Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes Class E2 airspace at Luke Air Force Base, Phoenix, AZ.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AWP AZ E2 Phoenix, Luke AFB, AZ [Revoked]

* * * * *

Issued in Washington, on March 27, 2008.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E8–7663 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 6187]

RIN 1400–AC47

Amendment to the International Traffic in Arms Regulations: The United States Munitions List

AGENCY: Department of State.

ACTION: Proposed Rule.

SUMMARY: The Department of State is proposing to amend the text of the International Traffic in Arms Regulations (ITAR), Part 121, to add language clarifying how the criteria of Section 17(c) of the Export Administration Act of 1979 (''EAA'') are implemented in accordance with the Department of State's obligations under the Arms Export Control Act (''AECA''), and restating the Department's longstanding policy and practice of implementing the criteria of this provision.

DATES: *Effective Date:* The Department of State will accept comments on this proposed rule until May 12, 2008.

ADDRESSES: Interested parties may submit comments within 30 days of the date of publication by any of the following methods:

- *E-mail: DDTCResponseTeam@state.gov* with an appropriate subject line.
- *Mail:* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, ITAR Section 121, SA–1, 12th Floor, Washington, DC 20522–0112.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at *http://regulations.gov/index.cfm.*

FOR FURTHER INFORMATION CONTACT: Director Ann Ganzer, Office Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, ITAR Part 121.

SUPPLEMENTARY INFORMATION: There have been an increasing number of Commodity Jurisdiction (CJ) requests for certain basic parts and components having a long history of use on both civil and military aircraft. The intent of this notice is to make it clear that these parts and components are not subject to the jurisdiction of the Department of State and to restate the Department's longstanding practice of using the CJ process to determine the applicability of the criteria of Section 17(c) of the EAA (''Section 17(c)'') in cases where there is uncertainty.

Specifically, Section 17(c) states that any product (1) which is standard equipment, certified by the Federal Aviation Administration (''FAA''), in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the EAA. Although the EAA expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, as extended by the notice of August 15, 2007, directed that the provisions of the EAA be carried out to the extent permitted by law.

Since its passage, the Department has implemented Section 17(c) through various regulatory amendments and notices consistent with the aims of the EAA and the AECA.

While Section 17(c) criteria apply to certain parts and components for civil aircraft, there have been recurring questions regarding its scope and meaning, and the Department's interpretation of its provisions. For example, while the language of Section 17(c) referred specifically to certain products that are standard equipment in civil aircraft, some exporters have mistakenly believed this provision applied to complete aircraft. Exporters have also suggested that FAA ''certification'' should by itself be sufficient to determine whether an article is subject to the controls of the USML. While FAA certification is one of the factors in the Section 17(c) criteria, FAA certifications serve a different purpose (safety of flight), and the FAA may issue a civil certification for military aircraft and their parts and components (e.g., the C–130J).

Shortly after the enactment of Section 17(c), the Department requested, through a proposed rule in the **Federal Register** on December 19, 1980, the opinions of the public as well as other agencies regarding the implementation of Section 17(c). The Department received many comments from the public, the Department of Commerce, and several other agencies. The Department noted that certain inertial navigation systems destined for specific

countries would be deleted from the USML, due primarily to the enactment of Section 17(c). In 1981, the Department conducted a review of the USML consistent with the AECA and Section 17(c) to determine whether any articles should be removed. The results were formally reported in a congressionally mandated report to Congress. This report came soon after Congress rejected a House bill that would have removed from the USML certain defense articles having a ''direct civilian application.'' Several years later, after taking into consideration the comments received from the public and other agencies on its proposed rule, the Department published a final rule in the **Federal Register** on December 6, 1984. In this rule, the Department noted there had been confusion on the relationship of the ITAR to the export regulations administered by the Department of Commerce. In an effort to provide clarity, the Department provided some general guidance by adding the then new Part 120 (at the time titled: Purpose, background and definitions), and the Department also referenced certain notable deletions to the USML, including certain trainer aircraft and certain inertial navigation systems.

However, some questions on this issue remained, so on April 7, 1988, the Department published a final rule in the **Federal Register**. Consistent with the Department's long established practice at that time of implementing Section 17(c), the Department added language to the ITAR requiring that a CJ review take place to determine whether any FAA-certified developmental aircraft or components thereof would be removed from the USML. The Department noted this change helped to conform the ITAR to the Department's current practice of requiring CJ's to address such uncertainties, and that this change would ensure the items excluded under Section 17(c) were properly identified. The Department again obtained comments from the public regarding this change.

In the years since the 1988 **Federal Register** Notice described above was published, the ITAR has consistently required a CJ review take place where there are uncertainties regarding whether an item is covered by the USML, including whether the item falls within the criteria of Section 17(c). In 1991, the Department undertook a comprehensive review of the USML to address jurisdiction over articles seemingly subject to both the USML and the Commerce Control List. This large interagency review was conducted consistent with the AECA and Section 17(c), and resulted in the removal of certain items from USML control. In 1996, based on interagency discussions, the specific reference to Section 17(c) in the ITAR was removed, but the Department's policy and practice of applying the criteria of Section 17(c) remained. We note that the removal of the reference to Section 17(c) may have caused some of the current confusion as to the Department's policy and procedures for applying Section 17(c).

This proposed rule reinstates the Section 17(c) reference in the ITAR to assist exporters in understanding the scope and application of the Section 17(c) criteria to parts and components for civil aircraft. It also clarifies that any part or component that (a) is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft); and (c) is an integral part of such civil aircraft, is subject to the Export Administration Regulations. Where such part or component is not Significant Military Equipment (''SME''), no CJ determination is required to determine whether the item meets these criteria for exclusion under the USML, unless doubt exists as to whether these criteria have been met. However, where the part or component is SME, a CJ determination is always required, except where an SME part or component was integral to civil aircraft prior to the effective date of this rule.

Additionally, this proposed rule adds language in a new Note after Category VIII(h) to provide guidelines concerning the parts or components meeting these criteria. The change to Category VIII(b) also identifies and designates certain sensitive military items, heretofore controlled under Category VIII(h), as SME in order to simplify the implementation of the criteria of Section 17(c) consistent with the aims of the AECA. Previous and current licenses and other authorizations concerning these items will not require notification in accordance with § 124.11, and will not require a DSP–83, unless they are amended, modified, or renewed.

This requirement for a CJ determination by the Department of State helps ensure the U.S. Government is made aware of, and can reach an informed decision regarding, any sensitive military item proposed for standardization in the commercial aircraft industry before the item or technology is actually applied to a commercial aircraft program, whether such item is integral to the aircraft, and, if so, whether the development, production, and use of the technology associated with the item should nevertheless be controlled on the USML. It will also ensure the Department of State fulfills the requirements of section 38(f) of the Arms Export Control Act.

This regulation is intended to clarify the control of aircraft parts and components, and does not remove any items from the USML, nor does it change any CJ determinations. Should there be an apparent conflict between this regulation and a CJ determination issued prior to this date, the holder of the determination should seek reconsideration, citing this regulation.

Regulatory Analysis and Notices

Administrative Procedure Act

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

Regulatory Flexibility Act

Since this amendment involves a foreign affairs function of the United States, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This amendment does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment will not have substantial effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The

regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

Executive Order 12866

This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports, U.S. Munitions List.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 121 is proposed to be amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp, p. 79; 22 U.S.C. 2658; Pub L. 105–261, 112 Stat.1920.

2. Section 121.1, paragraph (c) Category VIII is amended by revising Category VIII paragraphs (b) and (h) to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category VIII—Aircraft and Associated Equipment

* * * * *

(b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category, and all specifically designed military hot section components (i.e., combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles) and digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)).

* * * * *

(h) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (d) of this category, excluding aircraft tires and propellers used with reciprocating engines.

Note: The Export Administration Regulations (EAR) administered by the Department of Commerce control any part or component (including propellers) designed exclusively for civil, non-military aircraft (see § 121.3 for the definition of military aircraft) and civil, non-military aircraft engines. Also, a non-SME component or part (as defined in § 121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, that: (a) Is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for a civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft); and (c) is an integral part of such civil aircraft, is subject to the control of the EAR. In the case of any part or component designated as SME in this or any other USML category, a determination that such item may be excluded from USML coverage based on the three criteria above always requires a commodity jurisdiction determination by the Department of State under § 120.4 of this subchapter. The only exception to this requirement is where a part or component designated as SME in this category was integral to civil aircraft prior to [effective date of the final rule]. For such part or component, U.S. exporters are not required to seek a commodity jurisdiction determination from State, unless doubt exists as to whether the item meets the three criteria above (See § 120.3 and § 120.4 of this subchapter). Also, U.S. exporters are not required to seek a commodity jurisdiction determination from State regarding any non-SME component or part (as defined in § 121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, unless doubt exists as to whether the item meets the three criteria above (See § 120.3 and § 120.4 of this subchapter). These commodity jurisdiction determinations will ensure compliance with this section and the criteria of Section 17(c) of the Export Administration Act of 1979. In determining whether the three criteria above have been met, consider whether the same item is common to both civil and military applications without modification. Some examples of parts or components that are not common to both civil and military applications are tail hooks, radomes, and low observable rotor blades. ''Standard equipment'' is defined as a part or component manufactured in compliance with an established and published industry specification or an established and published government specification (e.g., AN, MS, NAS, or SAE). Parts and components that are manufactured and tested to established but unpublished civil aviation industry specifications and standards are also ''standard equipment,'' e.g., pumps, actuators, and generators. A part or component is not standard equipment if there are any performance, manufacturing or testing requirements beyond such specifications and standards. Simply testing a part or component to meet a military specification or standard does not in and of itself change the jurisdiction of such part or component unless the item was designed or modified to meet that specification or standard. Integral is defined as a part or component that is installed in the aircraft. In determining whether a part or component may be considered as standard equipment and integral to a civil aircraft (e.g., latches, fasteners, grommets, and switches) it is important to carefully review all of the criteria noted above. For example, a part approved solely on a non-interference/provisions basis under a type certificate issued by the Federal Aviation Administration would not qualify. Similarly, unique application parts or components not integral to the aircraft would also not qualify.

* * * * *

Dated: April 2, 2008.

John C. Rood,

Acting Under Secretary for Arms Control and International Security, Department of State.

[FR Doc. 08–1122 Filed 4–9–08; 1:48pm]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 150 and 165

[Docket No. USCG–2007–0087]

RIN 1625–AA00, 1625–AA11, and 1625–AA87

Regulated Navigation Areas, Safety Zones, Security Zones, and Deepwater Port Facilities; Navigable Waters of the Boston Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish regulated navigation areas around a recently constructed deepwater port facility in the waters of the Atlantic Ocean near the entrance to Boston Harbor and to establish safety and security zones around liquefied natural gas carriers (LNGCs) calling on these deepwater port facilities. The purpose of these regulated navigation areas is to protect vessels and mariners from the potential safety hazards associated with deepwater port operations, and to protect the LNGCs and deepwater port infrastructure from security threats or other subversive acts. All vessels, with the exception of LNGCs and deepwater port support vessels, would be prohibited from anchoring or otherwise deploying equipment that could become entangled in submerged infrastructure within 1000 meters of the submerged turret loading (STL) buoys associated with the deepwater port, and would be