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This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Aircraft Engines, Technical Publications, 1000 Western Avenue, Lynn, MA 01910; telephone (781) 594-5102, fax (781) 594-2717. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(i) This amendment becomes effective on November 28, 1997.

Issued in Burlington, Massachusetts, on September 11, 1997.

**Mark C. Fulmer,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### 15 CFR Part 774

[Docket No. 960918265-7203-04]

RIN 0694-AB09

#### **Satellite Fuel, Ground Support Equipment, Test Equipment, Payload Adapter/Interface Hardware, and Replacement Parts for the Preceding Items, When Included With a Specific Commercial Communications Satellite Launch**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Commerce Control List of the Export Administration Regulations by revising the List of Items Controlled, of Export Control Classification Number (ECCN) 9A004, to provide that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware and replacement parts for the preceding items are subject to Commerce jurisdiction when they are included with a specific commercial communications satellite. This rule amends the interim final rule of October 21, 1996 that transferred jurisdiction of

all commercial communications satellites from the Department of State to the Department of Commerce.

**EFFECTIVE DATE:** September 29, 1997.

**FOR FURTHER INFORMATION CONTACT:** Gene Christiansen, Office of Strategic Trade, Telephone: (202) 482-2984.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 21, 1996, the Department of Commerce published an interim final rule in the **Federal Register** (61 FR 54540) that amended the Export Administration Regulations (EAR) by revising Export Control Classification Number (ECCN) 9A004 to control all commercial communications satellites. The interim final rule also imposed enhanced national security and foreign policy controls ("SI" controls for significant items) on all commercial communications satellites controlled under ECCN 9A004.a.

This final rule amends the Commerce Control List of the Export Administration Regulations by revising the List of Items Controlled, of Export Control Classification Number (ECCN) 9A004, to provide that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware and replacement parts for the preceding items are subject to Commerce jurisdiction when they are included with a specific commercial communications satellite.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, notice of August 15, 1995 (60 FR 42767), and August 14, 1996 (61 FR 42527); and August 13, 1997 (62 FR 43629).

##### **Rulemaking Requirements**

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject

to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0088.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

#### **List of Subjects in 15 CFR Part 774**

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 774 of the Export Administration Regulations (15 CFR Parts 730-799) is amended as follows:

#### **PART 774—[AMENDED]**

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

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 CFR 1995 Comp. 501 (1996); Notice of August 14, 1996 (61 FR 42527, August 15, 1996); Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

**Supplement No. 1 to Part 774 [Amended]**

2. In Supplement No. 1 to part 774, the Commerce Control List, Category 9 (Propulsion Systems, Space Vehicles, and Related Equipment), Export Control Classification Number (ECCN) 9A004 is amended by revising the List of Items Controlled to read as follows:

**9A004 "Spacecraft", (not including their payloads) and specially designed components therefor that are not subject to the authority of the Department of State. (See notes.)**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* Equipment in number; systems, components, parts and accessories in \$ value.

*Related Controls:* (1) The corresponding EU list number controls space launch vehicles (not including their payloads) and other "spacecraft" (not identified in this CCL entry). These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category XV). For the control status of products contained in "spacecraft" payloads, see the appropriate categories of the U.S. Munitions List (USML). (2) For the control status of items contained in "spacecraft" payloads subject to the EAR, see the appropriate entries on the CCL.

*Related Definition:* Transferring registration or operational control to any foreign person of any commercial communications satellite controlled by this entry must be authorized on a license issued by the Bureau of Export Administration. This requirement applies whether the commercial communications satellite is physically located in the United States or abroad.

**Items**

a. Commercial communications Satellites;

**Technical Note:** Commercial communications satellites are subject to Commerce licensing jurisdiction even if they include the individual munitions list systems, components, or parts identified in Category XV(f) of the United States Munitions List (USML). In all other cases, these Category XV(f) systems, components, or parts remain on the USML, except that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware, replacement parts for the preceding items, and non-embedded, solid propellant orbit transfer engines ("kick motors") are subject to Commerce licensing jurisdiction (and not controlled on the USML) when they are to be utilized for the specific commercial communications satellite launch, provided the solid propellant "kick motor" being utilized is not

specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled under Category IV of the USML). Technical data (as defined in § 120.10 of the International Traffic in Arms Regulations (ITAR)) and defense services (as defined in § 120.9 of the ITAR) related to the systems, components, or parts referred to in Category XV(f) of the USML are always controlled under the USML, even when the satellite itself is licensed by the Department of Commerce.

**Notes:** 1. Military communication satellites or multi-mission satellites, including commercial communications satellites having additional non-communication mission(s) or payload(s) are under the jurisdiction of the Department of State.

2. As indicated in the Technical Note, under some circumstances a license application under 9A004 includes other items, which are necessary for the commercial communications satellite launch, but are normally subject to State Department jurisdiction. Certain of these items (e.g., kickmotors, satellite fuel, etc.) are controlled by the Missile Technology Control Regime (MTCR) Equipment and Technology Annex.

b. [Reserved]

c. Other "spacecraft" not subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121, Category XV.

**Notes:** 1. ECCN 9A004.c includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Exporters requesting a license from the Department of Commerce for spacecraft other than the international space station or a commercial communications satellite specified in 9A004 must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce.

2. All other spacecraft, including all other satellites not controlled under 9A004 and components, parts, accessories, attachments, associated equipment, and ground support equipment therefor are subject to the export licensing authority of the Department of State.

3. Items on Category XV(f) of the USML and certain other USML items designated in the technical note, above, that are included in a commercial communications satellite to be exported under a Commerce license must be specifically listed on the Commerce license application. Such USML items when not included in a specific commercial communications satellite are under the jurisdiction of the Department of State.

4. Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating of the satellite to the launch vehicle and parameters for launch

(e.g., orbit, timing) of the satellite, are under Commerce jurisdiction. Other technical data and all defense services and technical assistance for satellite and/or launch vehicles, including compatibility, integration, or processing data are controlled and subject to licensing by the Department of State, in accordance with 22 CFR parts 120 through 130. Approval for such technical assistance will require a Technical Assistance Agreement (TAA) and may require U.S. Government oversight.

5. Once a satellite is launched, items remaining unlaunched are required to be returned immediately to the United States. If the satellite launch is canceled or unduly delayed, the satellite and all support equipment must be returned immediately to the United States.

6. Detailed design, development, production, or manufacturing data for all spacecraft, including satellites, regardless of which agency has jurisdiction over the export, and all systems components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for articles under Category XV on the United States Munitions List (including software source code and operating algorithms) are subject to licensing by the Department of State. This does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations) as well as data necessary for normal in-orbit satellite operations, to evaluate in-orbit anomalies, and to operate and maintain associated ground station equipment (except encryption hardware).

Dated: September 17, 1997.

**William V. Skidmore,**

*Acting Assistant Secretary for Export Administration.*

[FR Doc. 97-25765 Filed 9-26-97; 8:45 am]

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**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****25 CFR Part 247****Use of Columbia River Treaty Fishing Access Sites**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is promulgating regulations for application to the Columbia River Fishing Access Sites. The current regulations in part 248 do not apply to these new fishing sites which are being