appendix;

(p) Section 6.2.2.7, AC input failure, as specified in Note to section 2.28.1 of this appendix;

(q) Section 6.4, Type test procedure (electrical); Section 6.4.1, Input—AC input power compatibility; Section 6.4.1.2, Steady state input voltage tolerance and VI input independency, as specified in Note to section 2.28.3 of this appendix;

(r) Section 6.4.1.3, Combined input voltage/frequency tolerance and VFI input independency, as specified in Note to section 2.28.2 of this appendix;

(s) Annex G—AC input power failure—Test method;

(t) Annex J—UPS efficiency and no load losses—Methods of measurement, as specified in sections 4.2.1 and 4.3.3 of this appendix.

0.2 [Reserved]

\* \* \* \* \*

2.27. Total harmonic distortion (THD), expressed as a percent, is as defined in section 3.5.9 of IEC 62040–3 Ed. 3.0.

2.28. Uninterruptible power supply or UPS means a battery charger consisting of a combination of convertors, switches and energy storage devices (such as batteries), constituting a power system for maintaining continuity of load power in case of AC input power failure.

2.28.1. Voltage and frequency dependent UPS or VFD UPS means a UPS that protects the load from a complete loss of AC input power. The output of a VFD UPS is dependent on changes in voltage and frequency of the AC input power and is not intended to provide additional voltage corrective functions, such as those arising from the use of tapped transformers.

Note to 2.28.1: VFD input dependency may be verified by performing the AC input failure test in section 6.2.2.7 of IEC 62040–3 Ed. 3.0 and observing that, at a minimum, the UPS switches from normal mode of operation to battery power while the input is interrupted.

2.28.2. Voltage and frequency independent UPS or VFI UPS means a UPS that is independent of AC input power voltage and frequency variations as specified and declared in section 5.2 of IEC 62040–3 Ed. 3.0 and shall protect the load against adverse effects from such variations without discharging the energy storage device.

Note to 2.28.2: VFI input dependency may be verified by performing the combined input voltage/frequency tolerance and VFI input independency test in section 6.4.1.3 of IEC 62040–3 Ed. 3.0 respectively and observing that, at a minimum, the UPS produces an output voltage and frequency within the specified output range when the input voltage is varied by ±10% of the rated input voltage and the input frequency is varied by ±2% of the rated input frequency.

2.28.3. Voltage independent UPS or VI UPS means a UPS that protects the load as required for VFD and also from (a) under-voltage applied continuously to the input, and (b) over-voltage applied continuously to the input. The output voltage of a VI UPS shall remain within declared voltage limits (provided by voltage corrective functions,

such as those arising from the use of active and/or passive circuits). The output voltage tolerance band shall be narrower than the input voltage tolerance band.

Note to 2.28.3: VI input dependency may be verified by performing the steady state input voltage tolerance test in section 6.4.1.2 of IEC 62040–3 Ed. 3.0 and ensuring that the UPS remains in normal mode with the output voltage within the specified output range when the input voltage is varied by ±10% of the rated input voltage.

\* \* \* \* \*

4.2.1. General Setup

Configure the UPS according to Annex J.2 of IEC 62040–3 Ed. 3.0 with the following additional requirements:

\* \* \* \* \*

4.3.3. Power Measurements and Efficiency Calculations

Measure input and output power of the UUT according to section J.3 of Annex J of IEC 62040–3 Ed. 3.0, or measure the input and output energy of the UUT for efficiency calculations with the following exceptions:

\* \* \* \* \*

(c) For representations of no-load losses, measure the active power at the UPS input port with no load applied in accordance with section 6.2.2.4 of IEC 62040–3 Ed. 3.0.

[FR Doc. 2024–07612 Filed 4–18–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 738, 740, 742, 743, 744, 754, 758, 772, 774

[Docket No. 240415–0109]

RIN 0694–AJ58

Export Control Revisions for Australia, United Kingdom, United States (AUKUS) Enhanced Trilateral Security Partnership

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Interim final rule.

SUMMARY: With this interim final rule (IFR), the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to remove license requirements, expand the availability of license exceptions, and reduce the scope of end-use and end-user-based license requirements for exports, reexports, and transfers (in-country) to or within Australia and the United Kingdom (UK) to enhance technological innovation among the three countries and support the goals of the AUKUS Trilateral Security Partnership.

DATES: This rule is effective April 19, 2024. Comments must be received by BIS no later than June 3, 2024.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (www.regulations.gov). The regulations.gov ID for this rule is: BIS–2024–0019. Please refer to RIN 0694–AJ58 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC.” Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. The corresponding non-confidential version of those comments must be clearly marked “PUBLIC.” The file name of the non-confidential version should begin with the character “P.” Any submissions with file names that do not begin with either a “BC” or a “P” will be assumed to be public and will be made publicly available through https://www.regulations.gov. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Philip Johnson at RPD2@bis.doc.gov or (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

BIS is amending the EAR (15 CFR parts 730–774), by revising the license requirements for items being exported, reexported, or transferred (in-country) to or within Australia and the UK. Background regarding these changes is detailed below.

AUKUS Trilateral Security Partnership

On September 15, 2021, the leaders of Australia, the UK, and the United States

announced their “resolve to deepen diplomatic, security, and defense cooperation in the Indo-Pacific region, including by working with partners, to meet the challenges of the twenty-first century” by creating AUKUS, an enhanced trilateral security partnership. Through AUKUS, partner governments are strengthening each other’s ability to support their collective security and defense interests, building on longstanding and ongoing bilateral ties. AUKUS implementation promotes deeper information and technology sharing, while fostering integration of security and defense-related science, technology, industrial bases, and supply chains. In particular, AUKUS significantly enhances cooperation on a range of security and defense capabilities, many of which are detailed below. AUKUS is part of a broader U.S. Government effort to fortify international alliances and partnerships in mutually reinforcing ways across issues and continents. It is one of multiple partnerships that the United States is pursuing, enhancing cooperation on security issues in the Indo-Pacific region and around the world.

As it currently stands, AUKUS consists of two main pillars, Pillar I and Pillar II. Pillar I focuses on trilateral submarine cooperation. Pillar II has a wider scope than Pillar I because it focuses initial partner collaboration efforts on advanced capabilities in the following areas: (1) advanced cyber, artificial intelligence (AI), and autonomy; (2) quantum technologies; (3) hypersonic and counter-hypersonic capabilities; (4) electronic warfare; (5) innovation; (6) information sharing; and (7) additional undersea capabilities. Recognizing the deep defense ties built over decades, the three partner nations endeavor to streamline their collective defense collaboration while strengthening the ability to protect the sensitive technologies that underpin national security on these topics. It should be noted that the AUKUS partnership will continue to evolve. The technologies and areas of cooperation highlighted above are illustrative, not exhaustive, and are referenced here to highlight how license-free exports of certain items facilitated by the changes in this rule directly support not only the AUKUS partnership, but general defense trade and innovation between and among the AUKUS nations.

#### **Export Control Cooperation With the UK and Australia**

On December 22, 2023, President Biden signed the National Defense Authorization Act (NDAA) for Fiscal

Year 2024, Public Law 118–31, which enacted provisions related to streamlining defense trade between and among the United States, UK, and Australia, provided certain conditions are met. The Department of State has purview over the implementation of the new authorities provided through the NDAA’s revisions to the Arms Export Control Act. Separately, to support the United States’ broader defense trade and technology cooperation with the AUKUS partners, BIS is issuing this rule to remove certain license requirements under the EAR.

The UK and Australia are two of the United States’ closest allies, with longstanding collective defense arrangements. They are also members of all four multilateral export control regimes (*i.e.*, the Wassenaar Arrangement on Export Controls for Conventional Arms and Related Dual-Use Goods and Technologies, Australia Group, Nuclear Suppliers Group, and Missile Technology Control Regime (MTCR)) and are also members of the Global Export Controls Coalition (GECC) of governments that have substantially aligned on export control measures in response to Russia’s illegal war against Ukraine (see supplement no. 3 to part 746 of the EAR). The UK and Australia have robust export control systems and have taken additional measures in recent months to enhance technology protection and promote secure trade. Specifically, in December 2023, the United Kingdom’s National Security Act 2023 came into force, providing for *inter alia* enhanced protections against the unauthorized disclosure of certain defense-related information. In March 2024, the Australian Parliament passed the Defence Trade Controls Amendment Act 2024 and the Safeguarding Australia’s Military Secrets Act 2024, providing for *inter alia* controls on the reexport of items originally exported from Australia, and disclosures of controlled technology to certain foreign persons within Australia, as well as controls on the provision of defense services. Following their passage in their respective parliaments, the UK and Australian actions received royal assent. These actions highlight the UK’s and Australia’s commitment to implementing robust export controls and technology protection measures. Accordingly, this rule significantly streamlines many license requirements under the EAR for exports, reexports, and transfers (in-country) to and within the UK and Australia.

#### **Regulatory Changes**

With this rule, Australia and the UK will have nearly the same licensing

treatment under the EAR as Canada. The liberal licensing treatment of items destined to Canada was made possible in part because Canada is included in the National Technology and Industrial Base (NTIB) (as defined in 10 U.S.C. 4801(1)). In 2017, this definition was broadened to include the UK and Australia. Accordingly, the regulatory changes in this rule not only advance the goals of the AUKUS Enhanced Trilateral Security Partnership, but also further align treatment of the UK and Australia under the EAR with fellow NTIB member Canada. This rule makes six primary export control policy changes as well as several minor conforming changes to further align the treatment of Australia, Canada, and the UK under the EAR.

The first three changes involve the removal of list-based license requirements for exports, reexports, and transfers (in-country) to Australia and the UK. Specifically, BIS is removing license requirements for national security column 1 (NS1), regional stability column 1 (RS1), and missile technology column 1 (MT1) reasons for control for the destinations of Australia and the UK. As Australia and the UK are not currently subject to NS2 or RS2 controls, with this rule all Commerce Country Chart-based NS and RS controls are removed for these countries. As detailed above, the AUKUS partners are among the closest allies of the United States and have similar export control and technology protection systems in place, mitigating the risk of misuse or diversion of license-free exports, reexports, and transfers of NS1, RS1, and MT1 items to and within these destinations. To facilitate this change, the Xs are being removed from the Country Chart (supplement no. 1 to part 738) for NS1, RS1, and MT1 for Australia and the UK. Corresponding to the Commerce Country Chart, provisions in part 742 of the EAR that specify the license requirements for NS, MT, and RS reasons (§§ 742.4(a), .5(a), and .6(a), respectively) are revised in order to fully remove the license for Australia and the UK.

With these changes, “600 series” items, which are generally items on the Wassenaar Arrangement Munitions List, will no longer require a license to Australia or the UK. In addition, items controlled under the EAR for missile technology reasons consistent with the MTCR Annex will also no longer require a license to Australia or the UK. Finally, except for those items requiring a license to all destinations worldwide pursuant to § 742.6(a)(9), many 9x515 satellite-related items will no longer require a license to Australia or the UK.

These changes will significantly reduce the volume of BIS licenses for exports, reexports, and transfers to and within Australia and the UK, as BIS previously issued over 1,800 licenses per year for such items to Australia and the UK.

The fourth policy change is consistent with the general RS1 removal. BIS maintains a special RS Column 1 license requirement in § 742.6(a)(3) applicable to military commodities described under ECCN 0A919. Specifically, the special RS1 control required a license for reexports to all destinations except Canada for items classified under ECCN 0A919 except when such items are being reexported as part of a military deployment by a unit of the government of a country in Country Group A:1 (see supplement no. 1 to part 740 of the EAR) or the United States. This final rule will remove license requirements for 0A919 items to Australia and the UK, further aligning their treatment with Canada. As licenses for ECCN 0A919 items will no longer be required to the two countries under § 744.9(a)(1)(iii), this rule also removes footnote 3 on the Country Chart from Australia and the UK, which highlighted that a license was required for these items to those destinations.

Fifth, BIS is removing military end-use and end-user-based license requirements for exports, reexports, and transfers (in-country) of certain cameras, systems, or related components detailed under § 744.9(a)(1)(i) and (a)(1)(iii) of the EAR. Paragraph (a)(1)(i) of § 744.9 pertains to commodities described in ECCN 6A003.a.3, 6A003.a.4, or 6A003.a.6 that will be or are intended to be used by a ‘military end-user,’ as defined in § 744.9(d); paragraph (a)(1)(iii) pertains to commodities described in ECCNs 0A504 (incorporating commodities controlled by ECCNs 6A002 or 6A003, or commodities controlled by 6A993.a that meet the criterion of Note 3.a to 6A003.b.4), 6A002, 6A003, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criteria of Note 3.a to 6A003.b.4), or 8A002.d that will be or are intended to be incorporated into a ‘‘military commodity’’ controlled by ECCN 0A919. Prior to this rule, the only exception to the requirements under these paragraphs was to Canada. With the publication of this rule, the exception now applies to Australia, Canada, and the UK.

Finally, BIS is revising its treatment of significant items (SI) (*i.e.*, hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems) controlled under ECCN

9E003.a.1 through a.6, a.8, .h, .i, and .l, and related controls to allow these items to be exported, reexported, or transferred (in-country) to or within Australia and the UK without a license, consistent with the current exception for Canada. This provision is in § 742.14(a).

In addition to the major policy changes discussed above, the broader alignment of controls on Australia, Canada, and the UK under the EAR requires additional minor policy changes. These changes are as follows:

1. Under § 734.17(c)(1), precautions for internet transfers of products eligible for export under § 740.17(b)(2) shall include such measures as an access control system that, either through automated means or human intervention, checks the address of every system outside of the U.S. or Canada to check against transfers to foreign government end users, is edited to include Australia and the UK within the list of countries exempted from the required measures;

2. Under §§ 740.15, 740.16, and 740.17 (License Exceptions Aircraft, Vessels and Spacecraft (AVS), Additional Permissive Reexports (APR), and Encryption Commodities, Software, and Technology (ENC), respectively), BIS is expanding the explicit applicability of these License Exceptions for use to Australia, Canada, and the UK;

3. Under § 742.2(a)(1), a license was required to all destinations, including Canada, for CB Column 1 items; with the publication of this rule the countries exempt from the license requirement is expanded to include Australia and the UK in the list for clarity, although the revision does not change existing license requirements;

4. Under § 742.7(a)(4), Canada remains exempted from certain crime control related license requirements for non-firearms items, but the text has been edited to read ‘‘Canada only’’ as these items are not available without a license to Australia and the UK;

5. Under § 742.13(a)(1), Canada is mentioned as requiring a license for certain communications intercepting devices, with the publication of this rule, this phrase now includes Australia and the UK for clarity, although the revision does not change existing license requirements;

6. Under § 742.18(a)(1), Canada is mentioned as requiring a license under the Chemical Weapons Convention; with the publication of this rule, this phrase now includes Australia and the UK for clarity although the revision does not change existing license requirements;

7. Under § 743.3(b), BIS is exempting Australia and the UK alongside Canada from unilateral reporting requirements for thermal imaging camera transactions;

8. Under §§ 754.3(a), .4(a), and .5(a), a license is required for short supply reasons for control for certain items, including to Canada; these phrases now include Australia and the UK for clarity without changing existing license requirements;

9. Under § 758.1(b)(3), (6), and (9), BIS requires certain transactions involving Canada to be reported in Electronic Export Information (EEI) filings, and these paragraphs now include Australia and the UK for clarity without changing existing EEI filing requirements; and

10. Under § 758.11(a), which covers the scope of export clearance requirements for firearms and related items, BIS now includes Australia and the UK alongside Canada for clarity as destinations to which certain clearance requirements continue to pertain.

Among other things, license exception Aircraft, Vessels, and Spacecraft (AVS) treats exports to Canadian airlines in most destinations as an export to Canada. Since MT1 items do not require a license for export to Canada, the primary impact of this AVS eligibility is that Canadian airlines in most destinations may receive MT1 items as spare parts. Consistent with the removal in this rule of MT1 license requirements for the UK and Australia, and as discussed above, BIS is adding AVS eligibility for Australian and United Kingdom airlines to receive such items in most destinations. As a conforming change, BIS is creating two new definitions for what constitutes an ‘‘Australian airline’’ and ‘‘United Kingdom (or UK) airline.’’ These two definitions are added to § 772.1 and mirror the definition of ‘‘Canadian airline.’’ Both definitions state that an Australian or UK airline is a citizen of that destination who is authorized by their respective government to engage in business as an airline. The definitions then define, for purposes of these defined terms only, what it means to be a citizen of these countries, including firms incorporated or otherwise organized in a state or territory for Australia and a country or territory for the UK. To ensure alignment across these definitions, BIS is adding the term territory under the existing definition for a ‘‘Canadian airline,’’ which will now include firms incorporated or otherwise organized in Canadian provinces or territories.

Furthermore, BIS notes one particular license requirement that will remain unchanged as a result of this rule. Under

the EAR, firearms-related items and other CC controlled items in ECCNs 0A501 (except 0A501.y), 0A502, 0A503, 0A504, 0A505. a, .b, and .x, 0A981, 0A982, 0A983, 0D501, 0D505, 0E501, 0E502, 0E504, 0E505, and 0E982 will continue to require a license when destined to and among the UK and Australia. This license requirement mirrors the license requirement for firearms-related items in ECCNs 0A501 (except 0A501.y), 0A502, 0A504 (except 0A504.f), and 0A505 (except 0A505.d) destined to Canada. Prior to this IFR, license requirements for these items to the UK and Australia were implemented through NS1/RS1 reasons for control. Since these license requirements are removed for the UK and Australia in this rule, BIS is adding a footnote to the Commerce Country Chart for the UK and Australia, which indicates that a license is still required for these 0x5zz firearms-related items to those two countries. This does not change the scope of the license requirements for these items to the UK and Australia that applied prior to the effective date of this rule.

#### Request for Public Comments

To ensure that the export control revisions implemented in this rule advance AUKUS objectives, BIS requests comments on the impacts of these changes. BIS also requests comments on additional revisions to the EAR that would further enhance defense industrial base cooperation and technology innovation with Australia and the United Kingdom. In particular, BIS is not removing license requirements to Australia and the UK in this IFR for encryption items (EI) in § 742.15(a)(1) of the EAR. BIS notes that license exceptions such as encryption commodities, software, and technology (ENC) and authorized cybersecurity exports (ACE) are currently available for exports, reexports, and transfers (in-country) of such items to and within Australia and the UK, subject to certain conditions. BIS welcomes comments on the potential impact of removing EI licensing requirements for Australia and the UK.

#### Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. 4801–4852. ECRA, as amended, provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

#### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a “significant regulatory action” under Executive Order 12866.

2. Notwithstanding any other provision of law, no person may be required to respond to, or be subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved by OMB under control number 0694–0088, Simplified Network Application Processing System. This collection includes, among other things, license applications and commodity classification, and carries a burden estimate of 29.4 minutes for a manual or electronic submission for a total burden estimate of 38,826 hours. BIS expects license application submissions to decrease by approximately 1,800 applications annually, for a total decrease in burden estimate under this collection of approximately 882 hours.

3. This rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to Section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation and delay in effective date. Additionally, this rule is exempt from the ordinary rulemaking requirements of the APA pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States Government.

5. Because neither the APA nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no Final

Regulatory Flexibility Analysis is required and none has been prepared.

#### List of Subjects

##### 15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

##### 15 CFR Part 738

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

##### 15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

##### 15 CFR Part 742

Exports and Terrorism.

##### 15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

##### 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

##### 15 CFR Part 754

Agricultural commodities, Exports, Forests and forest products, Horses, Petroleum, Reporting and recordkeeping requirements.

##### 15 CFR Part 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

##### 15 CFR Part 772

Exports.

##### 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 734, 738, 740, 742, 743, 744, 754, 758, 772, and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

#### PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 1. The authority citation for 15 CFR part 734 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 2. Revise § 734.17(c)(1) to read as follows:

§ 734.17 Export of encryption source code and object code software.

(c) \* \* \*

(1) The access control system, either through automated means or human intervention, checks the address of every system outside of the U.S., Australia, Canada, or the United Kingdom requesting or receiving a transfer and verifies such systems do not have a domain name or internet

address of a foreign government end-user (e.g., “.gov,” “.gouv,” “.mil” or similar addresses);

\* \* \* \* \*

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

■ 3. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22

U.S.C. 2151 note; 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 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.

■ 4. In supplement no. 1 to part 738, revise the entries for Australia and the United Kingdom and add footnote 9 as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

\* \* \* \* \*

COMMERCE COUNTRY CHART

Table with columns: Countries, Chemical & biological weapons (CB 1, CB 2, CB 3), Nuclear nonproliferation (NP 1, NP 2), National security (NS 1, NS 2), Missile tech (MT 1), Regional stability (RS 1, RS 2), Firearms convention (FC 1), Crime control (CC 1, CC 2, CC 3), Anti-terrorism (AT 1, AT 2). Rows include Australia and United Kingdom with various symbols indicating export controls.

\* \* \* \* \*

9 A license is required to these destinations for items in the following ECCNs: 0A501 (except 0A501.y), 0A502, 0A503, 0A504, 0A505.a, .b, and .x, 0D501, 0D505, 0E501, 0E502, 0E504, and 0E505.

PART 740—LICENSE EXCEPTIONS

■ 5. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 7201 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 6. Amend § 740.15 by revising the introductory text and paragraph (c)(1) introductory text, and revising and republishing paragraph (c)(2) to read as follows:

§ 740.15 Aircraft, vessels and spacecraft (AVS).

This License Exception authorizes departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad; the export of equipment and spare parts for permanent use on a vessel or aircraft; exports to vessels or planes of U.S., Australian, Canadian, or UK (the United Kingdom) registry and U.S., Australian, Canadian, or UK Airlines’ installations or agents; the export or reexport of cargo that will transit Cuba on an aircraft or vessel on temporary sojourn; and the export of spacecraft and components for

fundamental research. Generally, no License Exception symbol is necessary for export clearance purposes; however, when necessary, the symbol “AVS” may be used.

\* \* \* \* \*

(c) Shipments to U.S., Australian, Canadian, or UK vessels, planes and airline installations or agents—(1) Exports to vessels or planes of U.S., Australian, Canadian, or UK registry. Export may be made of the commodities set forth in paragraph (c)(3) of this section, for use by or on a specific vessel or plane of U.S., Australian, Canadian, or UK registry located at any seaport or airport outside the United States, Australia, Canada, or the UK except a port in Cuba or Country Group D:1 (excluding the PRC), (see supplement no. 1 to part 740) provided that such commodities are all of the following: 3

\* \* \* \* \*

(2) Exports to U.S., Australian, Canadian, or UK airline’s installation or agent. Exports of the commodities set forth in paragraph (c)(3) of this section, except fuel, may be made to a U.S., Australian, Canadian, or UK airline’s 4 installation or agent in any foreign destination except Cuba or Country Group D:1 (excluding the PRC), (see supplement no. 1 to part 740) provided such commodities are all of the following:

(i) Ordered by a U.S., Australian, Canadian, or UK airline and consigned to its own installation or agent abroad;

(ii) Intended for maintenance, repair, or operation of aircraft registered in either the U.S., Australia, Canada, or UK and necessary for the aircraft’s proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, Cuba or Country Group D:1 (excluding the PRC) (see supplement no. 1 to part 740) or a national of such country;

(iii) In usual and reasonable kinds and quantities; and

(iv) Shipped as cargo for which Electronic Export Information (EEI) is filed to the Automated Export System (AES) in accordance with the requirements of the Foreign Trade Regulations (FTR) (15 CFR part 30), except EEI is not required to be filed when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations, see 15 CFR 30.37(o) of the FTR.

\* \* \* \* \*

3 Where a license is required, see §§ 748.1, 748.4 and 748.6 of the EAR.

4 See part 772 of the EAR for definitions of United States, Australian, Canadian, and UK airlines.

■ 7. Revise § 740.16(d) and (f) to read as follows:

§ 740.16 Additional permissive reexports (APR).

\* \* \* \* \*

(d) Reexports of any item from Australia, Canada, or the United Kingdom that, at the time of reexport,

may be exported directly from the United States to the new country of destination under any License Exception.

\* \* \* \* \*

(f) Reexports from a foreign destination to Australia, Canada, or the United Kingdom of any item if the item could be exported to Australia, Canada, or the United Kingdom without a license.

\* \* \* \* \*

■ 8. Amend § 740.17 by revising paragraphs (e)(1) introductory text, (e)(1)(i) and (e)(iii)(C) to read as follows:

**§ 740.17 Encryption commodities, software, and technology (ENC).**

\* \* \* \* \*

(e) *Reporting requirements—(1) Semiannual reporting requirement.* Semiannual reporting is required for exports to all destinations other than Australia, Canada, or the United Kingdom, and for reexports from Australia, Canada, or the United Kingdom for items described under paragraphs (b)(2) and (b)(3)(iii) of this section. Certain encryption items and transactions are excluded from this reporting requirement (see paragraph (e)(1)(iii) of this section). For information about what must be included in the report and submission requirements, see paragraphs (e)(1)(i) and (ii) of this section, respectively.

(i) *Information required.* Exporters must include, for each item, the Commodity Classification Automated Tracking System (CCATS) number and the name of the item(s) exported (or reexported from Australia, Canada, or the United Kingdom), and the following information in their reports:

(A) *Distributors or resellers.* For items exported (or reexported from Australia, Canada, or the United Kingdom) to a distributor or other reseller, including subsidiaries of U.S. firms, the name and address of the distributor or reseller, the item and the quantity exported or reexported and, if collected by the exporter as part of the distribution process, the end user's name and address;

(B) *Direct sales.* For items exported (or reexported from Australia, Canada, or the United Kingdom) through direct sale, the name and address of the recipient, the item, and the quantity exported; or

(C) *Foreign manufacturers and products that use encryption items.* For exports (*i.e.*, from the United States) or direct transfers (*e.g.*, by a "U.S. subsidiary" located outside the United States) of encryption components, source code, general purpose toolkits,

equipment controlled under ECCN 5B002, technology, or items that provide an "open cryptographic interface," to a foreign developer or manufacturer headquartered in a country not listed in supplement no. 3 to this part when intended for use in foreign products developed for commercial sale, the names and addresses of the manufacturers using these encryption items and, if known, when the product is made available for commercial sale, a non-proprietary technical description of the foreign products for which these encryption items are being used (*e.g.*, brochures, other documentation, descriptions or other identifiers of the final foreign product; the algorithm and key lengths used; general programming interfaces to the product, if known; any standards or protocols that the foreign product adheres to; and source code, if available).

\* \* \* \* \*

(iii) \* \* \*

(C) Encryption items exported (or reexported from Australia, Canada, or the United Kingdom) via free and anonymous download;

\* \* \* \* \*

**PART 742—CONTROL POLICY—CCL BASED CONTROLS**

■ 5. The authority citation for 15 CFR part 742 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *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, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 6. Amend § 742.2 by revising paragraph (a)(1) introductory text to read as follows:

**§ 742.2 Proliferation of chemical and biological weapons.**

(a) \* \* \*

(1) If CB Column 1 of the Country Chart (supplement no. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations, including Australia, Canada, and the United Kingdom, for the following:

\* \* \* \* \*

■ 6. Revise § 742.4(a)(1) to read as follows:

**§ 742.4 National security.**

(a) \* \* \*

(1) *National Security column 1 (NS:1).* A license is required for exports and reexports to all destinations, except Australia, Canada, or the United Kingdom, for all items in ECCNs on the CCL that include NS Column 1 in the Country Chart column of the "License Requirements" section.

\* \* \* \* \*

■ 7. Revise § 742.5(a)(1) to read as follows:

**§ 742.5 Missile technology.**

(a) \* \* \*

(1) In support of U.S. foreign policy to limit the proliferation of missiles, a license is required to export and reexport items related to the design, development, production, or use of missiles. These items are identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the "License Requirements" section. Licenses for these items are required to all destinations, except Australia, Canada, or the United Kingdom, as indicated by MT Column 1 of the Country Chart (see supplement no. 1 to part 738 of the EAR).

\* \* \* \* \*

■ 8. Amend § 742.6 by revising paragraphs (a)(1), (a)(2)(i), (ii), (iv), (3), and (9) to read as follows:

**§ 742.6 Regional stability.**

(a) \* \* \*

(1) *RS Column 1 license requirements in general.* A license is required for exports and reexports to all destinations, except Australia, Canada, or the United Kingdom, for all items in ECCNs on the CCL that include RS Column 1 in the Country Chart column of the "License Requirements" section. Transactions described in paragraph (a)(2), (3), or (9) of this section are subject to the RS Column 1 license requirements set forth in those paragraphs rather than the license requirements set forth in this paragraph (a)(1).

(2) \* \* \*

(i) As indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003.b.4.b require a license to all destinations other than Australia, Canada, or the United Kingdom if such cameras have a frame rate greater than 60 Hz.

(ii) Except as noted in paragraph (a)(2)(iii) of this section, as indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003.b.4.b require a license to all destinations other than Australia, Canada, or the United

Kingdom if such cameras incorporate a focal plane array with more than 111,000 elements and a frame rate of 60 Hz or less, or cameras described in 6A003.b.4.b that are being exported or reexported to be embedded in a civil product.

\* \* \* \* \*

(iv) Except as noted in paragraph (a)(2)(v) of this section, as indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003 b.4.b require a license to all destinations other than Australia, Canada, or the United Kingdom if such cameras incorporate a focal plane array with 111,000 elements or less and a frame rate of 60 Hz or less and are being exported or reexported to be embedded in a civil product.

\* \* \* \* \*

(3) *Special RS Column 1 license requirement applicable to military commodities.* A license is required for reexports to all destinations except Australia, Canada, or the United Kingdom for items classified under ECCN 0A919 except when such items are being reexported as part of a military deployment by a unit of the government of a country in Country Group A:1 (see supplement no. 1 to part 740 of the EAR) or the United States.

\* \* \* \* \*

(9) *Special RS Column 1 license requirement applicable to certain spacecraft and related items.* A license is required for all destinations, including Australia, Canada, and the United Kingdom, for spacecraft and related items classified under ECCN 9A515.a.1, .a.2., .a.3., .a.4., .g, and ECCN 9E515.f.

\* \* \* \* \*

■ 9. Amend § 742.7 by revising paragraphs (a)(4) through (6) to read as follows:

**§ 742.7 Crime control and detection.**

(a) \* \* \*

(4) Certain crime control items require a license to all destinations, except Canada only. These items are identified under ECCNs 0A982, 0A503, and 0E982. Controls for these items appear in each ECCN; a column specific to these controls does not appear in the Country Chart (supplement no. 1 to part 738 of the EAR).

(5) Items designed for the execution of human beings as identified in ECCN 0A981 require a license to all destinations including Australia, Canada, and the United Kingdom.

(6) See § 742.11 of the EAR for further information on items controlled under ECCN 0A983, which require a license to

all destinations, including Australia, Canada, and the United Kingdom.

\* \* \* \* \*

■ 10. Revise § 742.11(a) to read as follows:

**§ 742.11 Specially designed implements of torture, including thumbscrews, thumbcuffs, fingercuffs, spiked batons, and parts and accessories, n.e.s.**

(a) *License Requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export any commodity controlled by ECCN 0A983 to all destinations including Australia, Canada, and the United Kingdom.

\* \* \* \* \*

■ 11. Revise § 742.13(a)(1) to read as follows:

**§ 742.13 Communications intercepting devices; software and technology for communications intercepting devices.**

(a) \* \* \*

(1) In support of U.S. foreign policy to prohibit the export of items that may be used for the surreptitious interception of wire, oral, or electronic communications, a license is required for all destinations, including Australia, Canada, and the United Kingdom, for ECCNs having an “SL” under the “Reason for Control” paragraph. These items include any electronic, mechanical, or other device primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCNs 5A001.f.1 and 5A980); and for related “software” primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCN 5D001.c and 5D980.a); and “software” primarily useful for the “development”, “production”, or “use” of devices controlled under ECCNs 5A001.f.1 and 5A980 (ECCNs 5D001.a and 5D980.b); and for “technology” primarily useful for the “development”, “production”, or “use” of items controlled by ECCNs 5A001.f.1, 5D001.a (for 5A001.f.1), 5A980 and 5D980 (ECCNs 5E001.a and 5E980); and for “software” primarily useful to support such ECCN 5E001.a “development”, “production”, or “use” “technology” for 5A001.f.1 equipment and certain 5D001.a “software” (ECCN 5D001.b). These licensing requirements do not supersede the requirements contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2512). This license requirement is not reflected on the Commerce Country Chart (supplement no. 1 to part 738 of the EAR).

\* \* \* \* \*

■ 12. Revise § 742.14(a) to read as follows:

**§ 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.**

(a) *License requirement.* Licenses are required for all destinations, except Australia, Canada, and the United Kingdom, for ECCNs having an “SI” under the “Reason for Control” paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.6, a.8, .h, .i, and .l, and related controls.

\* \* \* \* \*

■ 14. Revise § 742.18(a)(1) to read as follows:

**§ 742.18 Chemical Weapons Convention (CWC or Convention).**

\* \* \* \* \*

(a) \* \* \*

(1) Schedule 1 chemicals and mixtures controlled under ECCN 1C351. A license is required for CW reasons to export or reexport Schedule 1 chemicals controlled under ECCN 1C351.d.14 or .d.15 to all destinations including Australia, Canada, and the United Kingdom. CW applies to 1C351.d.14 for ricin in the form of Ricinus Communis AgglutininII (RCA<sub>II</sub>), which is also known as ricin D or Ricinus Communis LectinIII (RCL<sub>III</sub>), and Ricinus Communis LectinIV (RCL<sub>IV</sub>), which is also known as ricin E. CW applies to 1C351.d.15 for saxitoxin identified by C.A.S. #35523–89–8. (Note that the advance notification procedures and annual reporting requirements described in § 745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

\* \* \* \* \*

**PART 743—SPECIAL REPORTING AND NOTIFICATION**

■ 15. The authority citation for 15 CFR part 743 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; 78 FR 16129 (January 23, 2020).

■ 16. Revise § 743.3(b) to read as follows:

**§ 743.3 Thermal imaging camera reporting.**

\* \* \* \* \*

(b) *Transactions to be reported.* Exports that are not authorized by an individually validated license of more than 100 thermal imaging cameras in a

monocular, biocular, or binocular configuration controlled by ECCN 6A003.b.4.b to a destination in Country Group A:1 (see supplement no. 1 to part 740 of the EAR), except Australia, Canada, or the United Kingdom, must be reported to BIS.

\* \* \* \* \*

**PART 744—CONTROL POLICY: END-USER AND END-USE BASED**

■ 17. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *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. 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 September 19, 2022, 87 FR 57569 (September 21, 2022); Notice of November 8, 2022, 87 FR 68015, 3 CFR, 2022 Comp., p. 563; Notice of September 7, 2023, 88 FR 62439 (September 11, 2023).

■ 18. Revise § 744.9(a)(1)(i) and (iii) to read as follows:

**§ 744.9 Restrictions on exports, reexports, and transfers (in-country) of certain cameras, systems, or related components.**

- (a) \* \* \*
- (1) \* \* \*

(i) Commodities controlled by ECCN 6A003.a.3, 6A003.a.4, or 6A003.a.6 will be or are intended to be used by a ‘military end-user,’ as defined in paragraph (d) of this section in all destinations except Australia, Canada, or the United Kingdom.

\* \* \* \* \*

(iii) Commodities described in ECCNs 0A504 (incorporating commodities controlled by ECCNs 6A002 or 6A003, or commodities controlled by 6A993.a that meet the criterion of Note 3.a to 6A003.b.4), 6A002, 6A003, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criteria of Note 3.a to 6A003.b.4), or 8A002.d will be or are intended to be incorporated into a ‘military commodity’ controlled by ECCN 0A919 in all destinations except Australia, Canada, or the United Kingdom.

\* \* \* \* \*

**PART 754—SHORT SUPPLY CONTROLS**

■ 19. The authority citation for 15 CFR part 754 is revised to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C.

8720; 10 U.S.C. 8730(e); 15 U.S.C. 1824; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 20. Revise § 754.3(a) to read as follows:

**§ 754.3 Petroleum products not including crude oil.**

(a) *License requirement.* As indicated by the letters ‘‘SS’’ in the ‘‘Reason for Control’’ paragraph in the ‘‘License Requirements’’ section of ECCNs 1C980, 1C982, 1C983, and 1C984 on the CCL (supplement no. 1 to part 774 of the EAR), a license is required to all destinations, including Australia, Canada, and the United Kingdom, for the export of petroleum products, excluding crude oil, listed in supplement no. 1 to this part, that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

\* \* \* \* \*

■ 21. Revise § 754.4(a) to read as follows:

**§ 754.4 Unprocessed western red cedar.**

(a) *License requirement.* As indicated by the letters ‘‘SS’’ in the ‘‘Reason for Control’’ paragraph in the ‘‘License Requirements’’ section of ECCN 1C988 on the CCL (supplement no. 1 to part 774 of the EAR), a license is required to all destinations, including Australia, Canada, and the United Kingdom, for the export of unprocessed western red cedar covered by ECCN 1C988 (Western red cedar (*Thuja plicata*) logs and timber, and rough, dressed and worked lumber containing wane). For a non-exhaustive list of 10-digit Harmonized System-based Schedule B commodity numbers that may apply to unprocessed western red cedar products subject to the license requirements of this section, see supplement no. 2 to part 754 of the EAR. See paragraph (c) of this section for license exceptions for timber harvested from public lands in the State of Alaska, private lands, or Indian lands, and see paragraph (d) of this section for relevant definitions.

\* \* \* \* \*

■ 22. Revise § 754.5(a) to read as follows:

**§ 754.5 Horses for export by sea.**

(a) *License requirement.* As indicated by the letters ‘‘SS’’ in the ‘‘Reason for Control’’ paragraph of the ‘‘License Requirements’’ section of ECCN 0A980 on the CCL (supplement no. 1 to part 774 of the EAR) a license is required for the export of horses exported by sea to

all destinations, including Australia, Canada, and the United Kingdom.

\* \* \* \* \*

**PART 758—EXPORT CLEARANCE REQUIREMENTS AND AUTHORITIES**

■ 23. The authority citation for 15 CFR part 758 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 24. Amend § 758.1 by revising paragraphs (b)(3), (6), and (9) to read as follows:

**§ 758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES).**

\* \* \* \* \*

(b) \* \* \*

(3) For all exports of 9x515 or ‘‘600 series’’ items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or ‘‘600 series’’ ECCN regardless of value or destination, including exports to Australia, Canada, and the United Kingdom;

\* \* \* \* \*

(6) For all exports of items subject to the EAR that will be transshipped through Australia, Canada, or the United Kingdom to a third destination, where the export would require EEI or license if shipped directly to the final destination from the United States (see 15 CFR 30.36(b)(2) of the FTR);

\* \* \* \* \*

(9) For all exports, except for exports authorized under License Exception BAG, as set forth in § 740.14 of the EAR, of items controlled under ECCNs 0A501.a or .b, shotguns with a barrel length less than 18 inches controlled under ECCN 0A502, or ammunition controlled under ECCN 0A505 except for .c, regardless of value or destination, including exports to Australia, Canada, and the United Kingdom. \* \* \*

\* \* \* \* \*

■ 25. Revise § 758.11(a) to read as follows:

**§ 758.11 Export clearance requirements for firearms and related items.**

(a) *Scope.* The export clearance requirements of this section apply to all exports of commodities controlled under ECCNs 0A501.a or .b, shotguns with a barrel length less than 18 inches controlled under ECCN 0A502, or ammunition controlled under ECCN 0A505 except for .c, regardless of value or destination, including exports to Australia, Canada, and the United Kingdom, that are authorized under



License Exception BAG, as set forth in § 740.14 of the EAR.

\* \* \* \* \*

PART 772—DEFINITIONS OF TERMS

■ 26. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 25. Revise § 772.1 by:

■ a. Adding the definitions of “Australian airline”;

■ b. Revising the definition for “Canadian airline”; and

■ c. Adding and “United Kingdom (or UK) airline”.

The additions and revisions read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

\* \* \* \* \*

Australian airline. Any citizen of Australia who is authorized by the Australian Government to engage in business as an airline. For purposes of this definition, an Australian citizen is:

(1) A natural person who is a citizen of Australia; or

(2) A partnership of which each member is such an individual; or

(3) An Australian firm incorporated or otherwise organized under the laws of Australia or any Australian state or territory, having a total foreign stock interest not greater than 40 percent, and having the Chairman or Acting Chairman and at least two-thirds of the Directors thereof Australian citizens.

\* \* \* \* \*

Canadian airline. Any citizen of Canada who is authorized by the Canadian Government to engage in business as an airline. For purposes of this definition, a Canadian citizen is:

(1) A natural person who is a citizen of Canada; or

(2) A partnership of which each member is such an individual; or

(3) A Canadian firm incorporated or otherwise organized under the laws of Canada or any Canadian province or territory, having a total foreign stock interest not greater than 40 percent, and having the Chairman or Acting Chairman and at least two-thirds of the Directors thereof Canadian citizens.

\* \* \* \* \*

United Kingdom (or UK) airline. Any citizen of the United Kingdom who is authorized by the Government of the United Kingdom to engage in business as an airline. For purposes of this definition, a United Kingdom citizen is:

(1) A natural person who is a citizen of the United Kingdom; or

(2) A partnership of which each member is such an individual; or

(3) A United Kingdom firm incorporated or otherwise organized under the laws of the United Kingdom or any country or territory that comprises the United Kingdom, having a total foreign stock interest not greater than 40 percent, and having the Chairman or Acting Chairman and at least two-thirds of the Directors thereof United Kingdom citizens.

\* \* \* \* \*

PART 774—THE COMMERCE CONTROL LIST

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

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 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.

■ 28. Revise ECCN 1C351 in supplement no. 1 to part 774 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

\* \* \* \* \*

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

License Requirements

Reason for Control: CB, CW, AT

Control(s)	Country chart (see Supp. No. 1 to part 738)
CB applies to items controlled by 1C351.d.14 and .15.	CB Column 1.
CB applies to entire entry.	CB Column 2.

CW applies to 1C351.d.14 and .d.15 and a license is required for CW reasons for all destinations, including Australia, Canada, and the United Kingdom, as follows: CW applies to 1C351.d.14 for ricin in the form of (1) Ricinus communis AgglutininII (RCA<sub>II</sub>), also known as ricin D or Ricinus Communis LectinIII (RCL<sub>III</sub>) and (2) Ricinus communis LectinIV (RCL<sub>IV</sub>), also known as ricin E. CW applies to 1C351.d.15 for saxitoxin identified by C.A.S. #35523–89–8. See § 742.18 of the EAR for licensing information pertaining to chemicals subject to restriction pursuant to the Chemical Weapons Convention (CWC). The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons.

Control(s)	Country chart (see Supp. No. 1 to part 738)
AT applies to entire entry.	AT Column 1.

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 1C351.d, with the exception of toxins controlled for CW reasons under 1C351.d.14 or .d.15, 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 1C351.d.15; 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 1C351.c.12, are excluded from the scope of this entry, since they may be used as positive control cultures for food testing and quality control.

4. Unless specified elsewhere in this ECCN 1C351 (e.g., in License Requirement Notes 1–3), this ECCN controls all biological agents and “toxins,” regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN, including small quantities or attenuated strains of select biological agents or “toxins” that are excluded from the lists of select biological agents or “toxins” by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), or the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services (HHS), in accordance with their regulations in 9 CFR part 121 and 42 CFR part 73, respectively.

5. Biological agents and pathogens are controlled under this ECCN 1C351 when they are an isolated live culture of a pathogen agent, or a preparation of a toxin agent that has been isolated or extracted from any source or material, including living material that has been deliberately inoculated or contaminated with the agent. Isolated live cultures of a pathogen agent include live cultures in dormant form or in dried preparations, whether the agent is natural, enhanced or modified.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A  
GBS: N/A

List of Items Controlled

Related Controls: (1) Certain forms of ricin and saxitoxin in 1C351.d.14 and .d.15 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

CWC Schedule 1 chemicals that are “subject to the ITAR.” (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(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)). (3) See 22 CFR part 121, Category XIV(b), for modified biological agents and biologically derived substances that are “subject to the ITAR.”

**Related Definitions:** For the purposes of this entry, ‘immunotoxins’ are monoclonal antibodies linked to a toxin with the intention of destroying a specific target cell while leaving adjacent cells intact.

**Items:**

a. Viruses identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows:

- a.1. African horse sickness virus;
- a.2. African swine fever virus;
- a.3. Andes virus;
- a.4. Avian influenza (AI) viruses identified as having high pathogenicity (HP), as follows:
  - a.4.a. AI viruses that have an intravenous pathogenicity index (IVPI) in 6-week-old chickens greater than 1.2; or
  - a.4.b. AI viruses that cause at least 75% mortality in 4- to 8-week-old chickens infected intravenously.

**NOTE:** *Avian influenza (AI) viruses of the H5 or H7 subtype that do not have either of the characteristics described in 1C351.a.4 (specifically, 1C351.a.4.a or .a.4.b) should be sequenced to determine whether multiple basic amino acids are present at the cleavage site of the haemagglutinin molecule (HA0). If the amino acid motif is similar to that observed for other HPAI isolates, then the isolate being tested should be considered as HPAI and the virus is controlled under 1C351.a.4.*

- a.5. Bluetongue virus;
- a.6. Chapare virus;
- a.7. Chikungunya virus;
- a.8. Choclo virus;
- a.9. Classical swine fever virus (Hog cholera virus);
- a.10. Crimean-Congo hemorrhagic fever virus;
- a.11. Dobrava-Belgrade virus;
- a.12. Eastern equine encephalitis virus;
- a.13. Ebola virus (includes all members of the Ebola virus genus);
- a.14. Foot-and-mouth disease virus;
- a.15. Goatpox virus;
- a.16. Guanarito virus;
- a.17. Hantaan virus;
- a.18. Hendra virus (Equine morbillivirus);
- a.19. Japanese encephalitis virus;
- a.20. Junin virus;
- a.21. Kyasanur Forest disease virus;
- a.22. Laguna Negra virus;
- a.23. Lassa virus;
- a.24. Louping ill virus;
- a.25. Lujo virus;
- a.26. Lumpy skin disease virus;

- a.27. Lymphocytic choriomeningitis virus;
- a.28. Machupo virus;
- a.29. Marburgvirus (includes all members of the Marburgvirus genus);
- a.30. Middle East respiratory syndrome-related coronavirus (MERS-related coronavirus);
- a.31. Monkeypox virus;
- a.32. Murray Valley encephalitis virus;
- a.33. Newcastle disease virus;
- a.34. Nipah virus;
- a.35. Omsk hemorrhagic fever virus;
- a.36. Oropouche virus;
- a.37. Peste-des-petits ruminants virus;
- a.38. Porcine Teschovirus;
- a.39. Powassan virus;
- a.40. Rabies virus and all other members of the Lyssavirus genus;
- a.41. Reconstructed 1918 influenza virus;

**TECHNICAL NOTE:** *1C351.a.41 includes reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments.*

- a.42. Rift Valley fever virus;
- a.43. Rinderpest virus;
- a.44. Rocio virus;
- a.45. Sabia virus;
- a.46. Seoul virus;
- a.47. Severe acute respiratory syndrome-related coronavirus (SARS-related coronavirus);
- a.48. Sheeppox virus;
- a.49. Sin Nombre virus;
- a.50. St. Louis encephalitis virus;
- a.51. Suid herpesvirus 1 (Pseudorabies virus; Aujeszky’s disease);
- a.52. Swine vesicular disease virus;
- a.53. Tick-borne encephalitis virus (Far Eastern subtype, formerly known as Russian Spring-Summer encephalitis virus—see 1C351.b.3 for Siberian subtype);
- a.54. Variola virus;
- a.55. Venezuelan equine encephalitis virus;
- a.56. Vesicular stomatitis virus;
- a.57. Western equine encephalitis virus; or
- a.58. Yellow fever virus.

b. Viruses identified on the APHIS/CDC “select agents” lists (see Related Controls paragraph #2 for this ECCN), but not identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows:

- b.1. [Reserved];
- b.2. [Reserved]; or
- b.3. Tick-borne encephalitis virus (Siberian subtype, formerly West Siberian virus—see 1C351.a.53 for Far Eastern subtype).

c. Bacteria identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows:

- c.1. *Bacillus anthracis*;
- c.2. *Brucella abortus*;
- c.3. *Brucella melitensis*;
- c.4. *Brucella suis*;
- c.5. *Burkholderia mallei* (*Pseudomonas mallei*);
- c.6. *Burkholderia pseudomallei* (*Pseudomonas pseudomallei*);
- c.7. *Chlamydia psittaci* (*Chlamydophila psittaci*);
- c.8. *Clostridium argentinense* (formerly known as *Clostridium botulinum* Type G), *botulinum* neurotoxin producing strains;

- c.9. *Clostridium baratii*, *botulinum* neurotoxin producing strains;
- c.10. *Clostridium botulinum*;
- c.11. *Clostridium butyricum*, *botulinum* neurotoxin producing strains;
- c.12. *Clostridium perfringens*, epsilon toxin producing types;
- c.13. *Coxiella burnetii*;
- c.14. *Francisella tularensis*;
- c.15. *Mycoplasma capricolum* subspecies *capripneumoniae* (“strain F38”);
- c.16. *Mycoplasma mycoides* subspecies *mycoides* SC (small colony) (a.k.a. contagious bovine pleuropneumonia);
- c.17. *Rickettsia prowazekii*;
- c.18. *Salmonella enterica* subspecies *enterica* serovar *Typhi* (*Salmonella typhi*);
- c.19. Shiga toxin producing *Escherichia coli* (STEC) of serogroups O26, O45, O103, O104, O111, O121, O145, O157, and other shiga toxin producing serogroups;

**NOTE:** *Shiga toxin producing Escherichia coli (STEC) includes, inter alia, enterohaemorrhagic E. coli (EHEC), verotoxin producing E. coli (VTEC) or verocytotoxin producing E. coli (VTEC).*

- c.20. *Shigella dysenteriae*;
- c.21. *Vibrio cholerae*; or
- c.22. *Yersinia pestis*.

d. “Toxins” identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows, or their subunits:

- d.1. Abrin;
- d.2. Aflatoxins;
- d.3. Botulinum toxins;
- d.4. Brevetoxins;
- d.5. *Clostridium perfringens* alpha, beta 1, beta 2, epsilon and iota toxins;
- d.6. Conotoxins;
- d.7. Diacetoxyscirpenol;
- d.8. Gonyautoxins;
- d.9. HT–2 toxin;
- d.10. Microcystins (Cyanginosins);
- d.11. Modeccin;
- d.12. Nodularins;
- d.13. Palytoxin;
- d.14. Ricin;
- d.15. Saxitoxin;
- d.16. Shiga toxins (shiga-like toxins, verotoxins, and verocytotoxins);
- d.17. *Staphylococcus aureus* enterotoxins, hemolysin alpha toxin, and toxic shock syndrome toxin (formerly known as *Staphylococcus enterotoxin F*);
- d.18. T–2 toxin;
- d.19. Tetrodotoxin;
- d.20. Viscum (*Viscum album* lectin 1); or
- d.21. Volkensin.
- e. “Fungi”, as follows:
  - e.1. *Coccidioides immitis*; or
  - e.2. *Coccidioides posadasii*.

\* \* \* \* \*

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[FR Doc. 2024–08446 Filed 4–18–24; 8:45 am]

**BILLING CODE 3510–33–P**