

Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**AD 98-07-03 Bell Helicopter Textron, Inc. and Agusta S.p.A.:** Amendment 39-10421. Docket No. 97-SW-58-AD.

**Applicability:** Bell Helicopter Textron, Inc. Model 412 helicopters, serial numbers (S/N) 33001 through 33213, 34001 through 34024, 36001 through 36121, 46400 through 46434, 46437, and Agusta S.p.A. Model AB412 helicopters, S/N prior to and including S/N 25806, and S/N 25901; certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent fatigue failure of the tail rotor yoke (yoke), that could result in loss of control of the helicopter, accomplish the following:

(a) Before further flight, review the historical records of the yoke assembly, part number (P/N) 212-011-702-all dash numbers, for any static or dynamic incident history, other than normal usage, that could have imposed a bending load on the yoke, but did not require yoke assembly replacement; for example, an incident in

which a damaged tail rotor blade was replaced due to a blade strike. If such a history exists, replace the yoke with an airworthy yoke.

(b) Before further flight, unless paragraph (c) of this AD has been accomplished previously:

(1) Install a Never Exceed Velocity (Vne) red line at 120 knots indicated airspeed (KIAS) on the pilot and copilot airspeed indicators using red tape or paint, and a slippage indicator on the instrument case and glass.

(2) Install a placard made of material that is not easily erased, disfigured, or obscured on the instrument panel in clear view of the pilot and copilot: "Observe temporary Maximum Never Exceed (Vne) airspeed red line (marked at 120 knots indicated airspeed (KIAS)). Vne is 20 KIAS less than the value presented on the airspeed limitation placard for each ambient condition."

(3) Insert the applicable Bell Helicopter Textron 412 Temporary Revision, dated August 16, 1996, into the Model 412 Rotorcraft Flight Manual (RFM), or Agusta AB412EP Temporary Revision No. 2 into the Model AB412 RFM.

(c) Within 180 calendar days:

(1) Remove yoke assembly, P/N 212-011-702-all dash numbers, and replace it with an airworthy yoke assembly, P/N 212-011-702-all dash numbers, with zero hours time-in-service (TIS), or an airworthy yoke (regardless of TIS) that has passed a one-time x-ray diffraction inspection in accordance with Bell Helicopter Textron ASB 412-96-89, Revision A, dated October 17, 1997; Bell Helicopter Textron ASB 412CF-96-01, dated September 3, 1996; or, Agusta Bolletino Tecnico (Technical Bulletin) No. 412-65, dated December 2, 1996, whichever is applicable.

(2) Install an airworthy tail rotor flapping stop, P/N 212-011-713-103.

(3) If requirements are accomplished in accordance with paragraphs (c)(1) and (c)(2) of this AD, remove the 120 KIAS redline from the pilot and copilot airspeed indicators; remove the Vne airspeed restriction placard; and remove the Bell Helicopter Textron 412 Temporary Revision, dated August 16, 1996, or Agusta AB Temporary Revision No. 2, as applicable, from the RFM.

(d) After accomplishing paragraph (c) of this AD, thereafter inspect the yoke assembly and tail rotor flapping stop at intervals not to exceed 25 hours TIS in accordance with Part III, Recurring 25-Hour Special Inspection and Conditional Inspection Requirement, of Bell Helicopter Textron ASB 412-96-89, Revision A, dated October 17, 1996; Bell Helicopter Textron ASB 412CF-96-01, dated September 3, 1996; or Agusta Bolletino Tecnico (Technical Bulletin) No. 412-65, dated December 2, 1996, as applicable.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter at airspeeds not to exceed 120 KIAS to a location where the requirements of this AD can be accomplished.

(g) The inspections and installations shall be done in accordance with Bell ASB 412-96-89, Revision A, dated October 17, 1997; Bell Helicopter Textron ASB 412CF-96-01, dated September 3, 1996; or Agusta Technical Bulletin No. 412-65, dated December 2, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280-3391, fax (817) 280-6466; or Agusta, 21017 Cascina Costa di Samarate (VA), Via Giovanni Agusta 520, telephone (0331) 229111, fax (0331) 229605-222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 8, 1998.

**Note 3:** The subject of this AD is addressed in Registro Aeronautico Italiano (Italy) AD 97-223, dated January 8, 1997.

Issued in Fort Worth, Texas, on March 16, 1998.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 98-7414 Filed 3-23-98; 8:45 am]

BILLING CODE 4910-13-U

#### DEPARTMENT OF COMMERCE

#### Bureau of Export Administration

#### 15 CFR Parts 770 and 774

[Docket No. 980219044-8044-01]

RIN 0694-AB66

#### Revision To ECCN 1C350 (Mixtures): Removal of Solvent Free Basis Calculation Requirement and Trace Quantity Exemption

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** Chemicals capable of being used as precursors for chemical weapons agents are controlled for export on the Commerce Control List under Export Control Classification Number 1C350. Note 2 of the License Requirement Notes section of ECCN

1C350 describes the three tier *de minimis* exemption for mixtures that contain these controlled chemicals. The *de minimis* exemption is based on the weight percentage (0%, 10%, and 25%) of these controlled chemicals within the mixture calculated on a "solvent free basis". This rule removes the requirement to calculate the weight percentage on a "solvent free basis." Therefore, the *de minimis* exemption for mixtures will now be based on the weight percentage of controlled chemicals calculated on the absolute (total) weight of the mixture.

The removal of the "solvent free basis" calculation requirement eliminates the necessity of the "trace quantity" exemption. The trace quantity exemption permitted exports of mixtures of concentrations of no more than 10,000 parts by weight per million of certain controlled chemicals. Therefore, the "trace quantity" exemption is removed.

Although the EAA expired on August 20, 1994, the President, invoking the International Emergency Powers Act (IEEPA), continued in effect the export control system in place under the provisions of the Act and the Export Administration Regulations, to the extent permitted by law (Executive Order 12924 of August 19, 1994 and Notices of August 15, 1995, August 14, 1996 and August 13, 1997).

**EFFECTIVE DATE:** March 24, 1998.

**FOR FURTHER INFORMATION CONTACT:** For questions of a technical nature, contact Mr. Jim Seevaratnam, Office of Chemical and Biological Controls and Treaty Compliance, at (202) 482-3343 or facsimile (202) 482-0751.

For questions of a general nature, call Sharron Cook, Regulatory Policy Division, at (202) 482-2440.

**SUPPLEMENTARY INFORMATION:**

### Background

The Australia Group (AG) recently held its annual consultations on ways to prevent the proliferation of chemical and biological weapons.

The AG, an informal arrangement between 30 countries and the European Commission, was initiated by Australia in 1985, after the United Nations discovered that chemical weapons had been used in the Iran-Iraq war. The AG's participants include: Argentina, Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, the European Commission, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea (the Republic of), Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain,

Sweden, Switzerland, United Kingdom and the United States.

In 1994, in accordance with AG policy, BXA revised Note 2 to former ECCN 1C60 (currently 1C350) to establish a three-tiered approach to requiring licenses for mixtures containing controlled chemicals (59 FR 52685 October 19, 1994). That revision permitted export and reexports without a license when the amount of a controlled chemical in the mixture did not exceed a specified weight percentage (0% for tier 1, 10% for tier 2, 25% for tier 3). The calculation was done on a "solvent free basis", meaning that the amount of the solvent had to be subtracted before the weight percentage of the controlled chemical could be determined. This method of calculation proved difficult to implement for both exporters and other AG member governments. At the October 1997 session, the AG decided to change the method of calculation from "solvent free basis" to "absolute weight." This change will simplify calculation and improve the coordination of the mixtures policy among AG members, while not compromising our nonproliferation objectives.

### Rulemaking Requirements

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

2. 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 0694-0086, "Sample Shipment quarterly report," which carries a burden hour estimate of 35 minutes per submission; and 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 52.5 minutes per submission. There will be a decrease of approximately 100 Multi-Purpose Applications per year as a result of the revisions in this rule. Send comments on burden, or any other aspect of these collections of information to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: BXA Desk Officer).

3. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of

information displays a currently valid OMB Control Number.

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

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, an 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 (see 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 rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

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

### List of Subjects

#### 15 CFR Part 770

Exports.

#### 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 770 and 774 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR Part 770 continues 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. 13026, 61 FR 58767, 3 CFR, 1996 Comp. 228 (1997); Notice of August 15, 1995, 3 CFR, 1995 Comp. 501 (1996); Notice of August 14, 1996, 3 CFR, 1996 Comp. 298 (1997); Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

2. 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; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp. 228 (1997); Notice of August 15, 1995, 3 CFR, 1995 Comp. 501 (1996); Notice of August 14, 1996, 3 CFR, 1996 Comp. 298 (1997); Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

## PART 770—[AMENDED]

### § 770.4 [Removed]

3. Part 770 is amended by removing § 770.4, "Interpretations related to chemical mixtures—*de minimis* exceptions examples."

## PART 774—[AMENDED]

4. Supplement No. 1 to part 774 (Commerce Control List), Category 1 (Materials, Chemicals, "Microorganisms", & "Toxins"), is amended by revising the License Requirements section of ECCN 1C350, to read as follows:

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

\* \* \* \* \*

Category 1—Materials, Chemicals, "Microorganisms", & "Toxins"

\* \* \* \* \*

C. Materials

\* \* \* \* \*

**1C350 Chemicals that may be used as precursors for toxic chemical agents, as follows (see List of Items Controlled).**

### License Requirements

*Reason for Control:* CB, AT

Control(s)	Country chart
CB applies to entire entry ..	CB Column 2.
AT applies to entire entry ..	AT Column 1.

### License Requirement Notes:

1. **SAMPLE SHIPMENTS:** Certain sample shipments of chemicals controlled under ECCN 1C350 may be made without a license, as provided by the following:

a. **Chemicals Not Eligible:** The following chemicals are *not* eligible for sample shipments: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856-11-8), Ethylphosphonyl difluoride (C.A.S. #753-98-0), and Methylphosphonyl difluoride (C.A.S. #676-99-3).

b. **Countries Not Eligible:** The following countries are *not* eligible to receive sample shipments: Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria.

c. **Sample Shipments:** A license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments, in any quantity, not exceeding the cumulative totals indicated in this paragraph may be exported without a license, in accordance

with the provisions of this Note 1. A consignee that receives a sample shipment under this exclusion may not resell, transfer or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons. However, a sample shipment received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled "Report of Sample Shipments of Chemical Precursors" at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, DC 20044, Attn: "Report of Sample Shipments of Chemical Precursors".

2. **MIXTURES:** Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements:

a. A license is required, regardless of the concentrations in the mixture, for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S.#57856-11-8), Ethylphosphonyl difluoride (C.A.S.#753-98-0) and Methylphosphonyl difluoride (C.A.S.#676-99-3);

b. A license is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture: Arsenic trichloride (C.A.S.#7784-34-1), Benzoic acid (C.A.S.#76-93-7), Diethyl ethylphosphonate (C.A.S.#78-38-6), Diethyl methylphosphonite (C.A.S.#15715-41-0), Diethyl-N,N-dimethylphosphoramidate (C.A.S.#2404-03-7), N,N-Diisopropyl-beta-aminoethane thiol (C.A.S.#5842-07-9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S.#4261-68-1), N,N-Diisopropyl-beta-aminoethanol (C.A.S.#96-80-0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S.#96-79-7), Dimethyl ethylphosphonate (C.A.S.#6163-75-3), Dimethyl methylphosphonate (C.A.S.#756-79-6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S.#1498-40-4), Ethylphosphonous difluoride [Ethylphosphinyl difluoride] (C.A.S.#430-78-4), Ethylphosphonyl dichloride (C.A.S.#1066-50-8), Methylphosphonous dichloride [Methylphosphinyl dichloride] (C.A.S.#676-83-5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S.#753-59-3), Methylphosphonyl dichloride (C.A.S.#676-97-1), Pinacolyl alcohol (C.A.S.#464-07-3), 3-Quinuclidinol (C.A.S.#1619-34-7), and Thiodiglycol (C.A.S.#111-48-8) (Related ECCN: 1C995);

c. A license is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture (related ECCN: 1C995); and

d. A license is not required under this entry for mixtures when the controlled

chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN EAR99.

Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

- Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;
- Absolute Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents;
- Example.

11% chemical listed in paragraph b. of Note 2

39% chemical not listed in Note 2

50% Solvent

100% Mixture

11/100 = 11% chemical listed in paragraph b. of Note 2.

In this example, a license is required because a chemical listed in paragraph b. of Note 2 constitutes more than 10 percent of the weight of the mixture.

3. **COMPOUNDS:** A license is not required under this entry for chemical compounds created with any chemicals identified in this ECCN 1C350, unless those compounds are also identified in this entry.

Technical Notes: 1. For purposes of this entry, a "mixture" is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

\* \* \* \* \*

Dated: March 17, 1998.

**R. Roger Majak,**

*Assistant Secretary for Export Administration.*

[FR Doc. 98-7493 Filed 3-23-98; 8:45 am]

BILLING CODE 3510-33-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 644

[Docket No. 980305056-8056-01; I.D. 020398B]

RIN 0648-AK88

### Atlantic Billfishes; Atlantic Blue Marlin and Atlantic White Marlin Size Limits; Billfish Tournament Notification Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.