and (c)(4) of this section, the engagement letter shall:

(i) Identify the elements, accounts or items and attributes excluded from the audit;

(ii) State that, because of the exclusion(s), the resulting audit will not, by itself, fulfill the scope of a supervisory committee audit; and

(iii) Caution that the supervisory committee will remain responsible for fulfilling the scope of a supervisory committee audit with respect to the excluded elements, accounts or items and attributes.

(e) *Audit reports and working paper access.* (1) Upon completion or receipt of the written supervisory committee audit reports, the supervisory committee shall provide the reports to the board of directors. The supervisory committee shall ensure that the independent, compensated audit and its reports comply with the terms of the engagement letter prescribed in this section. The supervisory committee shall, upon request, provide to the National Credit Union Administration a copy of the written reports received from the auditor.

(2) The supervisory committee shall be responsible for preparing and maintaining, or making available, a complete set of original working papers supporting each supervisory committee audit. The supervisory committee shall, upon request, provide NCUA staff unconditional access to such working papers either at the offices of the credit union or at a mutually agreeable location, for purposes of inspecting such working papers.

(f) *Sanctions.* (1) Failure of a supervisory committee and/or its independent compensated auditor to comply with the requirements of this section, or the terms of an engagement letter required by this section, is grounds for:

(i) The regional director to reject the supervisory committee audit;

(ii) The regional director to impose the remedies available in § 701.13, provided any of the conditions specified in § 701.13 is present; and

(iii) The NCUA to seek formal administrative sanctions against the supervisory committee and/or its independent, compensated auditor pursuant to section 206(r) of the Federal Credit Union Act, 12 U.S.C. 1786(r).

(2) In the case of a federally-insured state chartered credit union, NCUA shall provide the state regulator an opportunity to timely impose a remedy satisfactory to NCUA before seeking to impose a sanction permitted under (f)(1) of this section.

* * * * *

§ 701.13 [Amended]

3. Section 701.13 is amended in paragraph (a)(2) by revising ''§ 701.12(e)'' to read ''§ 701.12(h)''.

[FR Doc. 96–19511 Filed 8–7–96; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 774 and 799A

[Docket No. 960723206–6206–0]

RIN 0694–AB37

Biological Warfare Experts Group Meeting: Implementation of Changes to Export Administration Regulations; ECCNs 1C991, 1C61B, 1B71E, and 1C91F

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL) as part of the Export Administration Regulations (EAR). This rule amends the CCL by revising Export Control Classification Numbers (ECCNs) 1C991, 1C61B, 1B71E, and 1C91F. The changes made by this rule are based on discussions in the Biological Warfare Experts Group (a subgroup of the Australia Group (AG)).

This rule will minimally increase the number of validated export licenses required for items classified under ECCN 1C61B and 1B71E.

The EAR have been completely amended by an interim rule published on March 25, 1996 (61 FR 12714) that provides for a transition period within which exporters can take advantage of both the old rules and the new rules until November 1, 1996. Therefore, this rule and all other amendments to the EAR during the transition period will amend both the new EAR and the old EAR, which are now designated with the letter ''A'' following the part number. This rule consists primarily of changes to the old EAR to conform to the new EAR, except changes to ECCNs 1C991 and 1C91F.

DATES: This rule is effective August 8, 1996.

FOR FURTHER INFORMATION CONTACT: For questions on foreign policy controls, call Patricia Sefcik, Bureau of Export Administration, Telephone: (202) 482–0707.

For questions of a technical nature on chemical weapon precursors, biological agents, and equipment that can be used to produce chemical and biological weapons agents, call James Seevaratnam, Bureau of Export Administration, Telephone: (202) 482–3343.

For questions of a general nature, call Hillary Hess, Bureau Export Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

Consultations of the Biological Warfare Experts Group were held October 16–19, 1995 in conjunction with the Australia Group plenary meeting. The consultations resulted in changes to the list of controlled items, including the following revisions to the names of certain microorganisms: Changing Rickettsia quintana to Bartonella quintana (Rochalimea quintana, Rickettsia quintana), Pseudomonas mallei to Burkholderia mallei (Pseudomonas mallei), and Pseudomonas pseudomallei to Burkholderia pseudomallei (Pseudomonas pseudomallei). It was also agreed to place the former name in parentheses following the new name on the list in order to assist in appropriate identification for export control purposes.

This rule revises the note in the requirement section of ECCN 1C61B to exclude immunotoxins. A technical note added to ECCN 1C61B provides the definitions of ''immunotoxin'' and ''subunit''. Immunotoxins are therapeutics with no biological warfare application. Immunotoxins have been added to ECCN 1C91F and are eligible for export under the provisions of General License G–DEST to all destinations but those listed in Country Groups S, Z, and Iran. In addition, a technical note that adds the definition of ''immunotoxin'' has been added to ECCN 1C91F. This rule makes parallel changes to ECCN 1C991.

This rule also implements changes in the area of dual-use biological equipment. In ECCN 1B71E, ''Equipment that can be used in the production of biological weapons'', the capacity parameter for fermenters, within paragraph (b), is decreased from ''equal to or greater than 300 liters'' to ''equal to or greater than 100 liters''. This is done to expand export controls to capture smaller fermenters that can be used for biological warfare purposes.

Prior to this final rule, fermenters of the designated size were controlled only if they either contained ''double or multiple sealing joints within the steam containment area'' or were ''capable of in-situ sterilization in a closed state.'' These two modifiers or limiting

descriptors have been removed by this final rule.

This rule also makes a clarification to cross-flow filtration equipment (ECCN 1B71E paragraph (d)). Where the control language formerly stated ''cross-flow filtration equipment *designed for* continuous separation * * *'', this final rule controls ''Cross-flow filtration equipment *capable of* continuous separation * * *''.

Lastly, this rule expands controls on aerosol chambers within ECCN 1B71E paragraph (g). Where the control language used to state ''Chambers designed for aerosol challenge testing with *pathogenic* microorganisms * * *'', it will now state ''Chambers designed for aerosol challenge testing with microorganisms * * *''. The word ''pathogenic'' is removed to expand export controls to aerosol chambers not specifically designed for pathogenic microorganisms.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, as extended by the President's notice of August 15, 1995 (60 FR 42767).

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before August 8, 1996 may be exported under the previous general license provisions up to and including September 9, 1996. Any such items not actually exported before midnight September 9, 1996, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor shall a 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 OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0010, 0694–0067, and 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 603(b)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. 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. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Hillary Hess, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, PO Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 774

Exports, Foreign trade.

15 CFR Part 799A

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 774 and 799A of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 774—[AMENDED]

1. 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); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 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; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

Supplement No. 1 to Part 774

2. In Category 1, Materials, ECCN 1C991 is revised to read as follows:

1C991 Vaccines containing items controlled by ECCNs 1C351, 1C352, 1C353 and 1C354, and immunotoxins.

Licenses Requirements

Reason for Control: AT

Control(s)	Country chart
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: For the purposes of this entry ''immunotoxin'' is defined as an antibody-toxin conjugate intended to destroy specific target cells (e.g., tumor cells) that bear antigens homologous to the antibody.
Items:
The list of items controlled is contained in the ECCN heading.

PART 799A—[AMENDED]

3. The authority citation for 15 CFR part 799A continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended [(extended by Pub. L. 103–10, 107 Stat. 40 and by Pub. L. 103–277, 108 Stat. 1407)]; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O. 12930 of September 29, 1994 (59 FR 50475, October 3, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); E.O. 12930 (59 FR 50475 of October 3, 1994); and Notice of August 15, 1995 (60 FR 42767).

Supplement No. 1 to § 799A.1

4. In Category 1, Materials, ECCNs 1B71E, 1C61B, and 1C91F are revised to read as follows:

1B71E Equipment that can be used in the production of biological weapons.

Requirements

Validated License Required: SZ, Supplement 5 to Part 778 (see Note)
Unit: Number
Reason for Control: CB
GLV: $0
GCT: No
GFW: No

Note: Special chemical License Available: see § 773.9 of this subchapter.

List of Items Controlled

a. Biohazard containment equipment as follows:
a.1. Complete containment facilities at P3 or P4 containment level; and
a.2. Equipment that incorporates or is contained in a P3 or P4 containment housing.
b. Fermenters capable of cultivation of pathogenic microorganisms, viruses or for toxin production, without the propagation of aerosols, having a capacity equal to or greater than 100 liters.

Note: Sub-groups of fermenters include bioreactors, chemostats, and continuous-flow systems.

c. Centrifugal separators capable of the continuous separation of pathogenic microorganisms, without the propagation of aerosols, and having all of the following characteristics:
c.1. A flow rate greater than 100 liters per hour;
c.2. Components of polished stainless steel or titanium;
c.3. Double or multiple sealing joints within the stream containment area;
c.4. Capable of in-situ stream sterilization in a closed state.

Note: Centrifugal separators include decanters.

d. Cross-flow filtration equipment capable of continuous separation of pathogenic microorganisms, viruses, toxins, and cell cultures without the propagation of aerosols, having all of the following characteristics:
d.1. Equal to or greater than 5 square meters;
d.2. Capable of in-situ sterilization.
e. Steam sterilizable freeze-drying equipment with condenser capacity greater than 50 kgs. but less than 1,000 kgs. of ice in 24 hours.
f. Equipment that incorporates or is contained in P3 or P4 containment housing, as follows:
f.1. Independently ventilated protective full or half suits; and
f.2. Class III biological safety cabinets or isolators with similar performance standards.
g. Chambers designed for aerosol challenge testing with microorganisms, viruses, or toxins and having a capacity of 1 cubic meter or greater.

1C61B Microorganisms, toxins, and aflatoxins.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: CB
GLV: $0
GCT: No
GFW: No

Note: Notwithstanding the provisions of this entry, all vaccines and immunotoxins are excluded from the scope of this entry. See ECCN 1C91F.

Technical Note: For the purposes of ECCN 1C61B, the following definitions apply:
a. ''Immunotoxin'' is an antibody-toxin conjugate intended to destroy specific target cells, e.g., tumor cells, that bear antigens homologous to the antibody; and
b. ''Subunit'' is a portion of the toxin.

List of Items Controlled

a. Viruses, as follows:
a.1. African swine fever virus;
a.2. Avian influenza virus;
a.3. Bluetongue virus;
a.4. Chikungunya virus
a.5. Congo-Crimean haemorrhagic fever virus;
a.6. Dengue fever virus;
a.7. Eastern equine encephalitis virus;
a.8. Ebola virus;
a.9. Foot and mouth disease virus;
a.10. Goat pox virus;
a.11. Hantaan virus;
a.12. Herpes virus (Aujeszky's disease);
a.13. Hog cholera virus;
a.14. Japanese encephalitis virus;
a.15. Junin virus;
a.16. Lassa fever virus;
a.17. Lymphocytic choriomeningitis virus;
a.18. Machupo virus;
a.19. Marburg virus;
a.20. Monkey pox virus;
a.21. Newcastle disease virus;
a.22. Peste des petits ruminants virus;
a.23. Porcine enterovirus type 9;
a.24. Rift Valley fever virus;
a.25. Rinderpest virus;
a.26. Sheep pox virus;
a.27. Teschen disease virus;
a.28. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
a.29. Variola virus;
a.30. Venezuelan equine encephalitis virus;
a.31. Vesicular stomatitis virus;
a.32. Western equine encephalitis virus;
a.33. White pox; or
a.34. Yellow fever virus.
b. Rickettsiae, as follows:
b.1. Bartonella quintana (Rochalimea quintana, Rickettsia quintana);
b.2. Coxiella burnetii;
b.3. Rickettsia prowasecki; or
b.4. Rickettsia rickettsii.
c. Bacteria, 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;
c.8. Clostridium botulinum;
c.9. Francisella tularensis;
c.10. Mycoplasma mycoides;
c.11. Pseudomonas solanacerum;
c.12. Salmonella typhi;
c.13. Shigella dysenteriae;
c.14. Vibrio cholerae;
c.15. Xanthonomas albilineas;
c.16. Xanthonomas campestris pv citri;
c.17. Xanthomonas campestris pv oryzae; or
c.18. Yersinia pestis.
d. Fungi, as follows:
d.1. Cochliobolus miyabeanus (Helminthosporium oryzae);
d.2. Colletotrichum coffeanum var. virulans (Colletotrichum kahawae);
d.3. Heliminthosporium maydis;
d.4. Heliminthosprium oryzae;
d.5. Microcyclus ulei (syn. Dothidella ulei);
d.6. Puccinia glumarum;
d.7. Puccinia graminis (syn. Puccinia graminis f. sp. tritici);
d.8. Puccinia striiformis (syn. Puccinia glumarum);
d.9. Pyricularia grisea/Pyricularia oryzae; or
d.10. Ustilago maydis.
e. Genetically modified microorganisms, as follows:
e.1. Genetically modified micro-organisms or genetic elements that contain nucleic acid sequences associated with pathogenicity and are derived from organisms identified in this ECCN;
e.2. Genetically modified micro-organisms or genetic elements that contain nucleic acid sequences associated with pathogenicity derived from plant pathogens identified in this ECCN; or
e.3. Genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins, or their subunits listed in paragraph f of this ECCN.
f. Toxins, as follows and subunits thereof:

f.1. Botulinum toxins;
f.2. Clostridium perfringens toxins;
f.3. Conotoxin;
f.4. Microcystin (cyanogenosin);
f.5. Ricin;
f.6. Saxitoxin;
f.7. Shiga toxin;
f.8. Staphylococcus aureus toxins;
f.9. Tetrodotoxin; or
f.10. Verotoxin.

1C91F Vaccines containing microorganisms and/or toxins controlled by ECCN 1C61B, and immunotoxins.

Requirements

Validated License Required: SZ, Iran
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

Note: Vaccines that do not contain items controlled by ECCN 1C61B are controlled by ECCN 1C96G.

Technical Note: For the purposes of ECCN 1C91F, the definition of ''Immunotoxin'' is an antibody-toxin conjugate intended to destroy specific target cells, e.g., tumor cells, that bear antigens homologous to the antibody.

Dated: July 30, 1996.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 96–20166 Filed 8–7–96; 8:45 am]

BILLING CODE 3510–DT–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AE20

Living in the Same Household and the Lump-Sum Death Payment

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising our rules on ''living in the same household'' (LISH) and the lump-sum death payment (LSDP) to bring them into accord with legislation that restricted the payment of the LSDP. This revision includes the removal from our regulations of several outdated sections and paragraphs. We also are incorporating into our rules the policy established previously in a Social Security Ruling (SSR) that interpreted the definition of LISH to allow for extended separations that are based solely on medical reasons.

EFFECTIVE DATE: These rules are effective September 9, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3298 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

Background

Prior to passage of the Omnibus Budget Reconciliation Act of 1981, Public Law 97–35, the widow(er) of a deceased worker could qualify for the LSDP if he/she had been LISH with the deceased at the time of death *or,* under certain conditions, if he/she paid the burial expenses of the deceased. Thus, a widow(er) who was not LISH with the deceased could still receive the LSDP if he/she paid the deceased's burial expenses.

Public Law 97–35 redefined who could qualify for the LSDP. Effective September 1, 1981, the LSDP no longer was payable to any individuals, other than those described in Public Law 97–35, or to funeral homes.

Under Public Law 97–35, the LSDP is payable to 3 categories of individuals: (1) the surviving spouse of the deceased who was LISH with the deceased at the time of death; (2) a person who is entitled to (or was eligible for) benefits on the deceased's earnings record for the month of death as a widow(er) or as the mother or father of a child of the deceased; or (3) a child of the deceased who is entitled to (or was eligible for) benefits on the deceased's earnings record for the month of death.

For those widow(ers) who were not LISH, a possible anomaly was created by the LSDP limitations in Public Law 97–35 and existing regulations. An example of such an anomaly is the following situation.

A worker had been living in a nursing home for 3 years prior to his death because his wife was unable to provide the daily medical care he needed. Until his death, the worker was visited frequently by his wife, who lived in the house to which the worker would have returned if he were able. The widow was receiving a Retirement Insurance Benefit (RIB) which exceeded her late husband's Primary Insurance Amount (PIA). Based on Public Law 97–35 and a strict interpretation of the regulatory definition of LISH, this widow would not qualify for the LSDP because she was neither LISH nor entitled to benefits based on her late husband's earnings record. (However, if the widow's RIB did not exceed her late husband's PIA, she would qualify for the LSDP.)

Present Policy

Operating instructions, as well as most of the pertinent regulatory sections, have been changed to reflect the changes in the law established by Public Law 97–35. To qualify as a LISH spouse, the widow(er) and the deceased must have ''customarily lived together as husband and wife in the same residence'' (§ 404.347). While temporary separations do not necessarily preclude the Social Security Administration (SSA) from considering a couple to be LISH, extended separations (including most that last 6 months or more) generally indicate the couple was not LISH.

However, in order to avoid the possible anomaly discussed above, SSR 82–50 was issued to provide for an exception when an extended separation is based solely on medical reasons. SSR 82–50 states:

> If a husband and wife are (or were) separated and continue(d) to be separated, *solely* for medical reasons, SSA may consider them to be living in the same household even if the separation is (or was) likely to be permanent and there is (or was) little or no expectation of the parties again physically residing together. As long as the spouse who is now applying for the LSDP or spouse's benefits based on a deemed marriage has continued to demonstrate strong personal and/or financial concern for the worker, SSA will assume they would have lived together (absent evidence to the contrary) had the medical reasons not necessitated their separation, and will pay the LSDP or spouse's benefits to the spouse.

New Policy

Since there are still some sections of our regulations that refer to the law on entitlement to the LSDP which predated Public Law 97–35 and since these sections no longer are applicable, we are updating or removing them. We are eliminating obsolete §§ 404.393, 404.394, 404.395, and 404.765 and paragraphs 404.2(a)(2) through (a)(6), 404.3(a), 404.612(e), and 404.615(b).

Also, we are incorporating the LISH policy interpretation found in SSR 82–50 into our regulations. The new regulatory definition will clearly allow for extended separations due to the confinement of either spouse in a nursing home, hospital, or other medical institution. As long as evidence indicates the husband and wife were initially separated, and continue to be separated, solely for medical reasons and would otherwise have resided together, they will be considered to be LISH. Because of this action, we are rescinding SSR 82–50 upon the effective