

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 738, 740, 742, 772 and 774

[Docket No. 090126064-0122-01]

RIN 0694-AE56

Revisions to the Export Administration Regulations based upon a Systematic Review of the Commerce Control List: Additional Changes

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to make revisions to the EAR as a result of a systematic review of the Commerce Control List (CCL) that was conducted by the Bureau of Industry and Security (BIS). This rule is the third phase of the regulatory implementation of the results of a review of the CCL that

was conducted by BIS starting in 2007. The BIS CCL review benefited from input received from BIS's Technical Advisory Committees (TACs) and comments that were received from the interested public in response to the publication of a BIS notice of inquiry on July 17, 2007.

The revisions in this rule include clarifications to existing controls; eliminating redundant or outdated controls; and establishing more focused and rationalized controls. This rule also makes CCL related changes to other parts of the EAR, including CCL related definitions and license exceptions.

**DATES:** This rule is effective: (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER). Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

**ADDRESSES:** You may submit comments, identified by RIN 0694-AE56, by any of the following methods:

E-mail: [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov) Include "RIN 0694-AE56" in the subject line of the message.

Fax: (202) 482-3355. Please alert the Regulatory Policy Division, by calling (202) 482-2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14<sup>th</sup> St. & Pennsylvania Avenue, N.W., Room 2705, Washington, DC 20230, Attn: RIN 0694-AE56.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to [Jasmeet K. Seehra@omb.eop.gov](mailto:Jasmeet_K_Seehra@omb.eop.gov), or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14<sup>th</sup> St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e., RIN 0694- AE56) - all comments on the latter should be submitted by one of the three methods outlined above.

**FOR FURTHER INFORMATION CONTACT:**

Timothy Mooney, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce; by telephone: (202) 482-2440; or by fax: (202) 482-3355.

**SUPPLEMENTARY INFORMATION**

**Background**

This rule amends the EAR to make various revisions as a result of a systematic review of the Commerce Control List (CCL) that was conducted by BIS. This rule is the third phase of the regulatory implementation of the results of that systematic review of the CCL that was conducted by BIS beginning in 2007. The CCL review benefited from input received from BIS's Technical Advisory Committees (TACs) and public comments received in response to a notice of inquiry (July 17, 2007, 72 FR 39052).

On April 18, 2008, BIS published the first phase of the regulatory implementation of the CCL review in a rule titled, “Technical Corrections to the Export Administration Regulations based upon a Systematic Review of the CCL” (73 FR 21035). The first CCL review rule made needed technical corrections and clarifications to the CCL. The second CCL review rule made substantive revisions to the EAR, including the CCL (October 6, 2008, 73 FR 58033).

The revisions to the CCL in this third CCL review rule are divided into three types of revisions: *(I) Clarifications to Existing Controls*; *(II) Eliminating Redundant or Outdated Controls*; and *(III) Establishing More Focused and Rationalized Controls*. The changes in this third CCL review rule are typically additional changes from the 2007 review that required further U.S. Government review and/or interagency discussions before they could be implemented. This rule also makes certain revisions to other parts of the EAR related to the CCL that were recommended during the 2007 CCL review.

As a part of the implementation phase of the CCL review, BIS has also taken other non-regulatory actions to improve the public’s understanding of the CCL. These actions have involved publishing certain advisory opinions and creating new web guidance to provide greater clarity to exporters and reexporters regarding existing provisions of the CCL. BIS has also created a new process whereby it has stated its intention to conduct similar types of systematic reviews of the CCL in the future in order to continuously improve the CCL.

This rule makes the following revisions to the Export Administration Regulations (EAR):

In § 734.4(b)(1), this rule adds paragraph (a)(9) of ECCN 5A002 to the list of 5A002 classified commodities that are subject to the special *de minimis* requirements for certain encryption items. ECCN 5A002.a.9 is controlled for Encryption Items (EI) reasons, so it should be included in paragraph (b)(1) because that paragraph is intended to include all of the “items” paragraphs of 5A002 that are controlled for EI reasons.

In § 734.4 (*De minimis* U.S. content) paragraph (a)(4) and § 742.14 (Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components and systems) paragraph (a), this rule updates the provisions in these two sections that apply to “items” controlled for Significant Items (SI) reasons in ECCN 9E003 to conform these two sections to the intended paragraphs of ECCN 9E003 (*i.e.*, 9E003.a.1 through a.10 and h). These changes are needed because when 9E003 was revised the related provisions in §§ 734.4(a)(4) and 742.14(a) were not updated (July 12, 2000, 65 FR 43130). This rule updates those provisions to conform to the updates made to the items controlled under 9E003. This rule also makes changes to the SI reason for control under 9E003 to conform that reason for control to the SI items controlled under that ECCN entry, as described below.

In § 740.7 (Computers (APP)) under paragraph (b)(2)(i)(Computers and software), this rule removes and reserves this paragraph because the restrictions refer to a

supplement of the EAR that is currently reserved. Supplement No. 3 to part 742 was removed and reserved in the EAR on April 24, 2006 (71 FR 20876). Paragraph (b)(2)(i) is also reserved because restricting physical access to areas housing the computer is no longer necessary in protecting U.S. export control interests in a distributed computing environment.

Also in § 740.7, this rule revises the Weighted TeraFLOPS (WT) level in paragraphs (c)(3)(ii) from 0.1 WT to 0.5 WT. This change is being made to address advances in technology levels that justify an adjustment for what level of “development” and “production” technology and source code should be authorized under these provisions of License Exception APP.

In § 772.1 (Definitions of terms as used in the Export Administration Regulations (EAR)), this rule revises the definition of “reasons for control” to conform that definition to the reasons for control listed in §738.2(d)(2)(i)(A) of the EAR. Specifically, this rule removes the control “High Performance Computers (XP)” because that control is no longer in the EAR, and adds five reasons for control that were in the EAR but were not included in the “reasons for control” definition prior to this rule being published. Specifically, this rule adds “Chemical Weapons Convention (CW)”, “Encryption Items (EI)”, “Firearms Convention (FC)”, “Significant Items (SI)”, and “Surreptitious Listening (SL)” to the “reasons for control” definition.

This rule makes various substantive revisions to the CCL, divided below into three types of revisions: (I) *Clarifications to Existing Controls*; (II) *Eliminating Redundant or Outdated Controls*; and (III) *Establishing More Focused and Rationalized Controls*.

**I: Clarifications to existing controls**

1. Revisions to the “headings” of existing CCL entries.

This rule makes revisions to the headings of three (3) CCL entries: 0E018, 4E992 and 4E993 to clarify the items controlled under those CCL entries.

ECCN 0E018 is amended by removing the phrase “0A018.a through 0A018.c” and replacing that with “0A018” for consistency with the International Munitions List (IML) 22.

ECCNs 4E992 and 4E993 are amended by revising the headings to conform to the removal of ECCNs 4B994 and 4C994 from the CCL. The changes in the headings of ECCNs 4E992 and 4E993 remove references to “technology” applicable to the ECCNs 4B994 and 4C994 that are removed from the CCL with this rule, as described in the next two paragraphs. The removal of ECCNs 4B994 and 4C994 are described below under the discussion on “Eliminating Redundant or Outdated Controls.”

ECCN 4E992 is amended by revising the heading to remove the reference to 4B994 and materials controlled by 4C994. The heading will be revised to specify the

technology controlled under this ECCN entry is “technology” other than that controlled in 4E001 for the “development,” “production,” or “use” of equipment controlled by 4A994, or “software” controlled by 4D993 or 4D994.

ECCN 4E993 is amended by revising the heading to remove the reference to technology required for the development or production of graphic accelerators and magnetic disk drives. The heading is being revised to specify the technology controlled under this ECCN entry is “technology” for the “development” or “production” of equipment for “multi-data stream processing.” As described below, this rule also revises the “items” paragraph in the List of Items of controlled to conform to this change to the heading.

2. Revisions to “Items” paragraphs in CCL entries. This rule makes revisions to the “Items” paragraphs under two (2) CCL entries, 4E993 and 9A991, to provide greater clarity regarding the items controlled under those CCL entries. Specifically, these revisions include the following:

ECCN 4E993 is amended by removing the “items” paragraph (a), (b) and (c) and replacing it with a sentence stating, “The list of items controlled is contained in the ECCN heading.” As described above, the technology described in paragraphs (a) and (c) is being removed from this entry, and the only items that this entry will now control are listed in the entry’s heading.



ECCN 9A991 is amended by making two clarifications. First, this rule revises “items” paragraph (b) to remove the word “and” because this word is not needed. Second, this rule amends the Note to paragraph (c) of the “items” paragraph, to specify that for aero gas turbine engines that are destined for use in civil “aircraft” and have been in use in bona fide civil “aircraft” for more than eight years, such engines are controlled under 9A991.d. This is not a change in the control parameter, but rather a clarification regarding the original intent of that Note to paragraph (c).

3. Clarifications to “Items” paragraphs to conform to multilateral regimes. This action revises the “items” paragraphs in two (2) CCL entries, 8A018 and 9A018, to clarify what items are controlled under those entries and to better conform those entries to the language used in multilateral control lists, such as the IML.

ECCN 8A018 is amended by revising paragraphs (b)(1), (b)(2), (b)(3), (b)(4) and (b)(5) of the “Items” paragraph, to conform to IML 9.b.3, 9.d and b.1-4, respectively. Specifically, under paragraph (b)(1), this rule adds the phrase “and specially designed components therefor” to conform to IML 9.b.1. Under paragraph (b)(2), this rule adds the phrase “and specially designed components therefor” to conform to IML 9.b.2. Under paragraph (b)(3), this rule revises the “items” paragraph to specify that the commodities controlled under this paragraph are “nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes with nonmagnetic content in excess of 75 percent of total mass and specially designed components therefor.” This change is being made to conform to IML 9.b.2. Paragraph (b)(5) is removed from the CCL entry because

the components, parts, accessories, and attachments for the above are now controlled under paragraphs (b)(1) – (b)(4) with the publication of this rule. This change is being made to conform to the IML 9 portion that was moved to (b)(1) – (b)(4) of the “items” paragraph of this CCL entry.

ECCN 9A018 is amended by revising paragraphs (c) and (d) of the “items” paragraphs to clarify the items controlled under this CCL entry. Specifically, under paragraph (c) this rule adds quotes around the term “aircraft” and removes the phrase “and helicopters,” to conform to IML 10.f. Under paragraph (d), this rule adds quotes around the term “aircraft” and removes the term “helicopter” to conform to IML 10.f. This rule also removes the reference to helicopters under paragraphs (c) and (d) because the definition of “aircraft” includes helicopters, so helicopters do not need to be specifically identified in the control parameter. This rule also removes “parts, attachments” under paragraph (f) to conform to IML 14.

4. Other assorted clarifications to existing controls

ECCN 4A003 is amended by making a correction in the Anti-Terrorism (AT) control in the License Requirements section of this ECCN. This correction is made to conform to a change made on October 6, 2008 (73 FR 58040) in the Adjusted Peak Performance (APP) level in ECCN 4A994. To conform to the October 2008 change, this rule updates the AT control cross reference in the License Requirements section of ECCN 4A003 that refers to the “Adjusted Peak Performance” level in 4A994. Specifically, this rule corrects the AT control cross reference to inform the public to

“refer to 4A994 for controls on ‘digital computer’ with an APP > 0.0128 but ≤ to 0.75 WT).”

This rule amends ECCN 4A994 by revising the Related Definitions paragraph of the List of Items Controlled to read “N/A” because the definition for “two dimensional vector rate” applied to items controlled by ECCN 4A994.g, which was removed and reserved on October 6, 2008 (73 FR 58040).

ECCN 5A001 is amended to revise the Technical Note (2) to 5A001.b.6 to remove the redundant phrase, “samples of human voice and then convert these.” This same phrase only needs to be stated once in this technical note, so this rule is removing the redundant phrasing.

ECCN 7A008 is amended by revising the License Exceptions section by removing “TSR: N/A” because this ECCN is not a technology or software entry and adding License Exceptions “GBS: N/A” and “LVS: N/A” to indicate these license exceptions are not eligible for this entry.

ECCN 9E003 is amended by revising the SI control under the “License Requirements” section to conform the SI reason for control to the hot section technology for the development, production or overhaul of commercial aircraft engines, components and systems that are currently controlled in the “items” paragraphs of ECCN 9E003 (*i.e.*, 9E003.a.1 through a.10 and h). These changes are needed because when the “items”

paragraph of ECCN 9E003 was amended on July 12, 2000 (65 FR 43130), the conforming change to the SI reason for control in that same ECCN entry was not updated. This rule updates this ECCN's SI license requirement to conform to the previous updates made to ECCN 9E003. This rule also makes conforming changes to §§ 734.4(a)(4) and 742.14(a) to conform to these same changes in 9E003, as described above.

## **II. Eliminating Redundant or Outdated Controls**

ECCN 3A992 is amended by removing License Exception LVS eligibility for Syria. Syria is *not* eligible to receive commodities authorized by License Exception LVS under the EAR. This rule clarifies Syria's ineligibility by revising the LVS paragraph in the License Exceptions section of this ECCN to make it N/A.

ECCNs 4B994 and 4C994 are removed from the CCL because storage equipment previously controlled under ECCN 4A994 was removed from control on October 8, 2008 (73 FR 58033). Because the storage equipment is no longer controlled under 4A994, equipment for the "development" and "production" of magnetic and optical storage equipment no longer needs to be controlled under ECCN 4B994. In addition, for the same reason, materials specially formulated and required for the fabrication of head/disk assemblies for controlled magnetic and magneto-optical hard disk drives no longer needs to be controlled under ECCN 4C994. To conform to the removal of ECCNs 4B994 and 4C994, this rule also makes revisions to ECCNs 4E992 and 4E993 to remove references to "technology" applicable to these ECCNs 4B994 and 4C994 that are removed from the

CCL with this rule. The changes to ECCNs 4E992 and 4E993 are described above under the discussion on “Revisions to the ‘headings’ of existing CCL entries.”

ECCN 8A018 is amended by removing “items” paragraph (b)(5) to conform to a change to the IML. The IML 9 control that was under 8A018.b.5, prior to the publication of this rule, has been moved to paragraphs 8A018.b.1 through 8A018.b.4.

### **III. Establishing More Focused and Rationalized Controls**

Changes for greater consistency in national security, regional stability and encryption licensing.

In Supplement No. 1 to part 738 (Commerce Country Chart), this rule removes the license requirement for Regional Stability (RS 2) from Austria, Finland, Ireland, Sweden and Switzerland (*i.e.*, this rule removes the “X” in the box in the RS 2 column for these five destinations). This change is made to create more consistency in what destinations require a license for RS column 2, NS column 2, and countries listed in Supplement No. 3 to part 740 (License Exception ENC Favorable Treatment Countries). Thirty-seven countries are in one of these three groupings. Twenty-four of the thirty-seven are in all three groupings (*i.e.*, these destinations do not require a license for RS column 2, NS column 2 and are listed in Supplement No. 3 to part 740). Nine of these thirty-seven countries require a license for RS column 2. Austria, Finland, Ireland, Sweden, and Switzerland all require a license for RS column 2 even though these countries are in Supplement No. 3 to Part 740 and do not require a license for NS column 2 reasons. Because these five countries are the only five countries that are listed in

Supplement No. 3 to Part 740 and also do not require a license for NS column 2 reasons, these countries were the most appropriate destinations to remove the RS 2 license requirement from in order to create greater uniformity in these license requirements. This change is also made because Austria, Finland, Ireland, Sweden and Switzerland are not countries that contribute to regional instability that would be contrary to the foreign policy interests of the United States.

Removing the RS column 2 license requirement that applied to these countries is consistent with the stated purpose of regional stability controls in § 742.6(b), which is to prevent “export[s] or reexport[s] that could contribute directly or indirectly to any country’s military capability in a manner that would alter or destabilize a region’s military balance contrary to the foreign policy interests of the United States.” This removal raises the number of countries that are in all three groups from 24 to 29 and creates more consistency in these EAR license requirements.

#### Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on (INSERT DATE OF PUBLICATION), pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or

reexport NLR so long as they are exported or reexported before (INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION). Any such items not actually exported or reexported before midnight, on (INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION), require a license in accordance with this rule.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 13, 2009, 74 FR 41325 (August 14, 2009), has continued the EAR in effect under the International Emergency Economic Powers Act.

#### Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.
2. Notwithstanding any other provision of law, no person is required to respond to, 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 Office of Management and Budget Control Number. This rule contains 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, “Multi-Purpose

Application,” which carries a burden hour estimate of 58 minutes for a manual or electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. 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 (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 final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act 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.

5. The other changes made under this rule are nonsubstantive changes that would not meet the criteria noted in the preceding paragraph. For these nonsubstantive changes described in this paragraph, the Department of Commerce finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary and contrary to the public interest. The changes made by this rule described under this paragraph are not substantive changes, but rather are clarifications to existing



controls. These nonsubstantive changes are described under Part I: *Clarifications to Existing Controls* in the Background section of this rule. These nonsubstantive changes include: revisions to the headings of existing CCL entries; and removal of an outdated “Related Controls” reference in one CCL entry. This rule does not alter any right, obligation or prohibition that applies to any person under the Export Administration Regulations (EAR). Additionally, if the previous rules were left in place, public confusion may result because the rules would refer to outdated references and headings. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule.

### **List of Subjects**

#### 15 CFR Part 734

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

#### 15 CFR Part 738 and 772

Exports.

#### 15 CFR Part 740

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

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

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

**Part 734 - [AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

2. Section 734.4 is amended by revising paragraphs (a)(4) and the introductory text of paragraph (b)(1), to read as follows:

**§ 734.4 De minimis U.S. content.**

(a) \* \* \*

(4) There is no *de minimis* level for U.S.-origin technology controlled by ECCN 9E003a.1 through a.10, and .h, when redrawn, used, consulted, or otherwise commingled abroad.

\* \* \* \* \*

(b) \* \* \*

(1) The U.S. origin commodities or software, if controlled under ECCNs 5A002.a.1, .a.2, .a.5, or .a.6, .a.9, or 5D002, must have been:

\* \* \* \* \*

**Part 738 - [AMENDED]**

3. The authority citation for 15 CFR part 738 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); 22 U.S.C. 287c; 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

4. Supplement No. 1 to part 738 (Commerce Country Chart), is amended by removing the “X” in the RS 2 column under the Regional Stability column for the countries of “Austria”, “Finland”, “Ireland”, “Sweden”, and “Switzerland”.

**Part 740 - [AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 7201 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

6. Section 740.7 is amended:

- a. By removing and reserving paragraph (b)(2)(i); and
- b. By revising paragraphs (c)(3)(ii) and (c)(3)(iii), to read as follows:

**§ 740.7 Computers (APP).**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) [RESERVED]

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(ii) “Development” and “production” technology and source code described in paragraph (a)(2) of this section for computers with an APP less than or equal to 0.5 Weighted TeraFLOPS (WT) are eligible for deemed exports under License Exception APP to foreign nationals of Tier 1 destinations, other than the destinations that are listed

in paragraph (c)(3)(i) of this section, subject to the restrictions in paragraph (b) of this section.

(iii) “Use” technology and source code described in paragraph (a)(2) of this section for computers with an APP less than or equal to 3 WT are eligible for deemed exports under License Exception APP to foreign nationals of Tier 1 destinations, other than the destinations that are listed in paragraph (c)(3)(i) of this section, subject to the restrictions in paragraph (b) of this section.

\* \* \* \* \*

**Part 742 - [AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 3201 et seq.; 42 U.S.C. 2139a; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; Sec 1503, Pub. L. 108-11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

8. Section 742.14 is amended by revising the last sentence of paragraph (a), to read as follows:

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

(a) \* \* \* These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.10, and .h, and related controls.

\* \* \* \* \*

**Part 772 – [AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

10. Section 772.1 is amended by revising the definition of “reasons for control”, as set forth below:

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

\* \* \* \* \*

*Reasons for Control.* Reasons for Control are: Anti-Terrorism (AT), Chemical & Biological Weapons (CB), Chemical Weapons Convention (CW), Crime Control (CC), Encryption Items (EI), Firearms Convention (FC), Missile Technology (MT), National

Security (NS), Nuclear Nonproliferation (NP), Regional Stability (RS), Short Supply (SS), Significant Items (SI), Surreptitious Listening (SL) and United Nations sanctions (UN). Items controlled within a particular ECCN may be controlled for more than one reason.

\* \* \* \* \*

**Part 774 - [AMENDED]**

11. 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); 22 U.S.C. 287c, 22 U.S.C. 3201 et seq., 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0 - Nuclear Materials, Facilities, and Equipment (and Miscellaneous Items), Export Control Classification Number (ECCN) 0E018 is amended by revising the heading, to read as follows:

**Supplement No. 1 to Part 774 - The Commerce Control List**

\* \* \* \* \*

**0E018 “Technology” for the “development”, “production”, or “use” of items controlled by 0A018.**

\* \* \* \* \*

13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3 - Electronics, Export Control Classification Number (ECCN) 3A992 is amended by revising the LVS paragraph in the License Exceptions section, to read as follows:

**3A992 General purpose electronic equipment not controlled by 3A002.**

\* \* \* \* \*

**License Exceptions**

LVS: N/A

GBS: \* \* \*

CIV: \* \* \*

\* \* \* \* \*

14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4 - Computers, Export Control Classification Number (ECCN) 4A003 is amended by revising the AT control(s) paragraph in the License Requirements section, to read as follows:



**4A003 “Digital computers,” “electronic assemblies,” and related equipment therefor, as follows, and specially designed components therefor.**

**License Requirements**

*Reason for Control:* \* \* \*

<i>Control(s)</i>	<i>Country Chart</i>
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\* \* \* \* \*

AT applies to entire entry	AT Column 1
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(refer to 4A994 for controls

on “digital computers” with a

APP > 0.0128 but ≤ to 0.75 WT)

\* \* \* \* \*

15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4 - Computers, Export Control Classification Number (ECCN) 4A994 is amended by removing the definition in the Related Definitions paragraph in the List of Items Controlled section and adding “N/A” in its place.

16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4 – Computers, is amended by removing Export Control Classification Numbers (ECCN) 4B994 and 4C994 and reserving “B. Test Inspection and Production Equipment” and “C. Materials”.

17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4 - Computers, Export Control Classification Number (ECCN) 4E992 is amended by revising the heading to read as follows:

**4E992 “Technology” other than that controlled in 4E001 for the “development,” “production,” or “use” of equipment controlled by 4A994, or “software” controlled by 4D993 or 4D994.**

\* \* \* \* \*

18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4 - Computers, Export Control Classification Number (ECCN) 4E993 is amended:

a. By revising the heading; and

b. By revising the “items” paragraph in the List of Items Controlled section, to read as follows:

**4E993 “Technology” for the “development” or “production” of equipment designed for “multi-data-stream processing.”**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*

*Related Controls:* \* \* \*

*Related Definitions:* \* \* \*

*Items:*

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

19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5 - Telecommunications and “Information Security,” Part 1 Telecommunications, Export Control Classification Number (ECCN) 5A001 is amended by revising the Technical Notes (2) to paragraph (b)(6) of the “items” paragraph in List of Items Controlled section, to read as follows:

**5A001 Telecommunications systems, equipment, components and accessories, as follows (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*

*Related Controls:* \* \* \*

*Related Definitions:* \* \* \*

*Items:*

\* \* \* \* \*

b.6. \* \* \*

***Technical Notes:***

1. \* \* \*

2. For the purpose of 5A001.b.6, ‘voice coding’ is defined as the technique to take samples of human voice and then convert these samples of human voice into a digital signal taking into account specific characteristics of human speech.

\* \* \* \* \*

20. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7 - Navigation and Avionics, Export Control Classification Number (ECCN) 7A008 is amended by revising the License Exceptions section, to read as follows:

**7A008 Underwater sonar navigation systems, using Doppler velocity or correlation velocity logs integrated with a heading source and having a positioning accuracy of equal to or less (better) than 3% of distance traveled “Circular Error Probable” (“CEP”), and specially designed components therefor.**

\* \* \* \* \*

#### **License Exceptions**

LVS: N/A

GBS: N/A

CIV: N/A

\* \* \* \* \*

21. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8 - Marine, Export Control Classification Number (ECCN) 8A018 is amended by revising

paragraph (b) of the “items” paragraph in the List of Items Controlled section, to read as follows:

**8A018 Items on the Wassenaar Arrangement Munitions List.**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*

*Related Controls:* \* \* \*

*Related Definitions:* \* \* \*

*Items:*

a. \* \* \*

b. Naval equipment, as follows:

b.1. Diesel engines of 1,500 hp and over with rotary speed of 700 rpm or over specially designed for submarines, and specially designed components therefor;

b.2. Electric motors specially designed for submarines, i.e., over 1,000 hp, quick reversing type, liquid cooled, and totally enclosed, and specially designed components therefor;

b.3. Nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes with nonmagnetic content in excess of 75 percent of total mass and specially designed components therefor;

b.4. Submarine and torpedo nets and specially designed components therefor.

22. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9 - Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9A018 is amended by revising paragraphs (c),(d) and (f) of the “items” paragraph in the List of Items Controlled section, to read as follows:

**9A018 Equipment on the Wassenaar Arrangement Munitions List.**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*

*Related Controls:* \* \* \*

*Related Definition:* \* \* \*

*Items:*

\* \* \* \* \*

c. Pressure refuelers, pressure refueling equipment, equipment specially designed to facilitate operations in confined areas; and ground equipment, developed specially for military “aircraft”, and specially designed parts and accessories, n.e.s.;

d. Pressurized breathing equipment specially designed for use in military “aircraft”;

e. \* \* \*

f. Military instrument flight trainers, except for combat simulation; and components and accessories specially designed for such equipment.

23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9 – Aerospace and Propulsion, Export Control Classification Number (ECCN) 9A991 is amended:

a. By revising “items” paragraph (b) in the List of Items Controlled section; and

b. By revising “items” paragraph (c) in the List of Items Controlled section and

the note to paragraph (c), to read as follows:

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*

*Related Controls:* \* \* \*

*Related Definitions:* \* \* \*

*Items:*

\* \* \* \* \*

b. Civil aircraft;

*Note:* \* \* \*

c. Aero gas turbine engines, and specially designed parts therefor.

*Note: 9A991.c does not control aero gas turbine engines that are destined for use in civil “aircraft” and that have been in use in bona fide civil “aircraft” for more than eight years. If they have been in use in bona fide civil “aircraft” for more than eight years, such engines are controlled under 9A991.d.*

\* \* \* \* \*

24. In Supplement No. 1 to part 774 (The Commerce Control List), Category 9 - Aerospace and Propulsion, Export Control Classification Number (ECCN) 9E003 is amended by revising the “Control(s)” paragraph in the License Requirements section, to read as follows:



**9E003 Other “technology” as follows (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* NS, SI, AT

*Control(s)*

*Country Chart*

NS applies to entire entry

NS Column 1

SI applies to 9E003.a.1 through a.10, and h. See § 742.14 of the EAR for additional information.

AT applies to entire entry

AT Column 1

\* \* \* \* \*

DATED: June 21, 2010

Kevin J. Wolf

Assistant Secretary for Export Administration

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