

Para. 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

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ASO GA E5 Thomaston, GA [Removed]

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Issued in East Point, Georgia, on May 2, 1994.

Walter E. Denley,

Acting Manager, Air Traffic Division Southern Region.

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 771, 772, 773, 774, 775, 776, 778, 779, 785, 787, and 799

[Docket No. 940530-4130]

RIN 0694-AA83

Export Administration Regulations: Changes in Categories 3, 4, and 5 of the Commerce Control List; Revisions to Country Groups and Policies; Implementation of Import Certificate/Delivery Verification (IC/DV) Procedures for Bulgaria and Romania; Adjustments to General License GLX

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising certain entries in Categories 3, 4, and 5 of the Commerce Control List (CCL) to conform with changes made to the International Industrial List (IL) before the dissolution of the Coordinating Committee for Multilateral Export Controls (COCOM) on March 31, 1994. The COCOM changes require certain conforming revisions to General License GLX. A policy decision on foreign availability of telecommunications is announced.

This rule also revises the countries that are included in Country Groups V, W, and Y and amends the special country policies provisions in the EAR to reflect the changes in licensing policy for the countries that have been moved from one country group to another.

This rule amends the documentation requirements provisions of the EAR to substitute the Form BXA-629P (Statement by Ultimate Consignee and Purchaser) for the Yugoslav End-Use Certificate requirement. Finally, this rule amends the documentation requirements provisions in the EAR to implement Import Certificate/Delivery

Verification (IC/DV) procedures for Bulgaria and Romania.

DATES: *Effective date:* This rule is effective May 9, 1994.

Grace period: A 60-day grace period will apply to the requirement to obtain a Bulgarian or Romanian Import Certificate in support of export or reexport license applications. During the grace period, applications will be accepted when supported by either a Form BXA-629P (Statement by Ultimate Consignee and Purchaser) or a Bulgarian or Romanian Import Certificate.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature, the following persons in the Office of Technology and Policy Analysis are available:

Category 1: Jeff Tripp—(202) 482-1309
Category 2: Surendra Dhir—(202) 482-5695

Category 3: Robert Lerner—(202) 482-1641

Category 4: Joseph Young—(202) 482-0706

Category 5: Dale Jensen—(202) 482-0730

Category 6: Joseph Chuchla—(202) 482-1641

Categories 7 and 9: Bruce Webb—(202) 482-3806

Category 8: Steve Clagett—(202) 482-3550

For information on Import Certificate/Delivery Verification (IC/DV) Procedures for Bulgaria and Romania and changes in Country Groups and country policies, contact Rodney Joseph, Office of Technology and Policy Analysis, Telephone: (202) 482-0171.

SUPPLEMENTARY INFORMATION:

Background

This final rule revises new General License GLX (59 FR 15621) to resolve certain ambiguities and to reflect changes in national security controls. For instance, Supplement No. 1 to part 771 is revised to delete 4A03.c and 4A03.b because the paragraph references are now incorrect and new Administrative Exception Notes make listing on the Supplement unnecessary.

This rule amends a number of ECCNs in the Commerce Control List (CCL) to conform with recent changes in the COCOM International Industrial List (IL). ECCN 3A01.a.3 is revised to control "microprocessor microcircuits", "microcomputer microcircuits", and microcontroller microcircuits that:

- (1) Have an arithmetic logic unit with an access width of 32 bit or more and a "composite theoretical performance" ("CTP") of 80 million theoretical operations per second (Mtops) or more;
- (2) are manufactured from a compound

semiconductor and operate at a clock frequency exceeding 40 MHz; or (3) have more than one data or instruction bus or serial communication port for external interconnection in a parallel processor with a transfer rate exceeding 2.5 Mbyte/s. ECCN 3A01.e.1 is revised to indicate that it does not control batteries with volumes equal to or less than 27 cm³ (e.g., standard C-cells or R-14 batteries).

This rule also revises ECCN 3C03A to control organo-arsenic, organo-antimony, and organo-phosphorus compounds having a purity (inorganic element basis) better than 99.999%. In addition, a Note is added to 3C03A indicating that the entry controls only those compounds whose metallic, partly metallic or non-metallic element is directly linked to carbon in the organic part of the molecule.

This rule removes specific control language in ECCN 4A03A applicable to: (1) Disk drives and solid state storage equipment and input/output control units designed for use with such equipment and (2) color displays and monitors.

ECCN 4A03A retains specific control parameters for "assemblies" and graphics accelerators or graphics coprocessors. ECCN 4A03A controls: (1) "assemblies" that are specially designed or modified to be capable of enhancing performance by aggregation of "computing elements" ("CEs") so that the "CTP" of the aggregation exceeds 260 Mtops and (2) graphics accelerators or graphics coprocessors exceeding a "3-D Vector Rate" of 1,600,000.

The following changes are made in the Notes for Category 4: (1) Advisory Notes 1 and 2 are revised to conform with the new paragraph designations in ECCN 4A03A (there are no changes in the administrative exceptions levels); (2) Advisory Note 3 is revised by establishing new administrative exceptions treatment levels for exports to Country Groups Q, W, and Y and the People's Republic of China for "digital computers" (a "CTP" not exceeding 1,000 Mtops), graphics accelerators or graphics coprocessors (a "3-D vector rate" not exceeding 3 million) and equipment specially designed to provide for the external interconnection of "digital computers" or associated equipment (a total data transfer rate not exceeding 400 MByte/second); (3) Advisory Note 4 is removed and reserved because 4A03A no longer contains control parameters that apply specifically to disk drives and input/output control units therefor; (4) Advisory Note 6 is revised by establishing new favorable consideration levels for Country Groups

Q, W, and Y and the People's Republic of China for "digital" computers (a "CTP" not exceeding 1,500 Mtops) and for graphics accelerators or graphics coprocessors and equipment specially designed to provide for the external interconnection of "digital" computers; (5) Advisory Note 7 is revised to conform with the new paragraph designations in ECCN 4A03A (there are no changes in the favorable consideration levels), and (8) a new Advisory Note 8 is added to provide administrative exceptions treatment for equipment controlled by 4A03.g that is exported for use in interconnecting peripheral equipment to "digital computers" not controlled by 4A03.b.

In the telecommunications section of Category 5, ECCN 5A02A is revised to control modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 28,800 bit/s. Previously, ECCN 5A02A controlled modems exceeding 19,200 bit/s. On January 13, 1994, BXA published a determination that foreign availability exists within the meaning of the Export Administration Act (EAA) for certain telecommunications equipment controlled under ECCN 5A02.a to Country Groups Q, W, Y, Z, and the People's Republic of China (59 FR 1924). The determination applies to telecommunications transmission equipment employing digital techniques, including digital processing of analog signals, and designed to operate at digital transfer rates up to 623 Mbit/s.

The determination notice specified that the Administration would enter into negotiations to preserve national security interests concerning this equipment. The Administration intends to negotiate to remove foreign availability of this high technology equipment to military end-users in Country Groups Q, W, Y, and the People's Republic of China.

It has been determined that the validated license requirement is retained on telecommunications equipment controlled by ECCN 5A02.a to military end-users and for military end-uses in Country Groups Q, W, Y and the People's Republic of China, consistent with EAA section 5(c)(6), to allow meaningful negotiations to take place. Section 5(c)(6) permits the Secretary of Commerce to maintain controls, notwithstanding foreign availability, for an initial period of six months. For purposes of this control, military end-users and end-uses include conventional military activities and all proliferation activities described in Part 778 of this subchapter.

This action does not affect the control status of this equipment to other end-users or destinations. General License GLX continues to be available for shipments of equipment controlled by ECCN 5A02, except 5A02.h and .i, to civilian end-users and for civilian end-uses in Country Groups QWY and the PRC. In addition, all of ECCN 5A02 remains eligible for General License GFW to Country Groups T & V, except Iran, Syria, and the PRC. Foreign policy controls are retained on all items controlled by ECCN 5A02 to Country Groups S and Z, Iran and Syria, and the South African military and police. Exporters are also reminded that the Department of the Treasury's Office of Foreign Assets Control maintains prohibitions on exports to Iraq, Haiti, and the Federal Republic of Yugoslavia (Serbia and Montenegro).

In the Notes for Telecommunications in Category 5, Advisory Notes 1, 8, 11, 12, 13, 14, 15, 16, 17, and 19 are revised, and new Advisory Notes 23 through 27 are added. Advisory Note 8 is revised to provide administrative exceptions treatment to the People's Republic of China for test, inspection, and production equipment controlled by 5B01A or 5B02A and "software" and technology for such equipment. Advisory Notes 11, 12, and 13 are revised to restrict their application to Albania, Bulgaria, the People's Republic of China, Mongolia, Romania, and Vietnam. Advisory Notes 14 and 17 are revised to clarify which parties are responsible for the supervision of controlled spare parts.

Advisory Note 15 is revised to restrict its application to Bulgaria and Romania. Advisory Note 16 is revised to restrict its application to Albania, Bulgaria, Mongolia, Romania, and Vietnam. Advisory Note 19 is revised by removing references to the Czech Republic and the Slovak Republic. Notes 25 and 27 are added.

This rule revises the country policy provisions in § 785.2 to conform with changes in licensing policies for proscribed countries. This rule also moves Poland, the Czech Republic and the Slovak Republic from Country Group W to Country Group V. As a result of this change, Poland and the Czech and Slovak Republics are now eligible for exports under certain special license procedures (e.g., the Distribution License Procedure) and general licenses (e.g., General License GFW).

This rule also amends the EAR to include new supporting document requirements based on the implementation of Import Certificate/Delivery Verification (IC/DV) procedures for Bulgaria and Romania.

Bulgarian and Romanian ICs and DVs are issued by the respective Ministries of Trade in each country. Supplement No. 1 to Part 775 is amended to add the addresses of these issuing agencies.

This rule also amends Supplement No. 1 to Part 775 by revising the name of the agency that issues Indian Import Certificates to small scale industries and entities.

On January 2, 1992 (57 FR 8), the Bureau of Export Administration (BXA) published a final rule clarifying that the geographical area formerly known as the Soviet Union remained a controlled destination as listed in Country Group Y. That rule allowed exporters to use the designation "Union of Soviet Socialist Republics", "Soviet Union", or "USSR" on export control documents involving that geographic area until new political entities were identified. This final rule revises Supplement No. 1 to part 770, Supplement No. 5 to part 778, and § 785.2(a)(1) to include a listing of the states located in the geographic area of the former Soviet Union. These new designations should be used on all export control documents.

The dissolution of the former Socialist Federal Republic of Yugoslavia (Yugoslavia) has raised questions among exporters concerning the export control requirements for that geographic area. The geographic area formerly known as Yugoslavia continues to fall within Country Group V. At this time, the provisions of the EAR that apply to this area remain unchanged, except that this rule revises the documentation requirements to substitute a Form BXA-629P, Statement by Ultimate Consignee and Purchaser, for the Yugoslav End-Use Certificate requirement. In addition, this rule eliminates the Yugoslav End-Use Certificate requirement for exports/reexports under the Distribution License and the Service Supply Procedure.

The Consignee/Purchaser Statement procedure set forth in § 775.2 provides a broader range of exemptions than was previously available under § 775.5 for the Yugoslav End-Use Certificate.

Finally, this rule revises § 776.10(a)(2) to make the special documentation requirements for exports to Country Groups QWY and the People's Republic of China of electronic computers and related equipment conform with the revisions made by this rule in the Advisory Notes for Category 4.

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 0694-0002, 0694-0005, 0694-0007, 0694-0008, 0694-0010, 0694-0013, 0694-0015, 0694-0017, 0694-0021, 0694-0073, and 0694-0078.

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

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 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 the effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

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

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Parts 771, 772, 773, 774, 775, 776, and 779

Exports, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Export, Reporting and recordkeeping requirements, Science and technology.

15 CFR Part 785

Exports.

15 CFR Part 787

Boycotts, Exports, Law enforcement, Penalties, Reporting and recordkeeping requirements.

Accordingly, parts 770, 771, 772, 773, 774, 775, 776, 778, 779, 785, 787, and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 770, 771, 772, 774, 787, and 799 is revised to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95-372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103-10, 107 Stat. 40); sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); and E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

2. The authority citation for 15 CFR parts 773, 775, 778, 779, and 785 is revised to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103-10, 107 Stat. 40); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); and E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

3. The authority citation for 15 CFR part 776 continues to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103-10, 107

Stat. 40); sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); and E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

PART 770—[AMENDED]

4. Supplement No. 1 to part 770 is amended:

- By removing and reserving the entry for "Country Group W";
- By revising the entry for "Country Group Y"; and
- By adding a NOTE at the end of the Supplement to read as follows:

Supplement No. 1—Country Groups

* * * * *

Country Group W [Reserved]

Country Group Y

Albania
Armenia
Azerbaijan
Belarus
Bulgaria
Cambodia
Estonia
Georgia
Kazakhstan
Kyrgyzstan
Laos
Latvia
Lithuania
Moldova
Mongolia
Russia
Tajikistan
Turkmenistan
Ukraine
Uzbekistan
Vietnam

* * * * *

Note: Contact the Office of Foreign Assets Control (OFAC), U.S. Department of the Treasury, (202) 266-2500, before exporting to Libya, Iraq, Haiti, or the Federal Republic of Yugoslavia (Serbia and Montenegro).

PART 771—[AMENDED]

5. Section 771.20 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 771.20 General License GLX: Exports to Country Groups QWY and the People's Republic of China.

* * * * *

(b) * * * Likelihood of approval notes that apply only to the PRC, or to specified destinations in Country Group Y also qualify for this general license to eligible destinations (however, those

notes indicating Country Group Q or W only, are specifically not eligible). * * *

6. Section 771.23 is amended by revising the sixth sentence of paragraph (c) to read as follows:

§ 771.23 General License GFW.

(c) * * * In addition, GFW may be used to export to eligible countries any commodities (but not software) eligible under § 771.20 for General License GLX.

Supplement No. 1 to Part 771 [Amended]

7. Supplement No. 1 to part 771 is amended under category 4 by removing the entry "4A03.c (having a CTP of 1,000 MTOPS or less)", revising the entry "4A03A.h (having a 3-D vector rate less than 3M vectors/sec.)" to read "4A03A.d (having a 3-D vector rate less than 3M vectors/sec.)", and revising the entry "4A03A.k" to read "4A03A.f"

PART 772—[AMENDED]

8. Section 772.11 is amended:
a. By removing the phrase "Yugoslav End-Use Certificate," in paragraph (h)(2)(i); and
b. By revising the introductory text of paragraph (k)(1) to read as follows:

§ 772.11 Amending export licenses.

(k) * * * (1) *Change in party or increase in net quantity not in accordance with current supporting document.* The applicant shall obtain a new or appropriately amended International Import Certificate (§ 775.3 of this subchapter), People's Republic of China End-User Certificate (§ 775.6 of this subchapter), Indian Import Certificate (§ 775.7 of this subchapter), or Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate (§ 775.8 of this subchapter) before submitting a request to amend an export license by proposing to change any party to the transaction named on the license or by increasing the net quantity set forth on the license if the proposed change is not in accordance with the current supporting document covering the license. The original copy of the new or amended certificate shall be:

PART 773—[AMENDED]

9. Section 773.3 is amended as follows:
a. By removing and reserving paragraph (h); and

b. By removing paragraph (j)(2)(ii) and redesignating paragraph (j)(2)(iii) as paragraph (j)(2)(ii).

10. Section 773.7 is amended as follows:

- a. By revising paragraph (d)(1)(iii);
- b. By removing and reserving paragraph (e);
- c. By removing the fifth sentence from paragraph (k), introductory text.

§ 773.7 Service Supply Procedure.

(d) * * *
(1) * * *
(iii) *Documents waived.* An application for a Service Supply License (SL) need not be supported by the Import Certificate or Consignee/Purchaser Statement otherwise required under §§ 775.2 or 775.3 of this subchapter.

§ 773.8 [Amended]

11. In § 773.8, paragraph (d)(1) is amended by revising the phrase "an Import Certificate, a consignee/purchaser statement, or a Yugoslav End-Use Certificate to" to read "an Import Certificate or a consignee/purchaser statement to".

Supplement No. 3 to Part 773 [Amended]

12. Supplement No. 3 to part 773 is amended by removing the term "Yugoslavia,".

PART 774—[AMENDED]

13. Section 774.3 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 774.3 How to request reexport authorization.

(c) * * *
(1) * * *
(ii) If the required document is a People's Republic of China End-User Certificate, a Singapore Import Certificate and Delivery Verification, or an Indian Import Certificate, and the same document must be furnished to the export control authorities of the country from which the reexport will be made, the Office of Export Licensing will permit the applicant to submit or to retain on file, as appropriate (see § 774.3(c)(1)(i)), a reproduced copy of the document being furnished to the country of reexport. If the required documentation cannot be obtained, a waiver may be requested in accordance with the applicable provisions of the Export Administration Regulations (15 CFR parts 730-799). (See § 775.7(c) of

this subchapter for waiver of an Indian Import Certificate.)

PART 775—[AMENDED]

§ 775.1 [Amended]

14. In § 775.1, in the table in paragraph (b) is amended, as follows:
a. By removing entry 3.;
b. By redesignating entries 4. through 7. as entries number 3. through 6., respectively;
c. By revising the phrase "Czech Republic, Hungary, Poland, or Slovak Republic" in the second column for newly designated entry 5. to read "Bulgaria, Czech Republic, Hungary, Poland, Romania, or Slovak Republic" and
d. By revising the phrase "Czech Republic, Hungary, Poland, or Slovak Republic" in footnote 1 to the table to read "Bulgaria, Czech Republic, Hungary, Poland, Romania, or Slovak Republic".

15. Section 775.2 is amended by revising paragraph (b)(1) to read as follows:

§ 775.2 Form BXA-629P, statement by ultimate consignee and purchaser.

(b) * * *
(1) An International Import Certificate (§ 775.3), a People's Republic of China End-User Certificate (§ 775.6), an Indian Import Certificate (§ 775.7), or a Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate (§ 775.8) is required in support of the application.

16. Section 775.3 is amended by revising paragraph (b) introductory text and footnote 1 to read as follows:

§ 775.3 International import certificate and delivery verification certificate.

(b) *Destinations.* The following country destinations are subject to the International Import Certificate/Delivery Verification Certificate System requirements:¹

¹ See § 775.6 for People's Republic of China End-User Certificate requirements, § 775.7 for Indian Import Certificate requirements, and § 775.8 for Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate requirements.

§ 775.5 [Removed]

17. Section 775.5 is removed and reserved.
18. Section 775.8 is amended:
a. By revising the section heading;
b. By revising the first sentence of paragraph (a);

c. By revising paragraph (b)(2); and
d. By revising the first sentence of paragraph (e) to read as follows:

§ 775.8 Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificates.

(a) *Requirements.* License applications to export or reexport items identified by the code letter "A" on the Commerce Control List to Bulgaria, the Czech Republic, Hungary, Poland, Romania, or the Slovak Republic must be accompanied by the original Import Certificate issued by the appropriate ministry listed in Supplement No. 1 of this part 775. * * *

(b) * * *

(2) *Temporary export.* An Import Certificate need not be submitted to support a license application to export commodities or software for temporary exhibition, demonstration, or testing purposes in Bulgaria, the Czech Republic, Hungary, Poland, Romania, or the Slovak Republic.

(e) *Delivery Verification.* The Office of Export Licensing will, on a selective basis, require Delivery Verification documents for shipments to Bulgaria, the Czech Republic, Hungary, Poland, Romania, and the Slovak Republic that are subject to the Import Certificate procedure. * * *

19. Section 775.10 is amended:

- a. By revising the introductory text;
- b. By revising the first sentence of paragraph (a);
- c. By revising the first sentence of paragraph (b);
- d. By revising the heading and the introductory text of paragraph (c)(2);
- e. By revising the paragraph (c)(3);
- f. By revising the first sentence of paragraph (d);
- g. By revising the introductory text of paragraph (f);
- h. By redesignating footnote number 4 as footnote number 3, as referenced in the heading to paragraph (g);
- i. By revising the introductory text of paragraph (g)(1);
- j. By revising the introductory text of paragraph (g)(2)(i);
- k. By revising paragraph (g)(2)(ii); and
- l. By revising the introductory text of paragraph (h)(1), to read as follows:

§ 775.10 Special provisions.

The following special provisions apply as indicated to consignee/purchaser statements, International Import Certificates, Delivery Verification Certificates, People's Republic of China End-User Certificates, Indian Import Certificates, and Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificates,

and other documents submitted in support of export license applications.

(a) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions on consignee/purchaser statements, International Import Certificates, Delivery Verification Certificates, People's Republic of China End-User Certificates, Indian Import Certificates, and Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificates, and other documents having special significance in the trade or to the parties to the transaction must be explained on an attachment to the document. * * *

(b) *Validity period.* When a People's Republic of China End-User Certificate, Indian Import Certificate, Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate, or an International Import Certificate is obtained in support of one or more export license applications, the applicant must submit the first application to be supported by such certificate to the Office of Export Licensing (OEL) within the validity period shown on the Certificate or 6 months from the date of the Certificate was issued, whichever is shorter. * * *

(c) * * *

(2) *International Import Certificate, Indian Import Certificate, and the Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate.* Whenever the requirement for an International Import Certificate, Indian Import Certificate, or a Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate for any commodity is imposed or extended by virtue of one of the following:

(3) *People's Republic of China End-User Certificate.* Whenever the submission requirement for a People's Republic of China End-User Certificate is imposed or extended to any commodity on the Commerce Control List by the addition of Country Group V to the "Validated License Required" paragraph in the applicable entry on the Commerce Control List, a license application to export such commodity need not conform to the submission requirement for 45 days from the date such commodity becomes subject to the requirement.

(d) *Applicant's responsibility for full disclosure.* In obtaining a consignee/purchaser statement, International Import Certificate, People's Republic of China End-User Certificate, Indian Import Certificate, and Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate, the applicant

is not relieved of the responsibility for full disclosure of any other information concerning the ultimate destination and end-use that the applicant has knowledge or belief, even if inconsistent with the representations set forth in the documents listed in this paragraph (d). * * *

(f) *Request for return of certificates.* A U.S. exporter may be requested by a foreign importer to return an unused or partially used International Import Certificate, People's Republic of China End-User Certificate, Indian Import Certificate, or Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate. To meet such requests, exporters should adhere to the following procedures:

* * *

(g) * * *

(1) *Change in consignee or purchaser.* The applicant must obtain a new Statement by Ultimate Consignee and Purchaser, or an appropriately amended International Import Certificate, People's Republic of China End-User Certificate, Indian Import Certificate, or Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate before submitting a request for an amendment of an export license that proposes a change in consignee or purchaser in the transaction named in the export license if the proposed amendment is not in accordance with the Statement or Certificate already on file with the applicant or the Office of Export Licensing. The original copy of the new Statement or Certificate be:

(2) * * * (i) *Increase not supported by existing Statement or Certificate obtained in support of license application.* The applicant shall obtain a new Statement by Ultimate Consignee and Purchaser, or an appropriately amended International Import Certificate, People's Republic of China End-User Certificate, Indian Import Certificate, or Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate before submitting a request for an amendment of an export license that proposes any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Statement or Certificate already on file with the applicant or the Office of Export Licensing. The original copy of the new Statement or Certificate shall be:

(ii) *Increase supported by existing Statement or Certificate obtained in support of license application.* (A) If a proposed quantitative amendment is in

accordance with the single transaction Statement by Ultimate Consignee or Purchaser or Certificate obtained by the applicant in support of the original export license application, the amendment shall include the following certification, as appropriate:

I (We) certify that this request for amendment of export license number _____, if granted, will not exceed the total quantity covered by the Statement by Ultimate Consignee and Purchaser against which this export license was issued.

I (We) certify that this request for amendment of export license number _____, if granted, will not exceed the total quantity authorized under the (name of country) International Import Certificate, People's Republic of China End-User Certificate, Indian Import Certificate, or Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate number _____.

(B) Where the export license is based on a multiple transactions Statement by Ultimate Consignee and Purchaser, an additional Statement is not required from the consignee or purchaser to support a proposed license amendment for an increase in quantity. In lieu thereof, the following certification shall be placed on the amendment request:

I (We) certify that the license listed above is supported by a Statement by Ultimate Consignee and Purchaser.

(h) * * * (1) *Types of request.* A request for exception to a requirement for obtaining an International Import Certificate, People's Republic of China End-User Certificate, Indian Import Certificate, or Bulgarian, Czech, Hungarian, Polish, Romanian, or Slovak Import Certificate⁴ may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions.

20. Supplement No. 1 to part 775 is amended:

a. By adding in alphabetical order an entry for "Bulgaria";

b. By revising the phrase "Deputy Chief Controller of Imports and Exports" under the entry "India", in the second column, to read "Deputy Director General of Foreign Trade";

c. By adding in alphabetical order an entry for "Romania"; and

d. By removing the entry for "Yugoslavia", to read as follows:

e. By revising footnote at the end of the table, to read as follows:

⁴ See § 775.2(c) for exceptions to the consignee/purchaser statement requirement where applicant is unable to obtain this statement.

SUPPLEMENT NO. 1—AUTHORITIES ADMINISTERING IMPORT CERTIFICATE/DELIVERY VERIFICATION SYSTEM IN FOREIGN COUNTRIES¹

[See footnotes at end of table]

Country	IC/DV authorities	System administered ²
Bulgaria	Ministry of Trade, 12 Al. Batenberg, 1000 Sofia, Bulgaria.	IC/DV
Romania	National Export Control Agency, Ministry of Trade, 17 Apolodor Street, Bucharest, Romania.	IC/DV

¹ Facsimiles of Import Certificates and Delivery Verifications issued by each of these countries may be inspected at the Bureau of Export Administration Western Regional Office, 300 Irvine Avenue, Suite 345, Newport Beach, California 92660-3198 or at any U.S. Department of Commerce District Office (see listing on page (ii) under District Office Addresses) or at the Office of Export Licensing, room 1099D, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Copies are not available.

² IC—Import Certificate and/or DV—Delivery Verification.

PART 776—[AMENDED]

21. Section 776.10 is amended by revising paragraph (a)(2) to read as follows:

§ 776.10 Electronic computers and related equipment.

* * * * *

(a) * * *

(2) *Special documentation requirements.* Applications to export or reexport computers or related equipment that are described in Advisory Note 6 to Category 4, or that exceed any of the limits in Advisory Notes 3 or 6 to Category 4, must include:

(i) A signed statement by a responsible representative of the end-user or the importing agency describing the end-use and certifying that the "digital" computers or related equipment:

(A) Will be used only for civil applications; and

(B) Will not be reexported or otherwise disposed of without prior written authorization from the Office of Export Licensing;

(ii) A full description of the equipment and its intended application and workload; and

(iii) A complete identification of all end-users and their activities.

* * * * *

22. Section 776.11 is amended by revising paragraph (f)(6)(i)(D) and by revising paragraph (f)(6)(ii)(A) to read as follows:

§ 776.11 Supercomputers.

* * * * *

(f) * * *

(6) * * *

(i) * * *

(D) Bulgarian, Czech Republic, Hungarian, Polish, Romanian, or Slovak Republic Import Certificates—see § 775.8 of this subchapter.

(ii) * * *

(A) *Bulgaria, Czech Republic, Hungary, Poland, Romania, and Slovak Republic.* Reproduced copies of the Bulgarian, Czech, Hungarian, Polish, Romanian, and Slovak Import Certificates;

* * * * *

PART 778—[AMENDED]

23. Supplement No. 5 to part 778 is revised to read as follows:

Supplement No. 5—to Part 778—Dual-Use Chemical and Biological Equipment; Reguibs, Countries, and Other Destinations

Armenia
Azerbaijan
Bulgaria
Belarus
China
Cuba
Georgia
Kazakhstan
Kyrgyzstan
Middle East¹
Moldova
Mongolia
Myanmar (Burma)
North Korea
Russia
Romania
South Africa
Southwest Asia²
Taiwan
Tajikistan
Turkmenistan
Ukraine
Uzbekistan
Vietnam

PART 779—[AMENDED]

24. Section 779.4 is amended by revising paragraph (f)(1)(i) and Footnote 10 to read as follows:

§ 779.4 General license GTDR: Technical data under restriction.

* * * * *

(f) * * *

(1) * * *

¹ See § 770.2 of this subchapter for definition.

² See footnote 1.

(i) Reexport, directly or indirectly, to Country Group Q, S, W,¹⁰ Y, or Z, or the People's Republic of China any technical data relating to commodities controlled to Country Group W as described in the paragraph titled "Validated License Required" of any entry of the Commerce Control List;

§ 779.5 [Amended]

25. Section 779.5 is amended by revising the phrase "the Czech Republic, Hungary, Poland, and the Slovak Republic" in paragraph (a)(3) to read "Bulgaria, the Czech Republic, Hungary, Poland, Romania, and the Slovak Republic".

PART 785—[AMENDED]

26. Section 785.2 is amended:

- a. By revising paragraph (a)(1), removing paragraph (a)(3) and redesignating paragraph (a)(4) as paragraph (a)(3);
- b. By revising paragraph (b);
- c. By revising paragraph (c), to read as follows:

§ 785.2 Country Groups Q, W, and Y 2: Geographic area of the former U.S.S.R., Eastern Europe, Mongolia, Cambodia, Laos, and Vietnam.

(a)(1) The Export Administration Act of 1979, as amended (EAA) states that it is the policy of the United States to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest. The Act also states that it is the policy of the United States to restrict the export of goods and technical data that would make a significant contribution to the military potential of any other country or combination of countries that would prove detrimental to the national security of the United States. Accordingly, and in compliance with the other sections of the EAA, the Department conducts a continuing review of commodities and technical data to assure that prior approval is required for the export or reexport of U.S.-origin commodities and technical

data to Albania, Armenia, Azerbaijan, Bulgaria, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Russia, Romania, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and Vietnam only if the commodities or technical data have a potential for being used in a manner that would prove detrimental to the national security of the United States. The general policy of the Department is to approve applications or requests to export or reexport such commodities and technical data to these destinations when the Department determines, on a case-by-case basis, that the commodities or technical data are for civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States. However, in recognition of efforts made to adopt safeguard measures for exports, Bulgaria, Latvia, Kazakhstan, Lithuania, Mongolia, and Russia are accorded enhanced favorable consideration licensing treatment.

(b) See parts 776 and 778 of this subchapter for foreign policy based controls governing exports to Country Groups Q, W, and Y.

(c) *Country Group Q*. Romania (Country Group Q) has been determined to present a lesser strategic threat, and has adopted safeguard measures to protect against the diversion of national security controlled items. In recognition of these facts, the Commerce Control List includes several Advisory Notes that indicate likelihood of approval or favorable consideration for export to satisfactory end-users in Country Group Q. Items not eligible for favorable consideration will be reviewed on a case-by-case basis.

PART 787—[AMENDED]

27. In § 787.13, paragraphs (e)(2)(ii)(B) and (e)(2)(ii)(C) are revised to read as follows:

§ 787.13 Recordkeeping.

- (e) * * *
- (2) * * *
- (ii) * * *

(B) Records required for exports under the Distribution License, as required by § 773.3 of this subchapter;

(C) Records required for exports under the Service Supply Procedure, as required by § 773.7 of this subchapter;

PART 799—[AMENDED]

Supplement No. 1 to § 799.1— [Amended]

28. In Supplement No. 1 to § 799.1, in Category 2 (Materials Processing), under the heading "Notes for Category 2" following ECCN 2E96G, Advisory Note 4 is removed and reserved.

29. In Category 3, ECCN 3A01A is revised to read as follows:

3A01A Electronic devices and components.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS, MT, NP (see Notes).

GLV: \$1,500: 3A01.c, \$3,000: 3A01.b.1 to b.3, 3A01.d to 3A01.f, \$5,000: 3A01.a, 3A01.b.4 to b.7.

GCT: Yes, except 3A01.a.1 and 3A01.e.5 (see Notes).

GFW: Yes, except 3A01.a.1, 3A01.b.1 and b.3 to b.7, 3A01.c to f.

GNSG: Yes, except Bulgaria, Romania, or Russia, for 3A01.e.5 only (see Notes).

Notes: 1. MT controls apply to 3A01.a.1.a. 2. NP controls apply to 3A01.e.5.

List of Items Controlled

a. General purpose integrated circuits, as follows:

Note 1: The control status of wafers (finished or unfinished), in which the function has been determined, is to be evaluated against the parameters of 3A01.a.

Note 2: Integrated circuits include the following types: "Monolithic integrated circuits"; "Hybrid integrated circuits"; "Multichip integrated circuits"; "Film type integrated circuits", including silicon-on-sapphire integrated circuits; "Optical integrated circuits".

a.1. Integrated circuits, designed or rated as radiation hardened to withstand either of the following:

a.1.a. A total dose of 5×10^5 Rads (Si), or higher; or

a.1.b. A dose rate upset of 5×10^8 Rads (Si)/s or higher;

a.2. Integrated circuits described in 3A01.a.3 to a.10 or 3A01.a.12, as follows:

a.2.a. Rated for operation at an ambient temperature above 398 K (+125 °C);

a.2.b. Rated for operation at an ambient temperature below 218 K (-55 °C); or

a.2.c. Rated for operation over the entire ambient temperature range from 218 K (-55 °C) to 398 K (+125 °C);

Note: 3A01.a.2 does not apply to integrated circuits for civil automobile or railway train applications.

¹⁰Effective April 26, 1971, Country Group W no longer included Romania. Assurances executed prior to April 26, 1971, that refer to Country Group W continue to apply to Romania. On May 8, 1992, Hungary was removed from Country Group W. Assurances are no longer applicable to Hungary. On May 9, 1994, Poland, the Czech Republic, and the Slovak Republic were moved from Country Group W to Country Group V. Assurances are no longer applicable to Poland, the Czech Republic and the Slovak Republic.

²See Supplement No. 1 to part 770 of this subchapter for listing of Country Groups.

a.3. "Microprocessor microcircuits", "microcomputer microcircuits" and microcontroller microcircuits, having any of the following:

Note: 3A01.a.3 includes digital signal processors, digital array processors and digital coprocessors.

a.3.a. An arithmetic logic unit with an access width of 32 bit or more and a "composite theoretical performance" ("CTP") of 80 million theoretical operations per second (Mtops) or more;

a.3.b. Manufactured from a compound semiconductor and operating a clock frequency exceeding 40 MHz; or

a.3.c. More than one data or instruction bus or serial communication port for external interconnection in a parallel processor with a transfer rate exceeding 2.5 Mbyte/s;

a.4. Electrically erasable programmable read-only memories (EEPROMs), static random-access memories (SRAMs), and storage integrated circuits manufactured from a compound semiconductor, as follows:

a.4.a. Electrically erasable programmable read-only memories (EEPROMs) with a storage capacity:

a.4.a.1. Exceeding 16 Mbit per package for flash memory types; or

a.4.a.2. Exceeding either of the following limits for all other EEPROM types:

a.4.a.2.a. 4 Mbit per package; or

a.4.a.2.b. 1 Mbit per package and having a maximum access time of less than 80 ns;

a.4.b. Static random-access memories (SRAMs) with a storage capacity:

a.4.b.1. Exceeding 4 Mbit per package; or

a.4.b.2. Exceeding 1 Mbit per package and having a maximum access time of less than 20 ns;

a.4.c. Storage integrated circuits manufactured from a compound semiconductor;

a.5. Analog-to-digital and digital-to-analog converter integrated circuits, as follows:

a.5.a. Analog-to-digital converters having any of the following:

a.5.a.1. A resolution of 8 bits or more, but less than 12 bits, with a total conversion time to maximum resolution of less than 10 ns;

a.5.a.2. A resolution of 12 bits with a total conversion time to maximum resolution of less than 200 ns; or

a.5.a.3. A resolution of more than 12 bits with a total conversion time to maximum resolution of less than 2 microseconds;

a.5.b. Digital-to-analog converters with a resolution of 12 bits or more, and a "settling time" of less than 10 ns;

a.6. Electro-optical or "optical integrated circuits" for "signal processing" having all of the following:

a.6.a. One or more internal "laser" diodes;

a.6.b. One or more internal light detecting elements; and

a.6.c. Optical waveguides;

a.7. Field programmable gate arrays having either of the following:

a.7.a. An equivalent usable gate count of more than 30,000 (2 input gates); or

a.7.b. A typical "basic gate propagation delay time" of less than 0.4 ns;

a.8. Field programmable logic arrays having either of the following:

a.8.a. An equivalent usable gate count of more than 30,000 (2 input gates); or

a.8.b. A toggle frequency exceeding 133 MHz;

a.9. Neural network integrated circuits;

a.10. Custom integrated circuits for which either the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

a.10.a. More than 144 terminals;

a.10.b. A typical "basic gate propagation delay time" of less than 0.4 ns; or

a.10.c. An operating frequency exceeding 3 GHz;

a.11. Digital integrated circuits, other than those described in 3A01.a.3 to a.10 or 3A01.a.12, based upon any compound semiconductor and having either of the following:

a.11.a. An equivalent gate count of more than 300 (2 input gates); or

a.11.b. A toggle frequency exceeding 1.2 GHz;

a.12. Fast Fourier Transform (FFT) processors having any of the following characteristics:

a.12.a. A rated execution time for a 1,024-point complex FFT of less than 1 ms;

a.12.b. A rated execution time for an N-point complex FFT of other than 1,024 points of less than $N \log_2 N / 10,240$ ms, where N is the number of points; or

a.12.c. A butterfly throughput of more than 5.12 MHz;

b. Microwave or millimeter wave devices:

b.1. Electronic vacuum tubes and cathodes, as follows: (For frequency agile magnetron tubes, see ITAR Category 11.)

Note: 3A01.b.1 does not control tubes designed or rated to operate in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

b.1.a. Travelling wave tubes, pulsed or continuous wave, as follows:

b.1.a.1. Operating at frequencies higher than 31 GHz;

b.1.a.2. Having a cathode heater element with a turn on time to rated RF power of less than 3 seconds;

b.1.a.3. Coupled cavity tubes, or derivatives thereof, with an "instantaneous bandwidth" of more than 7 percent or a peak power exceeding 2.5 kW;

b.1.a.4. Helix tubes, or derivatives thereof, with any of the following characteristics:

b.1.a.4.a. An "instantaneous bandwidth" of more than one octave, and average power (expressed in kW) times frequency (expressed in GHz) of more than 0.5;

b.1.a.4.b. An "instantaneous bandwidth" of one octave or less, and average power (expressed in kW) times frequency (expressed in GHz) of more than 1; or

b.1.a.4.c. "Space qualified";

b.1.b. Crossed-field amplifier tubes with a gain of more than 17 dB;

b.1.c. Impregnated cathodes for electronic tubes, with either of the following:

b.1.c.1. A turn on time to rated emission of less than 3 seconds; or

b.1.c.2. Producing a continuous emission current density at rated operating conditions exceeding 5 A/cm²;

b.2. Microwave integrated circuits or modules containing "monolithic integrated circuits" operating at frequencies exceeding 3 GHz;

Note: 3A01.b.2 does not control circuits or modules for equipment designed or rated to operate in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

b.3. Microwave transistors rated for operation at frequencies exceeding 31 GHz;

b.4. Microwave solid state amplifiers:

b.4.a. Operating at frequencies exceeding 10.5 GHz and having an "instantaneous bandwidth" of more than half an octave; or

b.4.b. Operating at frequencies exceeding 31 GHz;

b.5. Electronically or magnetically tunable band-pass or band-stop filters having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (f_{max}/f_{min}) in less than 10 microseconds with either:

b.5.a. A band-pass bandwidth of more than 0.5 percent of center frequency; or

b.5.b. A band-stop bandwidth of less than 0.5 percent of center frequency;

b.6. Microwave assemblies capable of operating at frequencies exceeding 31 GHz;

b.7. Mixers and converters designed to extend the frequency range of

equipment described in 3A02.c, 3A02.e or 3A02.f beyond the control limits stated therein;

c. Acoustic wave devices, as follows, and specially designed components therefor:

c.1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., "signal processing" devices employing elastic waves in materials), having any of the following:

c.1.a. A carrier frequency exceeding 2.5 GHz;

c.1.b. A carrier frequency of 2.5 GHz or less, and:

c.1.b.1. A frequency side-lobe rejection exceeding 55 dB;

c.1.b.2. A product of the maximum delay time and the bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

c.1.b.3. A dispersive delay of more than 10 microseconds; or

c.1.c. A carrier frequency exceeding 1 GHz and a bandwidth of 250 MHz or more;

c.2. Bulk (volume) acoustic wave devices (i.e., "signal processing" devices employing elastic waves) which permit the direct processing of signals at frequencies exceeding 1 GHz;

c.3. Acoustic-optic "signal processing" devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves which permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

d. Electronic devices or circuits containing components, manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of the "superconductive" constituents, with any of the following:

d.1. Electromagnetic amplification:

d.1.a. At frequencies equal to or less than 31 GHz with a noise figure of less than 0.5 dB; or

d.1.b. At frequencies exceeding 31 GHz;

d.2. Current switching for digital circuits using "superconductive" gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; or

d.3. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices, as follows:

e.1. Batteries, as follows:

Note: 3A01.e.1 does not control batteries with volumes equal to or less than 27 cm³ (e.g., standard C-cells or R-14 batteries).

e.1.a. Primary cells and batteries having an energy density exceeding 480

Wh/kg and rated for operation in the temperature range from below 243 K (-30 °C) to above 343 K (70 °C);

e.1.b. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (-20 °C) to above 333 K (60 °C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75 percent of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

e.1.c. "Space qualified" and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m² at an operating temperature of 301 K (28 °C) under a tungsten illumination of 1 kW/m² at 2,800 K (2,527 °C);

e.2. High energy storage capacitors, as follows:

e.2.a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) having all of the following:

e.2.a.1. A voltage rating equal to or more than 5 kV;

e.2.a.2. An energy density equal to or more than 250 J/kg; and

e.2.a.3. A total energy equal to or more than 25 kJ;

e.2.b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) having all of the following:

e.2.b.1. A voltage rating equal to or more than 5 kV;

e.2.b.2. An energy density equal to or more than 50 J/kg;

e.2.b.3. A total energy equal to or more than 100 J; and

e.2.b.4. A charge/discharge cycle life equal to or more than 10,000;

e.3. "Superconductive" electromagnets or solenoids specially designed to be fully charged or discharged in less than one second, having all of the following:

Note: 3A01.e.3. does not control "superconductive" electromagnets or solenoids specially designed for Magnetic Resonance Imaging (MRI) medical equipment.

e.3.a. Energy delivered during the discharge exceeding 10 kJ in the first second;

e.3.b. Inner diameter of the current carrying windings of more than 250 mm; and

e.3.c. Rated for a magnetic induction of more than 8 T or "overall current density" in the winding of more than 300 A/mm²;

e.4. Circuits or systems for electromagnetic energy storage,

containing components manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents, having all of the following:

e.4.a. Resonant operating frequencies exceeding 1 MHz;

e.4.b. A stored energy density of 1 MJ/m³ or more; and

e.4.c. A discharge time of less than 1 ms;

e.5. Flash discharge type X-ray systems, and tubes therefore, having all of the following:

e.5.a. A peak power exceeding 500 MW;

e.5.b. An output voltage exceeding 500 kV; and

e.5.c. A pulse width of less than 0.2 microsecond;

f. Rotary input type shaft absolute position encoders having either of the following:

f.1. A resolution of better than 1 part in 265,000 (18 bit resolution) of full scale; or

f.2. An accuracy better than ± 2.5 seconds of arc.

Related ECCNs: * * *

30. In Category 3, ECCN 3A92F is revised to read as follows:

3A92F Electronic devices and components not controlled by 3A01.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police

Unit: Number

Reason for Control: FP

GLV: \$0

GCT: No

GFW: No

List of Items Controlled

a. Integrated circuits of the type described in 3A01.a.3 to a.10 or a.12, rated for operation at an ambient temperature below 219 K (-54 °C), but not less than 218 K (-55 °C);

b. "Microprocessor microcircuits", "microcomputer microcircuits", and microcontroller microcircuits having a clock frequency exceeding 25 MHz, but not exceeding 40 MHz;

c. Storage integrated circuits not controlled by 3A01, as follows:

c.1. Electrical erasable programmable read-only memories (EEPROMs) with a storage capacity;

c.1.a. Exceeding 1 Mbit per package; or

c.1.b. Exceeding 256 kbit per package and a maximum access time of less than 80 ns;

c.2. Static random-access memories (SRAMs) with a storage capacity;

- c.2.a. Exceeding 1 Mbit per package;
or
- c.2.b. Exceeding 256 kbit per package and a maximum access time of less than 25 ns;
- d. Field programmable logic arrays not controlled by 3A01 having either of the following:
- d.1. An equivalent gate count of more than 5,000 (2 input gates); or
- d.2. A toggle frequency exceeding 100 MHz;
- e. Travelling wave tubes, pulsed or continuous wave, not controlled by 3A01, as follows:
- e.1. Coupled cavity tubes, or derivatives thereof;
- e.2. Helix tubes, or derivatives thereof, with any of the following:
- e.2.a.1. An "instantaneous bandwidth" of half an octave or more; and
- e.2.a.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.2;
- e.2.b.1. An "instantaneous bandwidth" of less than half an octave; and
- e.2.b.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.4;
- f. Flexible waveguides not controlled by 3A01 designed for use at frequencies exceeding 40 GHz;
- g. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., "signal processing" devices employing elastic waves in materials), not controlled by 3A01, having either of the following:
- g.1. A carrier frequency exceeding 1 GHz; or
- g.2. A carrier frequency of 1 GHz or less, and
- g.2.a. A frequency side-lobe rejection exceeding 55 dB;
- g.2.b. A product of the maximum delay time and bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or
- g.2.c. A dispersive delay of more than 10 microseconds;
- h. Batteries not controlled by 3A01, as follows:
- Note: 3A92.h does not control batteries with volumes equal to or less than 26 cm³ (e.g., standard C-cells or UM-2 batteries).
- h.1. Primary cells and batteries having an energy density exceeding 350 Wh/kg and rated for operation in the temperature range from below 243 K (-30 °C) to above 343 K (70 °C);
- h.2. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours

(C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (-20 °C) to above 333 K (60 °C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75 percent of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

h.3. "Space qualified" and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m² at an operating temperature of 301 K (28 °C) under a tungsten illumination of 1 kW/m² at 2,800 K (2,527 °C);

i. "Superconductive" electromagnets or solenoids specially designed to be fully charged or discharged in less than one minute, not controlled by 3A01, having all of the following:

Note: 3A92.i does not control "superconductive" electromagnets or solenoids designed for Magnetic Resonance Imaging (MRI) medical equipment.

i.1. Maximum energy delivered during the discharge divided by the duration of the discharge of more than 500 kJ per minute;

i.2. Inner diameter of the current carrying windings of more than 250 mm; and

i.3. Rated for a magnetic induction of more than 8 T or "overall current density" in the winding of more than 300 A/mm².

31. In Supplement No. 1 to Section 799.1 (the Commerce Control List), Category 3, a new ECCN 3A94F is added immediately following ECCN 3A93F to read as follows:

3A94F General purpose electronic equipment not controlled by 3A02.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police

Unit: Number

Reason for Control: FP

GLV: \$0

GCT: No

GFW: No

List of Items Controlled

a. Digital instrumentation magnetic tape data recorders not controlled by 3A02 having any of the following characteristics:

a.1. A maximum digital interface transfer rate exceeding 60 Mbit/s and employing helical scan techniques;

a.2. A maximum digital interface transfer rate exceeding 120 Mbit/s and employing fixed head techniques; or

a.3. "Space qualified";

b. Equipment, not controlled by 3A02, with a maximum digital interface

transfer rate exceeding 60 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

c. Hydrogen/hydrogen-isotope thyratrons of ceramic-metal construction and rated for a peak current of 500A or more.

32. In Category 3, ECCNs 3C03A and 3C04A are revised to read as follows:

3C03A Organo-inorganic compounds as described in this entry.

Requirements

Validated License Required:

QSTVWYZ

Unit: \$ value

Reason for Control: NS

GLV: \$3,000

GCT: Yes

GFW: No

List of Items Controlled

Organo-inorganic compounds, as follows:

a. Organo-metallic compounds of aluminum, gallium or indium having a purity (metal basis) better than 99.999 percent;

b. Organo-arsenic, organo-antimony and organo-phosphorus compounds having a purity (inorganic element basis) better than 99.999 percent.

Note: 3C03A controls only compounds whose metallic, partly metallic or non-metallic element is directly linked to carbon in the organic part of the molecule.

3C04A Hydrides of phosphorus, arsenic or antimony, having a purity better than 99.999 percent, even diluted in inert gases or hydrogen.

Requirements

Validated License Required:

QSTVWYZ

Unit: \$ value

Reason for Control: NS

GLV: \$3,000

GCT: Yes

GFW: No

Note: 3C04A does not control hydrides containing 20 percent molar or more of inert gases or hydrogen.

33. In Category 3, ECCN 3D94F is amended by revising the heading of the entry to read as follows:

3D94F "Software" specially designed for the "development", "production", or "use" of electronic devices or components controlled by 3A92, electronic test equipment controlled by 3A93, general purpose electronic equipment controlled by 3A94, or manufacturing and test equipment controlled by 3B91.

* * * * *

34. In Category 3, ECCN 3E94F is amended by revising the heading of the entry to read as follows:

3E94F Technology for the "development", "production", or "use" of electronic devices or components controlled by 3A92, electronic test equipment controlled by 3A93, general purpose electronic equipment controlled by 3A94, or manufacturing and test equipment controlled by 3B91.

* * * * *

35. In Category 3, under the heading "Notes for Category 3" following ECCN 3E96G, Advisory Note 4 is removed and reserved.

36. In Category 4 (Computers), ECCN 4A03A is revised to read as follows:

4A03A "Digital computers", "assemblies", and related equipment therefor, as described in this entry, and specially designed components therefor.

Requirements

Validated License Required:

QSTVWYZ

Unit: Computers and peripherals in number; parts and accessories in \$ value
Reason for Control: NS, MT, NP, FP (see Notes)

GLV: \$5,000

GCT: Yes, except MT and FP, and except supercomputers as defined in § 776.11(a) (no supercomputer restriction for Japan); see Notes

GFW: Yes, except MT and FP (see Notes), for computers with a CTP not exceeding 1,000 Mtops (500 Mtops for eligible countries listed in Supp. 4 to Part 778 of this subchapter) and specially designed components therefor, exported separately or as part of a system, and related equipment therefor when exported with these computers as part of a system.

N.B. 1: General License GFW is not available for the export of commodities that the exporter knows will be used to:

a. Enhance the performance capability (i.e., CTP) of a computer to the "supercomputer" level; or

b. Enhance the performance capability of a "supercomputer" (see § 776.11 for definition of "supercomputer").

N.B. 2: To determine whether General License GFW may be used to export related equipment controlled under another entry in the CCL, consult the GFW paragraph under the Requirements heading of the appropriate entry.

Notes: 1. MT controls apply to digital computers used as ancillary equipment for test facilities and equipment that are controlled by 9B05 or 9B06.

2. NP controls apply to computers with a CTP exceeding 500 Mtops to countries listed in Supplement No. 4 to Part 778 of this subchapter.

3. FP controls apply to computers for computerized fingerprint equipment to all destinations except Australia, Japan, New Zealand and members of NATO.

4. FP controls apply to all destinations, except Japan, for supercomputers (see § 776.11 of this subchapter).

5. FP controls apply to Iran and Syria for computers controlled by 4A03A or 4A94F (i.e., computers with a CTP of 6 Mtops or greater). See § 785.4(d)(1) of this subchapter.

List of Items Controlled

Note 1: 4A03 includes vector processors, array processors, digital signal processors, logic processors, and equipment for "image enhancement" or "signal processing".

Note 2: The control status of the "digital computers" or related equipment described in 4A03 is governed by the control status of other equipment or systems provided:

a. The "digital computers" or related equipment are essential for the operation of the other equipment or systems;

b. The "digital computers" or related equipment are not a "principal element" of the other equipment or systems; and

N.B. 1: The control status of "signal processing" or "image enhancement" equipment specially designed for other equipment with functions limited to those required for the other equipment is determined by the control status of the other equipment even if it exceeds the "principal element" criterion.

N.B. 2: For the control status of "digital computers" or related equipment for telecommunications equipment, see the telecommunications entries in Category 5.

c. The technology for the "digital computers" and related equipment is governed by 4E.

"Digital computers", "assemblies", and related equipment therefor, as follows, and specially designed components therefor:

a. Designed or modified for "fault tolerance";

Note: For the purposes of 4A03.a, "digital computers" and related equipment are not considered to be designed or modified for "fault tolerance", if they use:

1. Error detection or correction algorithms in "main storage";

2. The interconnection of two "digital computers" so that, if the active central processing unit fails, an idling but mirroring central processing unit can continue the system's functioning;

3. The interconnection of two central processing units by data channels or by use of shared storage to permit one central processing unit to perform other work until the second central processing unit fails, at which time the first central processing unit takes over in order to continue the system's functioning; or

4. The synchronization of two central processing units by "software" so that one central processing unit recognizes when the other central processing unit fails and recovers tasks from the failing unit.

b. "Digital computers" having a "composite theoretical performance" ("CTP") exceeding 260 million theoretical operations per second (Mtops);

c. "Assemblies" specially designed or modified to be capable of enhancing performance by aggregation of

"computing elements" ("CEs") so that the "CTP" of the aggregation exceeds the limit in 4A03.b;

Note 1: 4A03.c applies only to "assemblies" and programmable interconnections not exceeding the limits in 4A03.b, when shipped as unintegrated "assemblies". It does not apply to "assemblies" inherently limited by nature of their design for use as related equipment controlled by 4A03.d to 4A03.f.

Note 2: 4A03.c does not control "assemblies" specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A03.b.

d. Graphics accelerators or graphics coprocessors exceeding a "3-D Vector Rate" of 1,600,000;

e. Equipment performing analog-to-digital conversions exceeding the limits in 3A01.a.5;

f. Equipment containing "terminal interface equipment" exceeding the limits in 5A02.c;

Note: For the purposes of 4A03.f, "terminal interface equipment" includes "local area network" interfaces, modems and other communications interfaces. "Local area network" interfaces are evaluated as "network access controllers".

g. Equipment, specially designed to provide for the external interconnection of "digital computers" or associated equipment, that allows communications at data rates exceeding 80 Mbytes/s.

Note: 4A03.g does not control internal interconnection equipment (e.g., backplanes, buses) or passive interconnection equipment.

37. In Category 4 (Computers), ECCN 4A94F is revised to read as follows:

4A94F Computers, "assemblies" and related equipment not controlled by 4A01, 4A02, or 4A03, and specially designed components therefor.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: Computers and peripherals in number; parts and accessories in \$ value
Reason for Control: FP

GLV: \$0

GCT: No

GFW: No

List of Items Controlled

a. Electronic computers and related equipment, and "assemblies" and specially designed components therefor, rated for operation at an ambient temperature above 343 K (70°C), but not above 358 K (85°C);

b. "Digital computers" not controlled by 4A03 having a "composite theoretical performance" ("CTP") equal to or greater than 6 million theoretical operations per second (Mtops);

c. "Assemblies" not controlled by 4A03 that are specially designed or modified to enhance performance by aggregation of "computing elements" ("CEs"), as follows:

- c.1. Designed to be capable of aggregation in configurations of 16 or more "computing elements" ("CEs"); or
- c.2. Having a sum of maximum data rates on all channels available for connection to associated processors exceeding 40 million Bytes/s;

Note 1: 4A94.c applies only to "assemblies" and programmable interconnections with a "composite theoretical performance" ("CTP") not exceeding 12.5 million theoretical operations per second (Mtops), when shipped as unintegrated "assemblies". It does not apply to "assemblies" inherently limited by nature of their design for use as related equipment controlled by 4A03 or 4A94.

Note 2: 4A94.c does not control any "assembly" specially designed for a product or family of products with a maximum configuration that does not exceed a "CTP" of 12.5 Mtops.

d. Disk drives and solid state storage equipment:

d.1. Magnetic, erasable optical or magneto-optical disk drives with a "maximum bit transfer rate" exceeding 25 million bit/s;

d.2. Solid state storage equipment, other than "main storage" (also known as solid state disks or RAM disks), with a "maximum bit transfer rate" exceeding 36 million bit/s;

e. Input/output control units designed for use with equipment controlled by 4A94.d;

f. Equipment for "signal processing" or "image enhancement", not controlled by 4A03, having a "composite theoretical performance" ("CTP") exceeding 8.5 million theoretical operations per second (Mtops);

g. Graphics accelerators or graphics coprocessors, not controlled by 4A03, that exceed a "3-D vector rate" of 400,000 or, if supported by 2-D vectors only, a "2-D vector rate" of 600,000;

Note 1: The provisions of 4A94.g do not apply to work stations designed for and limited to:

- a. Graphic arts (e.g., printing, publishing); and
- b. The display of two-dimensional vectors.

h. Color displays or monitors having more than 120 resolvable elements per cm in the direction of the maximum pixel density;

Note 1: 4A94.h does not control displays or monitors not specially designed for electronic computers.

Note 2: Displays specially designed for air traffic control (ATC) systems are treated as specially designed components for ATC systems under Category 6.

i. Equipment containing "terminal interface equipment" exceeding the limits in 5A91F.

Note: For the purposes of 4A94.h, "terminal interface equipment" includes "local area network" interfaces, modems and other communications interfaces. "Local area network" interfaces are evaluated as "network access controllers".

38. In Supplement No. 1 to Section 799.1 (the Commerce Control List), Category 4 (Computers) is amended:

- a. By removing the sub-heading "Equipment for the development and production of magnetic and optical storage equipment as follows," immediately following the heading "B. Test, Inspection and Production Equipment", which follows ECCN 4A96G; and
- b. By removing ECCNs 4B01A, 4B02A, and 4B03A;
- c. By adding a new ECCN 4B94F immediately following the heading "B. Test, Inspection and Production Equipment"; and
- d. By revising the heading of ECCN 4B96G to read as follows:

4B94F Equipment for the "development" and "production" of magnetic and optical storage equipment, as described in this entry.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GLV: \$0
GCT: No
GFW: No

List of Items Controlled

a. Equipment specially designed for the application of magnetic coating to controlled non-flexible (rigid) magnetic or magneto-optical media;

Note: 4B94F does not control general-purpose "sputtering" equipment.

b. "Stored program controlled" equipment specially designed for monitoring, grading, exercising or testing controlled rigid magnetic media;

c. Equipment specially designed for the "production" or alignment of heads or head/disk assemblies for controlled rigid magnetic and magneto-optical storage, and electro-mechanical or optical components therefor.

4B96G Computer test, production and inspection equipment, n.e.s.

39. In Category 4 (Computers), ECCN 4C01A is removed, a new ECCN 4C94F is added immediately following the heading "C. Materials", and ECCN 4C96G is amended by revising the heading of the entry to read as follows:

4C94F Materials specially formulated for and "required" for the fabrication of head/disk assemblies for controlled magnetic and magneto-optical hard disk drives.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GLV: \$0
GCT: No
GFW: No

4C96G Materials, n.e.s., specially formulated for and "required" for the fabrication of computer equipment, "assemblies" and components.

* * * * *

40. In Category 4 (Computers), ECCN 4D01A is amended by revising the heading of the entry to read as follows:

4D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 4A01, 4A02, 4A03, or 4A04, or "software" controlled by 4D01, 4D02, or 4D03.

* * * * *

41. In Category 4 (Computers), ECCN 4D03A is revised to read as follows:

4D03A Specific "software", as described in this entry.

Requirements

Validated License Required: QSTVWYZ
Unit: \$ value
Reason for Control: NS
GTDR: Yes, except 4D03.c
GTDU: No

List of Items Controlled

a. Operating system "software", "software" development tools and compilers specially designed for "multi-data-stream processing" equipment, in "source code";

b. "Expert systems" or "software" for "expert system" inference engines providing both:

- b.1. Time dependent rules; and
- b.2. Primitives to handle the time characteristics of the rules and the facts;
- c. "Software" having characteristics or performing functions exceeding the limits in the "information security" entries in Category 5;

d. Operating systems specially designed for "real time processing" equipment that guarantees a "global interrupt latency time" of less than 20 microseconds.

42. In Supplement No. 1 to Section 799.1 (the Commerce Control List), Category 4 (Computers), new ECCNs 4D92F and 4D93F are added immediately following ECCN 4D80C to read as follows:

4D92F "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 4B94 and materials controlled by 4C94.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GTDR: No
GTDU: Yes, except destinations listed under *Validated License Required*

4D93F "Program" proof and validation "software", "software" allowing the automatic generation of "source codes", and operating systems not controlled by 4D03 that are specially designed for "real time processing" equipment.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GTDR: No
GTDU: Yes, except destinations listed under *Validated License Required*

List of Items Controlled

- "Program" proof and validation "software" using mathematical and analytical techniques and designed or modified for "programs" having more than 500,000 "source code" instructions;
 - "Software" allowing the automatic generation of "source codes" from data acquired on line from external sensors described in the Commerce Control List;
 - Operating systems not controlled by 4D03A that are specially designed for "real time processing" equipment that guarantees a "global interrupt latency time" of less than 30 microseconds.
43. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 4 (Computers), ECCN 4D94F is amended by revising the heading of the entry to read as follows:

4D94F "Software" specially designed for the "development", "production", or "use" of "digital computers", "assemblies" and related equipment therefor controlled by 4A94.

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44. In Category 4 (Computers), ECCN 4E01A is amended by revising the heading of the entry and ECCN 4E02A is amended by revising the List of Items Controlled to read as follows:

4E01A Technology, according the General Technology Note, for the "development", "production" or "use" of equipment controlled by 4A01, 4A02, 4A03, or 4A04, or "software" controlled by 4D01, 4D02, or 4D03.

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4E02A Other technology.

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List of Items Controlled

- Technology for the "development" or "production" of equipment designed for "multi-data-stream processing" where the "CTP" exceeds 120 Mtops;
- Technology "required" for the "development" or "production" of magnetic hard disk drives with an "MBTR" exceeding 47 Mbit/s.

45. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 4 (Computers), new ECCNs 4E92F and 4E93F are added immediately following ECCN 4E80C to read as follows:

4E92F Technology for the "development", "production", or "use" of equipment controlled by 4B94, materials controlled by 4C94, or "software" controlled by 4D92, 4D93, or 4D94.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GTDR: No
GTDU: Yes, except destinations listed under *Validated License Required*

4E93F Technology for the "development" or "production" of graphics accelerators or equipment designed for "multi-data-stream processing" and technology "required" for the "development" or "production" of magnetic hard disk drives.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GTDR: No
GTDU: Yes, except destinations listed under *Validated License Required*

List of Items Controlled

- Technology for the "development" or "production" of graphics accelerators not controlled by 4A03.d or 4A94.g;
- Technology, not controlled by 4E02.a, for the "development" or "production" of equipment designed for "multi-data-stream processing";
- Technology, not controlled by 4E02.b, "required" for the "development" or "production" of magnetic hard disk drives with a "maximum bit transfer rate" ("MBTR") exceeding 11 Mbit/s.

46. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 4 (Computers), ECCN 4E94F is amended by revising the heading of the entry to read as follows:

4E94F Technology for the "development", "production", or "use" of "digital computers", "assemblies" and related equipment therefor controlled by 4A94F.

* * * * *

47. In Category 4 (Computers), following ECCN 4E96G, under the heading "Notes for Category 4":

- Advisory Notes 1, 2, and 3 are revised;
- Advisory Note 4 and 5 are removed and reserved;
- Advisory Notes 6 and 7 are revised; and
- A new Advisory Note 8 is added to read as follows:

Notes for Category 4

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Romania of the items controlled by Category 4 for national security reasons, except:

- Computers controlled by 4A01 or 4A02;
- "Digital computers" controlled by 4A03.b, having a "composite theoretical performance" (CTP) exceeding 100 million theoretical operations per second (Mtops);
- Computers controlled by 4A04, and specially designed related equipment, "assemblies" and components therefor;
- "Software" specially designed and technology "required" for the equipment described in this Advisory Note 1.a, .b, or .c that are controlled by 4D or 4E.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions for export to satisfactory end-users in the People's Republic of China of "digital computers", specially designed components and related equipment therefor, controlled by 4A03.b, .d, .e, or .f, or "software" controlled by 4D01, provided that:

- They will be operated by civil end-users for civil applications;
- They are exported as complete systems or enhancements to previously exported systems up to the limits in this Advisory Note 2.d;
- They have been primarily designed and used for non-strategic applications;
- The "CTP" of the "digital computers" does not exceed 20 Mtops;
- Equipment containing "terminal interface equipment" does not exceed:
 - The limits of Advisory Note 4 to Category 5, Section I (Telecommunications);
 - The limits of 5A02.c.2; or
 - A "digital transfer rate" of 100 Mbit/s on the common media for "network access controllers" and related equipment controlled by 5A02.c.3; and
- Any controlled "software" is the minimum required for the "use" of the approved "digital computers" and related equipment.

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of "digital computers", "assemblies" or related equipment controlled by 4A03, or specially designed components therefor, and "software" controlled by 4D01, provided that:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. They do not exceed any of the following limits:

1. The "CTP" of the "digital computers" does not exceed 1,000 Mtops;

2. The "3-D vector rate" does not exceed 3 million;

3. The total data transfer rate of equipment controlled by 4A03.g does not exceed 400 MByte/second;

d. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in this Advisory Note 3.c;

e. Exports of items covered by this Advisory Note 3 shall be subject to the following restrictions:

1. The equipment will be used primarily for the specific non-strategic application for which the export has been approved;

2. The equipment will not be used for the design, development, or production of items controlled for national security reasons; and

3. The exporter shall report promptly any evidence of the removal or diversion of the equipment from authorized purposes related to the specific export license;

f. For systems where the "CTP" exceeds 520 Mtops, the following conditions apply:

1. The licensee or the designated representative of the licensee, who must be from a non-proscribed country, must have the right of access to all the equipment and may carry out inspections;

2. The licensee, upon the request of the Office of Export Licensing, must carry out inspections to establish that all the equipment and systems exported under the provisions of this Advisory Note:

a. Are being used for the intended civil purposes; and

b. Are still located at the installation sites. The licensee shall report the findings from the inspection to the Office of Export Licensing within one month after completing the inspection.

Advisory Note 4: [Reserved]

Advisory Note 5: [Reserved]

Advisory Note 6: Licenses will receive favorable consideration for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of "digital computers", "assemblies" or related equipment therefor controlled by 4A03, or specially designed components therefor, and "software" controlled by 4D01, provided that:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. They do not exceed any of the following limits:

1. The "CTP" of the "digital computers" does not exceed 1,500 Mtops;

2. The "3-D vector rate" does not exceed 3 million;

3. The total data transfer rate of equipment controlled by 4A03.g does not exceed 400 MByte/second;

d. The "assemblies" controlled by 4A03.c are not specially designed or modified for a family of computers the maximum configuration of which exceeds 1,500 Mtops;

e. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in this Advisory Note 6.c;

f. Any controlled "software" is the minimum required for the "use" of the approved "digital computers" and related equipment;

g. Exports of items covered by this Advisory Note 6 shall be subject to the following conditions:

1. A signed statement must be submitted by a responsible representative of the end-user(s) or the importing agency describing the end-use and certifying that the "digital computers" or related equipment:

a. Will be used only for civil applications; and

b. Will not be reexported or otherwise disposed of without prior written authorization from the Office of Export Licensing;

2. The following information must be clearly stated on an export application for equipment controlled by this Advisory Note:

a. A full description of the equipment and its intended application and workload; and

b. A complete identification of all end-users and their activities;

3. The licensee or the designated representative of the licensee, who must be from a non-proscribed country, must have the right of access to all the equipment or systems and may carry out inspections;

4. The licensee, upon the request of the Office of Export Licensing, must carry out inspections to establish that all the equipment or systems exported under the provisions of this Advisory Note:

a. Are being used for the intended civil purposes; and

b. Are still located at the installation sites. The licensee shall report the findings from the inspection to the Office of Export Licensing within one month after completing the inspection;

5. The licensee, or the designated representative of the licensee, must be notified of any significant change of application or of other facts on which the license was based;

h. In reviewing applications for items described in this Advisory Note, consideration will be given to:

1. The appropriateness of the equipment to the stated end-use;

2. Any evidence that would indicate that the proposed end-users are:

a. Directly involved in significant strategic, including intelligence, activities; or

b. Affiliated with organizations that foster diversion to strategic purposes;

3. The extent to which the equipment will support the strategic activities of the end-users; and

4. The extent to which diversion would disrupt the activities of the proposed end-users.

Advisory Note 7: Licenses will receive favorable consideration for exports to satisfactory end-users in Bulgaria, Kazakhstan, Latvia, Mongolia, Russia and Ukraine of all items controlled by Category 4 for national security reasons, except:

a. Computers controlled by 4A01 or 4A02;

b. "Digital computers" controlled by 4A03.b having a "CTP" exceeding 41 Mtops, and specially designed components therefor;

c. Computers controlled by 4A04, and specially designed related equipment, "assemblies" and components therefor;

d. "Software" specially designed and technology "required" for the equipment described in this Advisory Note 7.a, b, or c. controlled by 4D or 4E for national security reasons.

Advisory Note 8: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of equipment controlled by 4A03.g, provided that it is exported for use in interconnecting peripheral equipment to "digital computers" not controlled by 4A03.b.

48. In Category 5 (Telecommunications and "Information Security"), Subcategory I "Telecommunications", ECCN 5A01A is amended by revising the List of Items Controlled to read as follows:

5A01A Any type of telecommunications equipment having any of the characteristics, functions or features described in this entry.

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List of Items Controlled

Any type of telecommunications equipment having any of the following characteristics, functions or features:

a. Specially designed to withstand transitory electronic effects or electromagnetic pulse arising from a nuclear explosion;

b. Specially hardened to withstand gamma, neutron or ion radiation;

c. Specially designed to operate outside the temperature range from 218 K (-55 °C) to 397 K (124 °C).

Note: 5A01.c applies only to electronic equipment.

Note: 5A01.b and c do not apply to equipment on board satellites.

49. In Category 5 (Telecommunications and "Information Security"), Subcategory I "Telecommunications", ECCN 5A02A is amended by revising the List of Items Controlled to read as follows:

5A02A "Telecommunication transmission equipment" or systems and specially designed components and accessories therefor, having any of the characteristics, functions or features.

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List of Items Controlled

Note: "Telecommunication transmission equipment."

a. Categorized as follows, or combinations thereof:

1. Radio equipment (e.g., transmitters, receivers and transceivers);

2. Line terminating equipment;

3. Intermediate amplifier equipment;

4. Repeater equipment;

5. Regenerator equipment;
6. Translation encoders (transcoders);
7. Multiplex equipment (statistical multiplex included);
8. Modulators/demodulators (modems);
9. Transmultiplex equipment (see CCITT Rec. G.701);
10. "Stored program controlled" digital crossconnection equipment;
11. "Gateways" and bridges;
12. "Media access units"; and
- b. Designed for use in single or multi-channel communication via:
 1. Wire (line);
 2. Coaxial cable;
 3. Optical fiber cable;
 4. Electromagnetic radiation;
 5. Underwater acoustic wave propagation.

"Telecommunication transmission equipment" or systems and specially designed components and accessories therefor, having any of the following characteristics, functions or features:

- a. Employing digital techniques, including digital processing of analog signals, and designed to operate at a "digital transfer rate" at the highest multiplex level exceeding 45 Mbit/s, or a "total digital transfer rate" exceeding 90 Mbit/s;

Note: 5A02.a does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

- b. Being "stored program controlled" digital cross connect equipment with a "digital transfer rate" exceeding 8.5 Mbit/s per port;

c. Being equipment containing:

- c.1. Modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 28,800 bit/s;
- c.2. "Communication channel controllers" with a digital output having a "data signalling rate" exceeding 2.1 Mbit/s per channel; or
- c.3. "Network access controllers" and their related common medium having a "digital transfer rate" exceeding 156 Mbit/s;

Note: If any uncontrolled equipment contains a "network access controller", it cannot have any type of telecommunications interface except those described in, but not controlled by, 5A02.c.

- d. Employing a "laser" and having any of the following characteristics:

- d.1. Having a transmission wavelength exceeding 1,000 nm;
- d.2. Employing analog techniques and having a bandwidth exceeding 45 MHz;
- d.3. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);
- d.4. Employing wavelength division multiplexing techniques; or
- d.5. Performing "optical amplification";

- e. Being radio equipment operating at input or output frequencies exceeding:

- e.1. 31 GHz for satellite-earth station applications; or
- e.2. 26.5 GHz for other applications;

Note: 5A02.e.2 does not control equipment for civil use when conforming with an ITU allocated band between 26.5 GHz and 31 GHz.

- f. Being radio equipment:

f.1. Employing quadrature-amplitude-modulation (QAM) techniques above level 4 if the "total digital transfer rate" exceeds 8.5 Mbit/s;

f.2. Employing quadrature-amplitude-modulation (QAM) techniques above level 16 if the "total digital transfer rate" is equal to or less than 8.5 Mbit/s; or

f.3. Employing other digital modulation techniques and having a "spectral efficiency" greater than 3 bit/sec/Hz;

Note 1: 5A02.f does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

Note 2: 5A02.f does not control radio relay equipment for operation in an ITU allocated band:

- a.1. Not exceeding 960 MHz; or
2. With a "total digital transfer rate" not exceeding 8.5 Mbit/s; and
- b. Having a "spectral efficiency" not exceeding 4 bit/sec/Hz.

g. Being radio equipment operating in the 1.5 to 87.5 MHz band and having either of the following characteristics:

g.1. a. Automatically predicting and selecting frequencies and "total digital transfer rates" per channel to optimize the transmission; and

g.1.b. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of 1 kW or more in the 1.5 to 30 MHz frequency range or 250 W or more in the 30 to 87.5 MHz frequency range, over an "instantaneous bandwidth" of one octave or more and with an output harmonic and distortion content of better than -80 dB; or

g.2. Incorporating adaptive techniques providing more than 15 dB suppression of an interfering signal;

h. Being radio equipment employing "spread spectrum" or "frequency agility" (frequency hopping) techniques having any of the following characteristics:

h.1. User programmable spreading codes; or

h.2. A total transmitted bandwidth that is 100 or more times the bandwidth of any one information channel and in excess of 50 kHz;

i. Being digitally controlled radio receivers having more than 1,000 channels, which:

i.1. Search or scan automatically a part of the electromagnetic spectrum;

i.2. Identify the received signals or the type of transmitter; and

i.3. Have a "frequency switching time" of less than 1 ms;

j. Providing functions of digital "signal processing" as follows:

j.1. Voice coding at rates of less than 2,400 bit/s;

j.2. Employing circuitry that incorporates "user-accessible programmability" of digital "signal processing" circuits exceeding the limits of 4A03.b;

k. Being underwater communications systems having any of the following characteristics:

k.1. An acoustic carrier frequency outside the range of 20 to 60 kHz;

k.2. Using an electromagnetic carrier frequency below 30 kHz; or

k.3. Using electronic beam steering techniques.

50. In Category 5

(Telecommunications and "Information Security"), Subcategory I "Telecommunications", ECCNs 5D01A, 5D02A, 5E01A, and 5E02A are revised and ECCN 5D03A is amended by revising the Requirements to read as follows:

5D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials controlled by the telecommunications entries 5A01, 5A02, 5A03, 5A04, 5A05, 5A06, 5B01, 5B02, or 5C01.

Requirements

Validated License Required:

QSTVWYZ

Unit: \$ value

Reason For Control: NS, MT (see Note)

GTDR: Yes, except MT (see Note)

GTDU: No

Note: MT controls apply to "software" designed or modified for the "development", "production" or "use" of items controlled by 5A01.

5D02A "Software" specially designed or modified to support "technology" controlled by telecommunications entries 5E01 or 5E02.

Requirements

Validated License Required:

QSTVWYZ

Unit: \$ value

Reason For Control: NS, MT (see Note)

GTDR: Yes, except MT (see Note)

GTDU: No

Note: MT controls apply to "software" designed or modified to support "technology" for the "development", "production" or "use" of items controlled by 5A01.

5D03A Specific "software" as follows.**Requirements**

Validated License Required:

QSTVWYZ

Unit: \$ value

Reason For Control: NS, MT (see

Note)

GTDR: Yes, except MT (see Note)

GTDU: No

Note: MT controls apply to "software" listed below as applicable to the "development", "production" or "use" of equipment controlled by 5A01.

List of Items Controlled

* * * * *

5E01A Technology according to the General Technology Note for the "development", "production" or "use" (excluding operation) of equipment, systems, materials or "software" controlled by the telecommunications entries in 5A, 5B, 5C, or 5D.

Requirements

Validated License Required:

QSTVWYZ

Reason For Control: NS, MT (see

Note)

GTDR: Yes, except MT, Iran and Syria

GTDU: No

Note: MT controls apply to technology for the "development", "production" or "use" of equipment controlled by 5A01 or related "software" controlled by 5D01, 5D02 or 5D03.

5E02A Specific technologies as described in this entry.

Requirements

Validated License Required:

QSTVWYZ

Reason For Control: NS

GTDR: Yes, except Iran and Syria

GTDU: No

List of Items Controlled

a. "Required" technology for the "development" or "production" of telecommunications equipment specially designed to be used on board satellites;

b. Technology for the "development" or "use" of laser communication techniques with the capability of automatically acquiring and tracking signals and maintaining communications through exoatmosphere or sub-surface (water) media;

c. Technology for processing and application of coatings to optical fiber specially designed to make it suitable for underwater use;

d. Technology for "development" or "production" of equipment employing "Synchronous Digital Hierarchy" (SDH) or "Synchronous Optical Network" (SONET) techniques;

e. Technology for the "development" or "production" of "switch fabric" exceeding 64,000 bits per second per information channel other than for digital cross connect integrated in the switch;

f. Technology for the "development" or "production" of centralized network control;

g. Technology for the "development" or "production" of digital cellular radio systems;

h. Technology for the "development" or "production" of "Integrated Services Digital Network" (ISDN);

i. Technology for the "development" of QAM techniques, for radio equipment, above level 4.

51. In Category 5 (Telecommunications and "Information Security"), Subcategory I "Telecommunications", under the heading "Notes for Telecommunications", Advisory Note 1 is removed and reserved, and Advisory Notes 8, 11, 12, 13, 14, 15, 16, 17, and 19 are revised, and new Advisory Notes 23 through 27 are added to read as follows:

Notes for Telecommunications

Advisory Note 1: [Reserved]

* * * * *

Advisory Note 8: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in the People's Republic of China of test and inspection equipment and specially designed components and accessories therefor controlled by 5B01A or 5B02A and "software" and technology for such equipment, components and accessories, for the repair of telecommunications equipment, provided that:

- a. Such equipment, components, accessories, "software" and technology:
 1. Are specially designed for repair;
 2. Are to be used to repair controlled equipment authorized for export or equipment that is not controlled for national security reasons;
 3. Are shipped in reasonable quantities necessary for the types and quantities of exported equipment being serviced;
 4. Do not provide local production facilities;
 5. Do not provide for testing of individual electronic components; and
 6. Do not include "software" in "source code" controlled by 5D03.a;
- b. The repair does not upgrade the equipment or "software";
- c. All the records of repair activity are kept by a representative of the Western supplier; and
- d. The information to accompany each license application shall include:
 1. A complete list of equipment to be provided; and
 2. A clear identification of the users and their activities.

N.B.: Nothing in this Advisory Note 8 shall be construed as overriding controls in other

ECCNs contained in the Commerce Control List.

* * * * *

Advisory Note 11: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Albania, Bulgaria, the People's Republic of China, Mongolia, Romania, or Vietnam of telecommunications equipment for optical fibers controlled by 5A02.d.1, provided that the transmission wavelength does not exceed 1,370 nm.

Advisory Note 12: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Albania, Bulgaria, the People's Republic of China, Mongolia, Romania, or Vietnam of cables or fibers controlled by 5A05, provided that:

- a. Quantities are normal for the envisaged end-use; and
- b. They are for a specified civil end-use.

Advisory Note 13: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Albania, Bulgaria, the People's Republic of China, Mongolia, Romania, or Vietnam of optical fiber test equipment controlled by 5B01.c using a transmission wavelength not exceeding 1,370 nm.

Advisory Note 14: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of digital radio equipment or systems controlled by 5A02.a or f, provided that:

- a. The equipment or system is intended for general commercial international traffic in an international civil telecommunication system, one end of which is in a COCOM member country;
- b. It is to be installed in a permanent circuit under the supervision of the licensee;
- c. No means are to be provided for the transmission of traffic between points in a single proscribed country other than a country in Country Group Q or W;
- d. The "digital transfer rate" at the highest multiplex level does not exceed 156 Mbit/s;
- e. The equipment does not employ either of the following:
 1. Quadrature Amplitude Modulation (QAM) techniques above level 64; or
 2. Other digital modulation techniques with a "spectral efficiency" exceeding 6 bit/s/Hz;
- f. The equipment is not controlled by 5A02.e or .h or by the "information security" entries in Category 5;
- g. Spare parts shall remain under the control of the licensee or the licensee's designated representative;

Note: The supervision of the spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

- h. The licensee or the licensee's designated representative, who shall be from a non-proscribed country, shall have the right of access to all the equipment;
- i. There will be no transfer of technology controlled for national security reasons;
- j. Supervision of systems installation, operation and maintenance shall be

performed by the licensee or the licensee's designated representative, who shall be from a non-proscribed country, using only personnel from non-proscribed countries;

N.B. 1: Supervision of maintenance includes preventive maintenance at periodic intervals and intervention for major malfunctions.

N.B. 2: This does not mean that only nationals from the exporting country should install the system.

k. Upon request, the licensee shall carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; *and*
2. All the equipment exported under the provisions of this Advisory Note is being used for the stated purpose and is still located at the installation sites. The licensee shall report the findings from the inspection to the Office of Export Licensing within one month after completing the inspection.

Advisory Note 15: Licenses will receive favorable consideration for exports to satisfactory end-users in Bulgaria or Romania of technology controlled by the telecommunications entries in Category 5, and of instrumentation, test equipment, components and specially designed "software" therefor, and materials and components controlled by the telecommunications entries in Category 5 or by entries in other Categories on the Commerce Control List, for the modification or "production" of telecommunications equipment or systems eligible for administrative exceptions treatment under Advisory Note 1 in the Notes for Telecommunications (Category 5), provided that:

N.B.: Technology for general purpose computers is not eligible for treatment under this Advisory Note, i.e., it remains governed by Category 4.

- a. The characteristics of the telecommunications equipment or systems are limited to those eligible for administrative exceptions treatment under Advisory Note 1 in the Notes for Telecommunications (Category 5);
- b. Modification of the telecommunications equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of Advisory Note 1 in the Notes for Telecommunications (Category 5);
- c. Testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no go tests;

N.B.: Advisory Note 15.c does not preclude exports of equipment or technology that would be possible in accordance with the provisions of other Categories on the Commerce Control List.

- d. The specially designed "software" is that necessary to use the transferred technology, instrumentation and test equipment;
- e. All "software" shall be exported in machine executable form only;
- f. "Development" technology is not included;
- g. The contract includes explicit conditions to ensure that:

1. The "production" technology or "production" equipment is not exported or reexported, either directly or indirectly, to another proscribed destination;

2. The supplier or licensor may appoint a representative who is entitled to verify that the "production" technology and "production" equipment or systems serve their intended use;

3. Any modification of the capabilities or functions of the produced equipment must be approved by the supplier or licensor;

4. The supplier's or licensor's personnel have right of access to all the facilities directly involved in the "production" of the telecommunications equipment or systems;

5. The "production" technology, "production" equipment and produced equipment or systems will be for civil end-use only and not for reexport to proscribed destinations other than Bulgaria or Romania;

- h. System integration testing will be performed by the supplier or licensor, if it requires test tools that would provide the licensee with the capability to recover source code or upgrade the system beyond the performance thresholds or features of Advisory Note 1 in the Notes for Telecommunications (Category 5);

- i. End-use reporting of the installed telecommunication equipment or systems will be provided in accordance with the provisions of Advisory Note 1 in the Notes for Telecommunications (Category 5).

N.B. 1: No export under the favorable consideration provisions of this Advisory Note shall establish a precedent for the approval of exports under entries in other Categories on the Commerce Control List.

N.B. 2: For each license application for export pursuant to this Advisory Note, the exporter must submit the following assurances to be obtained from the importer:

- a. An Import Certificate issued by the importer's national authorities;
- b. An assurance that the importer will make available information as requested by the Department of Commerce; *and*
- c. An assurance that the importer will allow on-site inspection if requested by the Department of Commerce.

Advisory Note 16: Licenses will receive favorable consideration for the export to satisfactory end-users in Albania, Bulgaria, Mongolia, Romania, or Vietnam of radio relay communications equipment, specially designed components and accessories, specially designed test equipment, "software" and technology for the "use" of equipment or materials therefor, controlled by the telecommunications entries in this Category, provided that:

- a. It is for fixed installation and civil application;
- b. It is designed for operation at a total "digital transfer rate" not exceeding 156 Mbit/s;
- c. The equipment does not employ either of the following:

1. Quadrature Amplitude Modulation (QAM) techniques above 64 QAM; or
2. Other digital modulation techniques with a "spectral efficiency" exceeding 6.3 bit/s/Hz;
- d. It operates at fixed frequencies not exceeding 9 GHz;

e. A license application for export under the provisions of this Advisory Note provides the following information:

1. The equipment or system to be provided;
2. The intended application; *and*
3. The location of the equipment.

Advisory Note 17: Licenses will receive favorable consideration for the export to satisfactory end-users in Country Groups QWY and the People's Republic of China of optical fiber cables and optical fiber transmission equipment or systems controlled by 5A02 or 5A05, provided that:

- a. The equipment or systems are intended for general commercial international traffic in an international civil submarine optical fiber telecommunication system linking the importing country with a non-proscribed country;

- b. It is to be installed in a permanent circuit under the supervision of the licensee;

- c. No means are to be provided for the transmission of traffic between points in one or more proscribed countries other than Bulgaria or Romania;

- d. The total length of optical fiber cable to be installed within the proscribed country, excluding cable in territorial waters, does not exceed 10 km or the shortest distance that is practical for installation;

- e. The "digital transfer rate" at the highest multiplex level does not exceed 565 Mbit/s;

- f. The "laser" transmission wavelength does not exceed 1,550 nm;

- g. The equipment is not controlled by 5A02.d.2 to d.5 or by the "information security" entries in Category 5;

- h. Controlled spare parts shall remain under the supervision of the licensee or the licensee's designated representative, who shall be from a non-proscribed country;

Note: The supervision of spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

- i. The licensee or the licensee's designated representative, who shall be from a non-proscribed country, shall have the right of access to all the equipment;

- j. There will be no transfer of controlled technology;

- k. Supervision of systems installation and of maintenance shall be performed by the licensee or the licensee's designated representative, who shall be from a non-proscribed country, using only personnel from non-proscribed countries; *and*

N.B. 1: Supervision of maintenance includes preventive maintenance at periodic intervals and intervention for major malfunctions.

N.B. 2: This does not require that only nationals from the exporting country should install the system.

l. Upon request, the licensee shall carry out an inspection to establish that:

1. The system is being used for the intended civil purpose;
2. All the equipment exported under the provisions of this Advisory Note is being used for the stated purpose and is still located at the installation sites. The licensee shall report the findings from the inspection

to the Office of Export Licensing within one month after completing the inspection.

Advisory Note 19: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of fiber optic telecommunications transmission systems or equipment controlled by 5A02.a and 5A02.d.1, fiber optic cables controlled by 5A05, or coaxial cable telecommunications transmission systems controlled by 5A02.a, and the test equipment, specially designed components, accessories, "software" and technology, necessary for the "use" thereof, provided that:

a. They are intended for international telecommunications links dedicated to international civil traffic between the following locations:

1.a. From the following countries: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, Turkey, or the United Kingdom;

b. To the following cities as listed by country: Albania (Tirana), Armenia (Yerevan), Azerbaijan (Baku), Bulgaria (Sofia, Varna), Belarus (Minsk), Georgia (Tbilisi), Kazakhstan (Alma-Ata), Kyrgyzstan (Bishkek), Moldova (Chisinau), Romania (Bucharest, Constanza), Russia (Moscow, Novosibirsk, Rostov-on-Don, St. Petersburg, Volgograd), Tajikistan (Dushanbe), Turkmenistan (Ashgabat), Ukraine (Kiev, Odessa, Sebastopol), Uzbekistan (Tashkent) or

2.a. From the following countries: Australia, Canada, Hong Kong, Japan, Zealand, South Korea, or the United States;

b. To the following cities as listed by country: People's Republic of China (Shanghai, Guangzhou), Russia (Khabarovsk, Nakhodka, Vladivostok, Yuzhno-Sadhalinsk), Vietnam (Hanoi, Ho Chi Minh City);

N.B.: No traffic shall be carried between points in proscribed countries, except in Estonia, Latvia, and Lithuania.

b. [Reserved];

c. They are designed to operate at a "digital transfer rate" at the highest multiplex level of 623 Mbit/s or less;

d. The "laser" transmission wavelength does not exceed 1,590 nm;

e. The equipment, if employing synchronous transmission techniques, must conform to one of the approved SONET or SDH standards or recommendations (i.e., ANSI or CCITT);

f. Supervision of systems installation and maintenance of controlled transmission equipment must be performed by the licensee or the licensee's designated representative, who must be from a non-proscribed country. Any portion of the installation of controlled transmission equipment that would require the transfer of controlled technology must be performed by the licensee or the licensee's designated representative using only personnel from non-proscribed countries;

N.B. 1: Supervision of maintenance includes preventive maintenance at periodic

intervals and intervention for major malfunctions.

N.B. 2: This is not meant to require that only nationals from the exporting country should install the system.

g. Controlled test equipment and controlled spare parts must remain under the supervision of the licensee or the licensee's designated representative, who shall be from a non-proscribed country;

N.B.: The supervision of the test equipment and spare parts by the licensee may be effected by stock inventory procedures and does not require the permanent on-site presence of a representative of the licensee.

h. The licensee or the licensee's designated representative, who shall be from a non-proscribed country, must have the right of access to all the equipment;

i. Upon request of the government of the exporting country, the licensee must carry out an inspection to establish that:

1. The system is being used for the intended civil purpose; and
2. All the equipment exported under the provisions of this Advisory Note is being used for the stated end purpose and is still located at the installation sites. The licensee shall report the findings from the inspection to the Office of Export Licensing within one month after completing the inspection;

j. The license application must include a system plan containing equipment quantities and approximate locations for the proposed system. After final installation, unless already provided, the applicant must provide to the licensing authorities the final location of the installed equipment to the greatest degree of precision available and a map of the final cable route.

Advisory Note 23: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of "software" controlled by 5D03.a, and related technology, "software" tools and test equipment necessary for the "development", "production" or "use" thereof, provided that:

a. The "software", technology, "software" tools and test equipment will be limited to those necessary for problem analysis and reporting or for local adaptation of the switching equipment such as for subscriber terminal interface, network interface, billing, administration or similar adaptations for local civilian telecommunications requirements, by a civil end-user;

b. No "software" or technology "required" for the "development", "production" or "use" of functions, features or equipment controlled by the telecommunications entries in 5A, 5B or 5E of Subcategory I to Category 5 shall be included;

Note: This Advisory Note does not release from control the "software" in "source code" comprising that "software" that controls the management and execution of programs, commonly referred to as the operating system.

c. Such "software", technology, "software" tools or test equipment do not provide the capability to decompile, disassemble or

perform similar activities to "software" in "object code" or similar format and thereby reverse-engineer controlled characteristics, functions or features;

d. The licensee or the licensee's designated representative, who shall be from a non-proscribed country, shall have the right of access to the site of, and computing equipment being used to perform, such adaptations so as to have access to:

1. The "software", technology, "software" tools and test equipment referred to in this Advisory Note; and

2. All "software" developed or derived from the "software" technology, "software" tools and test equipment licensed under this Advisory Note;

e. Upon request of the Office of Export Licensing, the licensee must carry out an inspection to establish that:

1. The "software", technology, "software" tools and test equipment referred to in this Advisory Note are being used for the intended civil purpose; and

2. All the "software", technology, "software" tools and test equipment exported under the provisions of this Advisory Note are being used for the stated end purpose and are still located at the installation sites. The licensee shall report the findings from the inspection to the Office of Export Licensing within one month after completing the inspection.

Advisory Note 24: Licenses will receive favorable consideration for exports to satisfactory end-users in the People's Republic of China of technology controlled by the telecommunications entries in Subcategory I of Category 5 and of instrumentation, test equipment, components and specially designed "software" therefor, and materials and components controlled by national security entries on the Commerce Control List, for the modification or production of the telecommunication transmission equipment or systems described in 5A02.a, 5A02.d.1, 5A02.f.1, or 5A02.f.2, provided that:

N.B. 1: Technology for general purpose computers is not eligible for treatment under this Advisory Note, i.e., it remains controlled by Category 4.

N.B. 2: No technology is to be included for the "production" of:

a. Equipment employing "SDH" or "SONET" techniques; or
b. "Lasers" with transmission wavelengths exceeding 1,000 nm.

a. The characteristics of the telecommunication transmission equipment or systems are limited to those that release them from control or make them eligible under the relevant Advisory Notes that provide administrative exceptions treatment, provided that the following limits are not exceeded:

1. QAM techniques of level 16;
2. A "digital transfer rate" of 140 Mbit/s and a "total digital transfer rate" of 168 Mbit/s;

N.B.: An additional 2 Mbit/s may be added to the "total digital transfer rate" of 168 Mbit/s for operation, maintenance and service communications.

3. A "laser" transmission wavelength of 1,370 nm;

b. Modification of the telecommunications transmission equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of the relevant Advisory Notes that provide administrative exceptions treatment;

c. Testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no go tests;

N.B.: Advisory Note 24.c does not preclude exports of equipment or technology that would be possible in accordance with the provisions of other Categories in the Commerce Control List.

d. The specially designed "software" is that necessary to use the transferred technology, instrumentation and test equipment;

e. All "software" must be supplied in machine executable form only except for the specific customer data and site parameters;

f. "Development" technology is not included;

g. The contract includes explicit conditions to ensure that:

1. The "production" technology or production equipment is not exported or reexported, either directly or indirectly, to another proscribed destination;

2. The supplier or licensor may appoint a representative who is entitled to verify that the "production" technology and production equipment or systems serve their intended use;

3. Any modification of the capabilities or functions of the equipment produced must be approved by the supplier or licensor;

4. The supplier's or licensor's personnel have right of access to all the facilities directly involved in the production of the equipment or systems covered by this Advisory Note;

5. The "production" technology, production equipment and equipment or systems produced do not exceed the characteristics of the relevant Advisory Notes that provide administrative exceptions treatment and will be for civil end-use only;

h. System integration testing will be performed by the supplier or licensor if it requires test tools that provide the licensee with the capability to recover "source code" or upgrade the system beyond the performance thresholds or features of the relevant Advisory Notes that provide administrative exceptions treatment;

1. The relevant Advisory Note that provides administrative exceptions treatment should be indicated on the license application.

N.B.: No export under the favorable consideration provisions of this Advisory Note shall establish a precedent for the approval of exports under other Categories in the Commerce Control List.

Advisory Note 25: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Groups QWY and the People's Republic of China of components, parts and materials, controlled for national security reasons by entries on the Commerce Control List, necessary for the production of telecommunication equipment or systems, provided that:

a. The production equipment and technology for the equipment concerned has been previously legally exported;

b. The quantity of components, parts and materials exported is normal for the stated end-use;

c. Authorization under this Advisory Note will cover a program of supplies up to two calendar years for the production by the same licensee of equipment authorized under Advisory Note 25.a;

d. No technology or "software" "required" for "development", "production" or "use" shall be included;

e. The components, parts and materials exported will not be permitted to exceed the performance threshold or features of the equipment previously authorized;

f. The contract includes explicit conditions to ensure that:

1. The equipment manufactured with the exported components, parts and materials is not exported or reexported, either directly or indirectly, to another proscribed destination;

2. The supplier or licensor may appoint a representative who is entitled to verify that the "production" technology and production equipment or systems serve their intended use;

3. Any modification of the capabilities or functions of the equipment produced must be approved by the supplier or licensor;

4. The supplier's or licensor's personnel have right of access to all the facilities directly involved in the production of the equipment or systems;

5. The equipment or systems produced will be for civil end-use only.

Advisory Note 26: [Reserved]

Advisory Note 27: Licenses are likely to be approved, as administrative exceptions, for exports to Albania, Armenia, Azerbaijan, Bulgaria, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, the People's Republic of China, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam of telecommunications equipment or systems controlled by 5A02.a through 5A02.g, 5A03, 5A04 or 5A05, measuring, test or repair equipment controlled by 5B01.c or 5B02, and specially designed components and accessories, "software" and technology necessary for the "use" thereof, provided that:

a. Optical fiber telecommunication transmission equipment or systems:

1. Are designed to operate at a "digital transfer rate" of 623 Mbit/s or less at the highest multiplex level; and

2. Are designed to operate on a "laser" transmission wavelength not exceeding 1,590 nm.

b. Digital radio equipment or systems:

1. Are designed to operate at a "digital transfer rate" of 623 Mbit/s or less at the highest multiplex level;

2. Do not employ QAM techniques exceeding level 512 or other digital modulation techniques having a "spectral efficiency" exceeding 9 bit/s/Hz;

c. "CCS":

1. Is limited to the associated mode of operation;

2. Signalling and related speech/data channels are limited to two signalling points

and must not be routed via different transmission media or different routes;

N.B.: A single route consists of one or more consecutive serial connection links that may use different transmission media.

3. Message Transfer Part (MTP) level 3 signalling routes are limited to two signalling points;

N.B.: MTP Level 3 is found in Q.704 and related recommendations of the ITU-T Q series for "CCS".

4. For point-to-point inter-city "CCS" connectivity between two signalling points, where permitted by Advisory Note 27.c.1, c.2, or c.3, the Originating Point Codes (OPC) and Destination Point Codes (DPC) for all signalling messages over such signalling links cannot be reinstalled or changed following the vendor's initial software installation without prior authorization, being available in object code only; all compilation mechanisms and administrative tools that allow for modification of the Point Codes are removed following installation;

d. The equipment or systems are designed and intended to be used for fixed civil applications directly connected to a civilian network;

e. The equipment or systems, if employing synchronous transmission techniques, conform to one of the ANSI or ITU-T approved standards or recommendations for "SONET" or "SDH";

f. Measuring, test or repair equipment controlled by 5B01.c or 5B02 and controlled spare parts remain under the supervision of the licensee or the licensee's designated representative;

g. The licensee or the licensee's designated representative have the right of access to all the equipment or systems and may carry out inspections;

h. Upon the request of the Office of Export Licensing, the licensee must carry out inspections to establish that:

1. All the equipment or systems exported under the provisions of this Advisory Note are being used for the intended civil purpose; and

2. Are still located at the installation sites. The licensee shall report the findings from the inspection to the Office of Export Licensing within one month after completing the inspection;

i. Supervision of systems installation and maintenance of controlled transmission equipment is performed by the licensee or the licensee's designated representative. Any portion of the installation of controlled transmission equipment that would require the transfer of controlled technology is performed by the licensee or the licensee's designated representative;

N.B. 1: Supervision of maintenance includes prevention maintenance at periodic intervals and intervention for major malfunctions.

j. License applications to export systems or equipment for "common channel signalling" identify the intended system routes and locations of signalling points.

52. In Category 5 (Telecommunications and "Information Security"), Subcategory III (Other Equipment, Materials, "Software")

and Technology), a new ECCN 5A90F is added immediately following ECCN 5A80D to read as follows:

5A90A Any type of telecommunications equipment, not controlled by 5A01, specially designed to operate outside the temperature range from 219 K (-54 °C) to 397 K (124 °C).

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GLV: \$0
GCT: No
GFW: No

53. In Category 5 (Telecommunications and "Information Security"), Subcategory III (Other Equipment, Materials, "Software", and Technology), ECCN 5A91F is revised to read as follows:

5A91F Transmission equipment, not controlled by 5A02, containing:

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason For Control: FP
GLV: \$0
GCT: No
GFW: No

List of Items Controlled

a. Modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 9,600 bits per second;

b. "Communication channel controllers" with a digital output having a "data signalling rate" exceeding 64,000 bit/s per channel; or

c. "Network access controller" and their related common medium having a "digital transfer rate" exceeding 33 Mbit/s.

54. In Category 5 (Telecommunications and "Information Security"), Subcategory III (Other Equipment, Materials, "Software", and Technology), a new ECCN 5D90F is added immediately following ECCN 5D20B to read as follows:

5D90F "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 5A90 or 5A91.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GLV: \$0
GCT: No
GFW: No

55. In Category 5 (Telecommunications and "Information Security"), Subcategory III (Other Equipment, Materials, "Software", and Technology), a new ECCN 5E90F is added immediately following ECCN 5E20B to read as follows:

5E90F Technology for the "development", "production", or "use" of equipment controlled by 5A90 or 5A91 or "software" controlled by 5D90.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: \$ value
Reason for Control: FP
GLV: \$0
GCT: No
GFW: No

56. In Category 6 (Sensors), under the heading "Notes for Category 6", Advisory Notes 2.4 and 4.4 are removed and reserved.

57. In Category 7 (Navigation and Avionics), under the heading "Notes for Category 7", Advisory Note 2 is removed and reserved.

58. In Category 8 (Marine Technology), under the heading "Notes for Category 8", Advisory Note 3 is removed and reserved.

59. In Category 9 (Propulsion Systems and Transportation Equipment), under the heading "Notes for Category 9", Advisory Note 3 is removed and reserved.

Dated: May 6, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94-11467 Filed 5-9-94; 4:55 pm]

BILLING CODE 3510-DT-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 92C-0295]

Listing of Color Additives Subject to Certification; FD&C Blue No. 1; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of March 19, 1994, of the final rule that appeared in the *Federal Register* of February 16, 1994 (59 FR 7636) (effective date corrected in the

Federal Register of February 22, 1994 (59 FR 8507)), and amended the color additive regulations to provide for the safe use of FD&C Blue No. 1 and FD&C Blue No. 1 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

DATES: Effective date confirmed: March 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, 202-254-9519.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of February 16, 1994 (59 FR 7636) (effective date corrected in the *Federal Register* of February 22, 1994 (59 FR 8507)), FDA amended 21 CFR 74.1101 and 74.2101 to provide for the safe use of FD&C Blue No. 1 and FD&C Blue No. 1 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

FDA gave interested persons until March 18, 1994, to file written objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA has concluded that the final rule published in the *Federal Register* of February 16, 1994, should be confirmed as corrected on February 22, 1994.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the February 16, 1994, final rule. Accordingly, the amendments promulgated thereby became effective March 19, 1994.

Dated: May 4, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94-11594 Filed 5-13-94; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 178

[Docket No. 92F-0162]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to expand the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate as a clarifying agent in polypropylene articles intended for contact with all types of food to include frozen or refrigerated storage of ready-prepared foods intended to be reheated in the container at the time of use. This action is in response to a petition filed by Asahi Denka Kogyo K. K.

DATES: Effective May 16, 1994; written objections and requests for a hearing by June 15, 1994.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of May 4, 1992 (57 FR 19133), FDA announced that a food additive petition (FAP 2B4300) had been filed by Asahi Denka Kogyo K. K., c/o Japan Technical Information Center, Inc., 1002 Pennsylvania Ave. SE., Washington, DC 20003, proposing that the food additive regulations be amended in § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) to expand the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate (CAS Reg. No. 85209-1-2) as a clarifying agent in polypropylene articles intended for contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use

of the additive is safe and that the regulations in § 178.3295 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before June 15, 1994, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall

include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.3295 is amended in the table by revising the entry for "Sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate" to read as follows:

§ 178.3295 Clarifying agents for polymers.

* * * * *

Substances

Limitations

Sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl)phosphate (CAS Reg. No. 85209-91-2).

For use only as a clarifying agent at a level not exceeding 0.30 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 3.1, or 3.2 (where the copolymers complying with items 3.1 and 3.2 contain not less than 85 weight percent of polymer units derived from polypropylene). The finished polymers contact foods only of types I, II, IV-B, VI-B, VII-B, and VIII as identified in Table 1 of § 176.170(c) of this chapter and limited to conditions of use B through H described in Table 2 of § 176.170(c) of this chapter, or foods of all types, limited to conditions of use C through H described in Table 2 of § 176.170(c) of this chapter.

Dated: May 6, 1994.
Fred R. Shank,
Director, Center for Food Safety and Applied Nutrition.
 [FR Doc. 94-11785 Filed 5-13-94; 8:45 am]
 BILLING CODE 4160-01-F

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice 2006]

Schedule of Fees for Consular Services, Department of State and Foreign Service of the United States

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule.

SUMMARY: This interim rule amends § 22.1 of title 22, Code of Federal Regulations by creating a surcharge for the processing of machine readable visas (MRV's). That surcharge, pursuant to OMB Circular No. A-25, is set at a cost-recovery based level of \$20.00 per visa application.

DATES: Effective Date: The effective date for the new fee is May 16, 1994.

Date for submission of comments: June 15, 1994.

ADDRESSES: Interested persons are invited to submit comments in duplicate to the Office of the Executive Director, Bureau of Consular Affairs, Department of State, Washington, DC 20520-4818.

FOR FURTHER INFORMATION CONTACT: Holcombe Thomas, Office of the Executive Director, Bureau of Consular Affairs, Department of State, Washington, DC 20520-4818, (202) 647-1148.

SUPPLEMENTARY INFORMATION

Background

Public Law 103-236, enacted April 30, 1994, authorizes the Secretary of State to collect a surcharge for the processing of machine readable visa (MRV) applications, and to retain the resulting revenues, up to a ceiling of \$107.5 million for fiscal years 1994 and 1995. This authority has been delegated to the Under Secretary for Management. It supplements and in part overrides section 281 of the Immigration and Nationality Act (INA) which generally provides for nonimmigrant visa fees to be set on the basis of reciprocity.

The Secretary of State has also been authorized under E.O. 10718 of June 27, 1957, to exercise the President's authority under 22 U.S.C. 4219 to prescribe rates of fees to be charged for

official services performed by the Department of State. Under this authority, the Department has determined a number of fees for consular services performed overseas, as well as in the United States, within the guidelines set by OMB Circular No. A-25. The policy set out in Circular A-25 states that services which directly benefit individuals, organizations, or groups should be paid for by the users rather than the taxpayers. Services performed for the primary benefit of the general public or the U.S. Government are to be supported by tax revenues. The principles of Circular A-25 have guided various fee studies conducted by the Department. As a result, although the authority to charge for processing a machine readable visa is new, the Department has for a number of years had on hand Circular A-25-based cost estimates for visa processing.

In the Department's latest consular fee study, issued in January 1991, the cost of processing a nonimmigrant visa was determined to be \$18.47. Equipment used to process machine readable nonimmigrant visas (MRV's) is considerably more expensive than the equipment used to issue the outdated stamped visas which the MRV is replacing. Given these additional equipment costs and the costs of collecting the fee, the new fee has been set at a cost-recovery level of \$20.00 per visa application. This fee may in fact be below cost, but the Department believes that it is an approximate level at which to set the charge initially, given the base estimate of \$18.47 and the need for a fee that can be collected with minimal transaction costs. A \$20.00 fee is a whole dollar amount. Moreover, in discussing the new fee with members of Congress, \$20.00 was discussed in light of the 1991 cost study as the initial amount at which the new fee would be set.

The implementation of this rule as an interim rule, with provision for post-promulgation comments, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and 553(d)(3). The authorization for the collection of a processing fee for machine readable nonimmigrant visas and machine readable combination border crossing card mandated by Public Law 103-236 took effect on April 30, 1994. This rule must take effect upon publication to ensure that the Department maximizes surcharge revenue for the balance of fiscal year 1994. The Department will be relying on such revenues to fund accelerated installation of improved visa processing and issuing technology at consular posts. The installation of such technology has become a high priority

for the United States in light of the World Trade Center bombing and increasing concerns about visa fraud and alien terrorist activity in the United States.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department to ensure consistency with the objectives thereof.

List of Subjects in 22 CFR Part 22

Passports and visas, Schedule of Consular Fees.

Accordingly, 22 CFR part 22 is amended as follows:

1. The authority citation for part 22 continues to read as follows:

PART 22—[AMENDED]

Authority: Sections 3, 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, 214, 2651, 2658, 3921, 4219; 31 U.S.C. 9701; EO 101718, 22 FR 4632; EO 11295, 31 FR 10603; 3 CFR 1954-1958 Comp. p. 507.

2. Section 22.1 is amended by adding item 26 under "Visa Services for Aliens" to read as follows:

§ 22.1 Schedule of fees.

Item No.	Fee
26.	Surcharge for processing machine readable nonimmigrant visa application
	\$20.00
(Item Nos. 27 through 29 vacant)	

Dated: May 6, 1994.
Richard Moose,
Under Secretary for Management,
Department of State.
 [FR Doc. 94-11861 Filed 5-11-94; 3:24 pm]
 BILLING CODE 4710-06-M

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2005]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act

Visa Fees

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule.

SUMMARY: This rule adds a surcharge provision to part 41 title 22, Code of Federal Regulations. The amendment to the regulations authorizes the Secretary of State, pursuant to the provisions of section 140 of Public Law 103-236, to collect a surcharge for processing applications for machine readable nonimmigrant visas and machine readable combined border crossing cards. This surcharge is herein referred to as the "MRV surcharge". The authority vested in the Secretary of State mandates appropriate amendments to the nonimmigrant regulations.

DATES: *Effective date:* May 16, 1994. Interested persons are invited to submit written comments on or before June 15, 1994.

ADDRESSES: Comments should be submitted to Chief, Legislation and Regulations Division, Visa Services, Washington, DC 20520-0113.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Washington, DC, (202) 663-1204.

SUPPLEMENTARY INFORMATION: On April 30, 1994, the President signed into law Public Law 103-236, State Department Authorization Bill for Fiscal Years 1994 and 1995. The provisions of section 140 of this law grant the Secretary of State the authority to collect a surcharge for the processing of applications of machine readable nonimmigrant visas and machine readable combined border crossing cards. Such authority is new and requires appropriate amendment of the visa regulations at 22 CFR 41.107.

Current Authority

Section 281 of the Immigration and Nationality Act (INA) provides that the Secretary of State shall establish fees for the issuance of nonimmigrant visas based upon reciprocity. Pursuant to this section of law, the Secretary of State where practicable prescribes a fee to be imposed upon nationals of a foreign country that corresponds with all the visa related costs charged U.S. citizens by that foreign country. The

Department's implementing regulation, at 22 CFR 41.107(a), restates the statutory principle authorizing the Secretary of State to collect nonimmigrant visa issuance fees based on reciprocity. As a reciprocal charge, the fee prescribed by the Secretary reflects the total costs imposed by a foreign state on U.S. nationals. If no costs are incurred, no fee is prescribed. The fees collected pursuant to section 281 are remitted to the general funds of the U.S. Treasury.

MRV Surcharge

Section 140 of the State Department Authorization Bill authorizes a surcharge to be imposed for machine readable visas and border crossing cards notwithstanding INA 281 and the regulations at § 41.107. This new fee may, therefore, be charged for processing applications for machine readable visas, independent of fees prescribed pursuant to reciprocity under the provisions of section 281 of the Act. Moreover, surcharges collected pursuant to section 140 may be retained by the Department up to \$107 million for FY 94 and FY 95 combined.

The regulation at section 41.107 is being amended to authorize the collection of this surcharge separate from and in addition to any other fee. The amount of the surcharge and justification for that amount are subjects of a separate regulation being promulgated by the Under Secretary of State for Management.

Interim Rule

In order to implement the provisions of section 140, Public Law 103-236, the regulation at § 41.107 is being amended to authorize the Secretary of State to collect the surcharge, separate from or independent from and in addition to any other fee, for processing applications for machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

The implementation of this rule as an interim rule, with provision for post-promulgation comments, is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B) and 553(d)(3). The authorization for the collection of a processing fee for machine readable nonimmigrant visas and machine readable combination border crossing cards mandated by Public Law 103-236 takes effect on April 30, 1994. This rule must take effect upon publication to ensure that the Department maximizes surcharge revenues for the balance of FY-94. The Department will be relying on such revenues to fund accelerated

installation of an imposed visa processing and issuing technology at consular posts. The installation of such technology has become a high priority for the United States in light of the World Trade Center bombing and increasing concern about visa fraud and alien terrorist activity in the United States. This rule is not considered to be a major rule for purposes of E.O. 12291; nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In addition, this rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department to ensure consistency with the objectives thereof.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas, Fees, Surcharge.

Accordingly, 22 CFR part 41, is amended as follows:

1. The authority citation for part 41 would continue to read as follows:

PART 41—[AMENDED]

Authority: 8 U.S.C. 1104.

2. Sec. 41.107 is amended by adding paragraph (e) to read as follows:

§ 41.107 Visa fees.

* * * * *

(e) *Visa processing surcharge.* In addition to the collection of the fee prescribed in paragraph (a) of this section, a consular officer shall collect or ensure the collection of a surcharge for the processing of applications for machine readable nonimmigrant visas and for machine readable combined border crossing cards in the amount specified by the Secretary of State from such applicants as the Secretary of State shall designate. Such surcharge is refundable only if, as a result of action taken by the U.S. Government for which the alien was not responsible and over which the alien had no control, the alien's application is not processed.

Dated: May 4, 1994.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 94-11860 Filed 5-11-94; 3:24 pm]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 710, 712, 713, and 720

[FHWA Docket No. 93-7]

RIN 2125-AD09

Removal of Obsolete and Redundant Right-of-Way Requirements

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule eliminates a number of FHWA prior approvals previously required in the acquisition of real property for Federal-aid highway projects. Consistent with the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), this approach reduces the regulatory burden for States and encourages greater flexibility by reducing the degree to which the FHWA will be involved in the development of Federal-aid highway projects.

DATES: This regulation is effective June 15, 1994.

FOR FURTHER INFORMATION CONTACT: Gerald B. Saunders, Chief, Operations Division, Office of Right-of-Way, HRW-20, (202) 366-0142; or Reid Alsop, Office of Chief Counsel, HCC-31, (202) 366-1371. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: This final rule modifies several provisions in the FHWA's right-of-way regulations that require the FHWA to grant prior approvals or authorizations for particular actions by a State. These case-by-case approvals will no longer be required and will be replaced by a one-time FHWA approval of State procedures. Oversight by the FHWA will continue through the use of process reviews. In the future, prior approvals may be reinstated if they are found to be necessary to protect the Federal investment.

As a result of a review of the FHWA's right-of-way regulations, the Office of Right-of-Way identified a number of requirements that imposed burdens on States without commensurate program benefit. The review disclosed a number of case-by-case approval actions that, based on experience, were no longer necessary to protect the investment of Federal-aid highway funds. These approval actions are divided into the two categories set forth below.

The first category includes six FHWA approvals or authorizations. The State may now take the approval or authorization actions required by the following sections if they are in accordance with procedures that have been approved by the FHWA.

Approval action	23 CFR section
Use of fee negotiators	710.203(e)(3)
Interest on right of entry payments.	710.304(j)(5)
Use of fee attorneys	712.408(a)
Land service facilities	712.805(c)(1)
Temporary use of right-of-way.	713.103(h)(1)
Appraisal fees	720.202(d)(2)

The second category includes four FHWA approvals that are eliminated on all FHWA-funded projects except those on the National Highway System (NHS). These concern the long-term use or disposal of rights-of-way and are no longer considered necessary or useful on a case-by-case basis for non-NHS projects. The FHWA will continue case-by-case approvals or authorizations relating to the use or disposal of NHS rights-of-way, consistent with the provisions of 23 U.S.C. 106(b)(2) which require that a higher level of FHWA oversight be maintained on the NHS.

Accordingly, the authorization actions required by the following sections may be taken by the State if they are in accordance with procedures that have been approved by the FHWA, except with regard to facilities or projects that are on the National Highway System (NHS), described in 23 U.S.C. 103. The FHWA approvals or authorizations that are prescribed by the following sections continue to be required with regard to facilities or projects on the NHS because of FHWA's special interest in the integrity and safety of NHS facilities and right-of-way.

Approval action	23 CFR section
Non-highway use and occupancy of right-of-way.	712.203(b)(1)
Airspace agreements	713.204
Disposal of right-of-way no longer needed.	713.305
Disposal of access-control and relinquishment of right-of-way.	620.203(d) through (l)

On July 21, 1993, the FHWA published in the *Federal Register* a notice of proposed rulemaking (NPRM) concerning the above provisions of FHWA's right-of-way regulations (58 FR 38987). The FHWA received three comments on the NPRM, all from State Departments of Transportation. All three commenters supported in varying degrees the proposed changes. Two

commenters indicated that the proposed changes would increase their flexibility or simplify their right-of-way programs. The third anticipated a slight decrease in paperwork and a subsequent saving of time.

We received no negative comments. Furthermore, none of the three commenters suggested any changes in the language of the NPRM. Accordingly, the language of the final rule is unchanged from that proposed in the NPRM.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. The rulemaking would not affect the level of funding available in Federal or federally-assisted programs covered by the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4610 *et seq.*), or otherwise have a significant economic impact; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities since it will make relatively small changes in existing regulatory provisions by eliminating certain FHWA prior approvals.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action, in effect, both clarifies and simplifies current regulatory requirements.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Number 20.205 Highway Planning and Construction. The regulations implementing Executive

Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 710

Civil rights, Grant programs-transportation, Highway and roads, Real property acquisition, Rights-of-way.

23 CFR Part 712

Grant programs-transportation Highway and roads, Real property acquisition, Rights-of-way.

23 CFR Part 713

Grant programs-transportation, Highways and roads, Property management, Real property acquisition, Rights-of-way.

23 CFR Part 720

Appraisal, Grant programs-transportation, Highways and roads, Real property acquisition, Rights-of-way.

Issued on May 9, 1994.

Rodney E. Slater,

Federal Highway Administrator.

In accordance with the foregoing, parts 710, 712, 713, and 720 of title 23, Code of Federal Regulations, are amended as set forth below.

PART 710—[AMENDED]

1. The authority citation for part 710 is revised to read as follows:

Authority: 23 U.S.C. 101(a) and 315; 42 U.S.C. 2000d *et seq.*, 4633, 4651-4655; 49

CFR 1.48 (b) and (cc) and parts 21 and 24; 23 CFR 1.32.

§ 710.203 [Amended]

2. In § 710.203, paragraph (e)(3) is revised to read as follows:

§ 710.203 General responsibilities.

* * * * *

(e) * * *

(3) Firms and individuals meeting the SHD's qualification standards may be employed by contract for negotiating purposes in accordance with SHD procedures that have been approved by the FHWA.

* * * * *

3. Section 710.204 is added to read as follows:

§ 710.204 State approvals.

Notwithstanding any other provision of this title, the FHWA authorizations or approvals prescribed by §§ 712.203(b)(1), 713.204, 713.305, and 620.203 (d) through (i) of this chapter may, except in the case of facilities or projects on the National Highway System (described in 23 U.S.C. 103), be made by the SHD in accordance with procedures that have been approved by the FHWA.

4. In § 710.304, the first sentence of paragraph (j)(5) is revised to read as follows:

§ 710.304 Reimbursement policy.

* * * * *

(j) * * *

(5) Federal participation shall not be allowed in interest cost on payments to an owner where the SHD accepts a voluntary right of entry instead of making such payment available to the owner directly or by deposit with the court, except in cases of unusual circumstances in accordance with SHD procedures that have been approved by the FHWA. * * *

PART 712—[AMENDED]

5. The authority citation for part 712 is revised to read as follows:

Authority: 23 U.S.C. 101(a), 107, 108, 111, 114, 204, 210, 308, 315, 317, and 323; 42 U.S.C. 2000d-1, 4633, 4651-4655; 49 CFR 1.48-(b) and (cc) and part 24; 23 CFR 1.32.

6. In § 712.408, paragraph (a) is revised to read as follows:

§ 712.408 Special counsel.

(a) If part-time assistants or legal counsel are employed for Federal-aid right-of-way procurements, reimbursement may be claimed for the eligible cost of the services of such attorney, provided that such assistants or counsel are employed in accordance

with SHD procedures that have been approved by the FHWA.

* * * * *

7. In § 712.805, paragraph (c)(1) is revised to read as follows:

§ 712.805 Policies.

* * * * *

(c) *Private use and benefit.* (1) Land service facilities designed for restoration of access to and within a privately owned property shall be justified primarily on the basis of economics. In exceptional cases where the land service facility is not justified economically, but it is believed that access is nevertheless in the public interest, such access may be approved by the SHD, in accordance with SHD procedures that have been approved by the FHWA.

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PART 713—[AMENDED]

8. The authority citation for part 713 is revised to read as follows:

Authority: 23 U.S.C. 101(a), 142(f), 156, and 315; 42 U.S.C. 4633 and 4651-4656; 23 CFR 1.32; 49 CFR 1.48(b) and (cc), 18.31 and parts 21 and 24.

9. In § 713.103, paragraph (h)(1) is revised to read as follows:

§ 713.103 Policies and procedures.

* * * * *

(h) * * *

(1) The SHD has approved temporary right-of-way limits within the overall right-of-way in accordance with SHD procedures approved by the FHWA;

* * * * *

PART 720—[AMENDED]

10. The authority citation for part 720 is revised to read as follows:

Authority: 23 U.S.C. 101(a) and 315; 42 U.S.C. 4633 and 4651-4655; 23 CFR 1.32; 49 CFR 1.48(b) and (cc) and part 24.

11. In § 720.22, paragraph (d)(2) is revised to read as follows:

§ 720.202 Appraisal fees, contracts, and agreements.

* * * * *

(d) * * *

(2) In instances in which special use or other unusual properties are involved, the SHD may approve the use of a per diem rate contracting method with a stated overall limit which should not be exceeded except by supplemental agreement, provided that such SHD approval is made in accordance with SHD procedures that have been approved by the FHWA.

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