

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[Amended]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000—Class D Airspace

* * * * *

ASO GA D Savannah, GA [Revised]

Hunter AAF

(lat. 32°00'35"N, long. 81°08'44"W)

Savannah International Airport

(lat. 32°07'39"N, long. 81°12'08"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of Hunter AAF; excluding that portion of the overlying Savannah, GA, Class C airspace area and that airspace north of lat. 32°02'30"N. This Class D airspace is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

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Issued in College Park, Georgia, on January 21, 1999.

Nancy B. Shelton,

*Acting Manager, Air Traffic Division,
Southern Region.*

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 772 and 774

RIN 0694–AB75

[Docket No. 990112008–9008–01]

Revisions to the Commerce Control List: Changes in Missile Technology Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This interim rule amends the CCL by revising a number of items subject to control for missile technology reasons. These changes to the CCL are the result of the decisions taken by the Missile Technology Control Regime (MTCR), in November 1997.

The changes made by this rule are intended to conform the list of missile technology related items controlled by the United States to the list agreed and adopted by the countries participating in the MTCR.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 17, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), and August 13, 1998 (63 FR 44121).

DATES: This rule is effective February 8, 1999. Comments must be received by April 9, 1999.

ADDRESSES: Written comments (six copies) should be sent to Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Vince Chin, Office of Nuclear and Missile Technology Controls, Bureau of Export Administration, Telephone: (202) 482–0998.

SUPPLEMENTARY INFORMATION:

Background

At the November, 1997, meeting of the Missile Technology Control Regime (MTCR), the member countries made

certain technical revisions in the MTCR's missile technology list. The changes agreed at the November, 1997 meeting have been adopted by the member countries and are contained in this interim rule. Many of the changes redefine the scope of the technical parameters describing missile technology items controlled for export or reexport.

Specifically, this rule makes the following revisions:

(1) Clarifies controls on metal powder production equipment and also includes certain plasma generators and electroburst equipment usable for making spherical metallic powder.

These revisions are described in a new entry (ECCN 1B117), which also includes mixers and fluid energy mills previously controlled under ECCN 1B115. ECCN 1B115 will now control liquid propellant production equipment only. All solid propellant production equipment have been consolidated into the new entry (ECCN 1B117).

(2) Clarifies the control text for metal powder described under ECCN 1C111.

(3) Adds a new control for Titanium-stabilized duplex stainless steel (ECCN 1C118). This control has been added to prevent the proliferation of these materials to missile projects of concern.

(4) Broadens controls on certain test, calibration and alignment equipment described in Category 7B for gyroscopes, accelerometers, inertial and navigation equipment described in Category 7A, by replacing the term "specially designed" with the term "designed or modified" as the equipment modifier and by further defining some specific types of equipment to be controlled. These specific types of equipment include certain balancing machines, indicator heads, motion simulators, positioning/rate tables and centrifuges that are specified in a new entry (ECCN 7B104). In addition, ECCN 7B101 was added to control other production equipment not specified in ECCN 7B104 that are "designed or modified" to be used with certain equipment described in Category 7A.

Savings Clause

This rule revises the numbering and structure of certain entries on the Commerce Control List. For items under such entries, BXA will accept either the entries described before February 8, 1999 or the entries described by this rule until May 10, 1999. In addition, this rule imposes new controls on certain items. Shipments of items removed from eligibility under a particular License Exception authorization or the designator NLR, may continue to be exported or

reexported under that License Exception authorization or designator until May 10, 1999, except for shipments of such items to the People's Republic of China. In light of recently enacted Presidential certification requirements involving the export to the People's Republic of China of items controlled for missile technology reasons, contained in section 1512 of the Strom Thurmond Defense Authorization Act for Fiscal Year 1999 (P.L. 105-261), shipments of such items to the People's Republic of China are subject to the licensing requirements of the regulation as of the effective date of publication.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to nor 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 current valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0088.

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 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 604(a)) 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 or foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close April 9, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Henry Gaston, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482-0500.

List of Subjects in 15 CFR Parts 772 and 774

Exports, Foreign trade.

Accordingly, parts 772 and 774 of the Export Administration Regulations (15

CFR Parts 730-799) are amended as follows:

1. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*, 1701 *et seq.*, app. 5; 10 U.S.C. 7420, 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 3201 *et seq.*, 6004; Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s), 185(u)); 42 U.S.C. 2139a, 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

2. The authority citation for 15 CFR part 772 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997); Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

3. Part 772 is amended by revising the definition for "production" and by adding a definition for "production equipment" to read as follows:

PART 772—DEFINITION OF TERMS

* * * * *

"Production". (General Technology Note) (Cat. 1 and 7)—Means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

"Production equipment". (MTCR context)—Tooling, templates, jigs, mandrels, moulds, dies, fixtures, alignment mechanisms, test equipment, other machinery and components therefor, limited to those specially designed or modified for "development" or for one or more phases of "production".

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PART 774—[AMENDED]

Supplement No. 1 to part 774—the Commerce Control List

4. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, "Microorganisms", and Toxins, the following Export Control Classification Numbers (ECCNs) are amended:

- By revising the entry heading and the List of Items Controlled section for ECCN 1B115;
- By adding ECCN 1B117;
- By revising the List of Items Controlled section for ECCN 1C111;
- By adding ECCN 1C118;
- By revising the Reason for Control section for ECCN 1E001; and
- By revising the entry heading for ECCN 1E101; to read as follows:

1B115 "Production equipment" for the production, handling or acceptance testing of liquid propellants or propellant constituents controlled by 1C011, 1C111 or on the U.S. Munitions List, and specially designed components therefor.

* * * * *

List of Items Controlled

Unit: Equipment in number; components in \$ value

Related Controls: (1) For equipment specially designed for the production of military propellants or propellant constituents, see the U.S. Munitions List. (2) Items when specifically designed, developed, configured, adapted or modified to produce an item on the USML are subject to the export licensing authority of the U.S. State Department, Office of Defense Trade Controls (see 22 CFR Part 121).

Related Definitions: N/A.

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

* * * * *

1B117 "Production equipment", as follows (see List of Items Controlled), for the production, handling or acceptance testing of solid propellants or propellant constituents controlled by 1C011, 1C111 or on the U.S. Munitions List.

License Requirements

Reason for Control: MT, AT.

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

License Exceptions

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

List of Items Controlled

Unit: Equipment in number; components in \$ value

Related Controls: (1) See also 1B115. (2) For equipment specially designed for the production of military propellants or propellant constituents, see the U.S. Munitions List. (3) This entry does not control equipment for the "production", handling and acceptance testing of boron carbide. (4) Items when specifically designed, developed, configured, adapted or modified to produce an item on the USML are subject to the export licensing authority of the U.S. State Department, Office of Defense Trade Controls (see 22 CFR Part 121.).

Related Definitions: (1) The only batch mixers, continuous mixers, and fluid energy mills controlled in 1B117,

are those controlled in 1B117.a through d. (2) Forms of metal powder "production equipment" not specified in 1B117.d. are to be evaluated in accordance with 1B117.e.

Items: a. Batch mixers with provision for mixing under vacuum in the range from zero to 13.326 kPa, and with temperature control capability of the mixing chamber and having:

a.1. A total volumetric capacity of 110 liters (30 gallons) or more; and

a.2 At least one mixing/kneading shaft mounted off center;

b. Continuous mixers with provision for mixing under vacuum in the range from zero to 13.326 kPa, and with temperature control capability of the mixing chamber and having:

b.1. Two or more mixing/kneading shafts; and

b.2. Capability to open the mixing chamber.

c. Fluid energy mills usable for grinding or milling propellant or propellant constituents specified in 1C011 or 1C111, or on the U.S. Munitions List.

d. Metal powder "production equipment" usable for the "production", in a controlled environment, of spherical or atomized materials specified in 1C011 or 1C111 a.1. or a.2., or on the U.S. Munitions List including:

d.1. Plasma generators (high frequency arc-jet) usable for obtaining sputtered or spherical metallic powders with organization of the process in an argon-water environment;

d.2. Electroburst equipment usable for obtaining sputtered or spherical metallic powders with organization of the process in an argon-water environment;

d.3. Equipment usable for the "production" of spherical aluminium powders by powdering a melt in an inert medium (e.g. nitrogen).

e. "Production equipment" for the production, handling, mixing, curing, casting, pressing, machining, extruding or acceptance testing of solid propellants or propellant constituents described in 1C011 or 1C111, or on the U.S. Munitions List, other than those described in 1B117.a through d.

f. Specially designed components for the equipment controlled in 1B117.a through e.

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1C111 Propellants and constituent chemicals for propellants, other than those controlled by 1C011, as follows (see List of Items Controlled).

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List of Items Controlled

Unit: Kilograms.

Related Controls: (1) The following materials, whether or not encapsulated in aluminum, beryllium, magnesium, or zirconium are subject to the export licensing authority of the U.S.

Department of State, Office of Defense Trade Controls: (See 22 CFR part 121): (a) Spherical aluminum powder with particles of uniform diameter 60 x 10⁻⁶ m (60 micrometers) or less and an aluminum content of 99 percent or greater; (b) Zirconium, beryllium, boron, magnesium and alloys of these, in particle sizes of less than 60 x 10⁻⁶ m (60 micrometers), whether spherical, atomized, spheroidal, flaked or ground, consisting 99% or more by weight of any of the above mentioned metals; (c) iron powder with average particle size of 3 x 10⁻⁶ m (3 microns) or less produced by hydrogen reduction of iron oxide. (2) For propellants and constituent chemicals for propellants not controlled by 1C111, see the U.S. Munitions List.

Related Definitions: N/A.

Items: a. Propulsive substances:

a.1. Spherical aluminum powder, other than that specified on the U.S. Munitions List, with particles of uniform diameter of less than 500 micrometer and an aluminum content of 97% by weight or greater;

a.2. Zirconium, beryllium, boron, magnesium and alloys of these, other than that controlled by the U.S. Munitions List, in particle sizes of less than 500 x 10⁻⁶ m (500 micrometers), whether spherical, atomized, spheroidal, flaked or ground, consisting 97% or more by weight of any of the above mentioned metals.

a.3. Liquid oxidizers, as follows:

a.3.a. Dinitrogen trioxide;

a.3.b. Nitrogen dioxide/dinitrogen tetroxide;

a.3.c. Dinitrogen pentoxide;

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (CTPB);

b.2. Hydroxy-terminated polybutadiene (HTPB), other than that controlled by the U.S. Munitions List;

b.3. Polybutadiene-acrylic acid (PBAA);

b.4. Polybutadiene-acrylic acid-acrylonitrile (PBAN);

c. Other propellant additives and agents:

c.1. Butacene;

c.2. Triethylene glycol dinitrate (TEGDN);

c.3. 2-Nitrodiphenylamine;

c.4. Trimethylolethane trinitrate (TMETN);

c.5. Diethylene glycol dinitrate (DEGDN).

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1C118 Titanium-stabilized duplex stainless steel (Ti-DSS):

License Requirements

Reason for Control: MT, AT.

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

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: Kilograms.

Related Controls: N/A.

Related Definitions: N/A.

Items: a. Titanium-stabilized duplex stainless steel (Ti-DSS) having:

a.1. All of the following characteristics:

a.1.a. Containing 17.0–23.0 weight percent chromium and 4.5–7.0 weight percent nickel, and

a.1.b. A ferritic-austenitic microstructure (also referred to as a two-phase microstructure) of which at least 10 percent is austenite by volume (according to ASTM E-1181-87 or national equivalents), and

a.2. Any of the following forms:

a.2.a. Ingots or bars having a size of 100 mm or more in each dimension;

a.2.b. Sheets having a width of 600 mm or more and a thickness of 3 mm or less;

or

a.2.c. Tubes having an outer diameter of 600 mm or more and a wall thickness of 3 mm or less.

* * * * *

1E001 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A102, 1B or 1C (except 1C980 to 1C984, 1C988, 1C990, 1C991, 1C992, 1C994 and 1C995).

License Requirements

Reason for Control: NS, MT, NP, CB, AT.

Control(s)	Country chart
NS applies to "technology" for items controlled by 1A001.b and .c, 1A002, 1A003, 1B001 to 1B003, 1B018, 1B225, 1C001 to 1C010, 1C018, 1C230, 1C231, 1C233, or 1C234.	NS Column 1.

Control(s)	Country chart
MT applies to "technology" for items controlled by 1B001, 1B101, 1B115, 1B116, 1B117, 1C001, 1C007, 1C101, 1C107, 1C011, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	MT Column 1.
NP applies to "technology" for items controlled by 1A002, 1B001, 1B101, 1B201, 1B225 to 1B232, 1C001, 1C010, 1C202, 1C210, 1C216, 1C225 to 1C234, 1C236 to 1C238 for NP reasons.	NP Column 1.
CB applies to "technology" for items controlled by 1C351, 1C352, 1C353, or 1C354.	CB Column 1.
CB applies to "technology" for materials controlled by 1C350.	CB Column 2.
AT applies to entire entry ..	AT Column 1.

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1E101 "Technology" according to the General Technology Note for the "use" of goods controlled by 1A102, 1B001, 1B101, 1B115, 1B116, 1B117, 1C001, 1C007, 1C011, 1C101, 1C107, 1C111, 1C116, 1C117, 1C118, 1D101 or 1D103.

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5. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, the following Export Control Classification Numbers (ECCNs) are amended:

a. By revising the List of Items Controlled section for ECCN 7B003;

b. By adding ECCN 7B101;

c. By revising the entry heading and List of Items Controlled section for ECCN 7B102;

d. By adding ECCN 7B104;

e. By revising the entry heading for ECCN 7D101; and

f. By revising the entry heading for ECCN 7E101, to read as follows:

7B003 Equipment specially designed for the "production" of equipment controlled by 7A (except 7A994).

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List of Items Controlled

Unit: \$ value.

Related Controls: (1) See also 7B103, (this entry is subject to the licensing authority of the U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121) 7B101 and 7B994. (2) This entry includes: inertial measurement unit tester (IMU module); IMU platform tester; IMU stable element handling fixture; IMU platform balance fixture; gyro tuning test station; gyro dynamic balance station; gyro run-in/

motor test station; gyro evacuation and filling station; centrifuge fixtures for gyro bearings; accelerometer axis align station; and accelerometer test station.

Related Definitions: N/A.

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

7B101 "Production equipment", and other test, calibration, and alignment equipment, other than that described in 7B003, 7B102 and 7B104, designed or modified to be used with equipment controlled by 7A001–7A004 or 7A101–7A104.

License Requirements

Reason for Control: MT, AT.

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

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: \$ value.

Related Controls: (1) See also 7B003, 7B102, 7B104 and 7B994. (2) This entry includes: inertial measurement unit tester (IMU module); IMU platform tester; IMU stable element handling fixture; IMU platform balance fixture; gyro tuning test station; gyro dynamic balance station; gyro run-in/motor test station; gyro evacuation and filling station; centrifuge fixtures for gyro bearings; accelerometer axis align station; and accelerometer test station.

Related Definitions: N/A.

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

7B102 Equipment, other than those controlled by 7B002, designed or modified to characterize mirrors, for laser gyro equipment, as follows (see List of Items Controlled).

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List of Items Controlled

Unit: \$ value.

Related Controls: N/A.

Related Definitions: N/A.

Items: a. Scatterometers having a measurement accuracy of 10 ppm or less (better).

b. Reflectometers having a measurement accuracy of 50 ppm or less (better).

c. Profilometers having a measurement accuracy of 0.5nm (5 Angstroms) or less (better).

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7B104 Equipment, designed or modified to be used with equipment controlled by 7A001–7A004, or 7A101–

