

deferred or suspended. See § 764.3(a)(1)(iii) of the EAR. In determining whether suspension or deferral is appropriate, BIS may consider, for example, whether the party has demonstrated a limited ability to pay a penalty that would be appropriate for such violations, so that suspended or deferred payment can be expected to have sufficient deterrent value, and whether, in light of all the circumstances, such suspension or deferral is necessary to make the impact of the penalty consistent with the impact of BIS penalties on other parties who committed similar violations.

(2) *Denial of Export Privileges and Exclusion from Practice.* In deciding whether a denial or exclusion order should be suspended, BIS may consider, for example, the adverse economic consequences of the order on the party, its employees, and other persons, as well as on the national interest in maintaining or promoting the competitiveness of U.S. businesses. An otherwise appropriate denial or exclusion order will be suspended on the basis of adverse economic consequences only if it is found that future violations of the antiboycott provisions are unlikely and if there are adequate measures (usually a substantial civil monetary penalty) to achieve the necessary deterrent effect.

Dated: July 9, 2007.

Christopher A. Padilla,

Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 070426097-7099-01]

RIN 0694-AE02

Export Licensing Jurisdiction for Microelectronic Circuits

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule provides clarifying guidance for distinguishing the export and reexport licensing jurisdiction of the U.S. Department of State from that of the U.S. Department of Commerce concerning microelectronic circuits. In this same issue of the **Federal Register**, the U.S. Department of State is amending the International Traffic in Arms Regulations (ITAR) with respect to radiation-hardened microelectronic circuits in Category XV(d) of the United States Munitions List (USML). The Bureau of Industry and Security (BIS) is publishing this rule to assist readers of the Export Administration Regulations (EAR) in evaluating agency licensing

jurisdiction over microelectronic circuits while taking into account the new standard in Category XV(d) of the USML.

DATES: *Effective Date:* This rule is effective July 17, 2007.

ADDRESSES: Although this is a final rule, comments are welcome and should be sent to publiccomments@bis.doc.gov, fax (202) 482-3355, or to Regulatory Policy Division, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, Washington, DC 20230. Please refer to regulatory identification number (RIN) 0694-AE02 in all comments, and in the subject line of e-mail comments. Comments on the collection of information should also be sent to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Brian Baker, Deemed Exports and Electronics Division, Office of National Security and Technology Transfer Controls, by telephone at 202-482-5534 or by e-mail at bbaker@bis.doc.gov.

SUPPLEMENTARY INFORMATION: Entries for certain Export Control Classification Numbers (ECCNs) contain "Related Controls" paragraphs that alert readers to the possible application of export controls administered by other U.S. government agencies or that of export controls set forth in other similar ECCNs. The "Related Controls" paragraph of ECCN 3A001 currently provides guidance on the licensing jurisdiction of the Directorate of Defense Trade Controls of the U.S. Department of State with respect to certain "space qualified" and certain radiation-hardened commodities.

Concurrent with this final rule, the U.S. Department of State is publishing a final rule amending the ITAR with respect to State's jurisdiction over radiation-hardened microelectronic circuits in Category XV(d) of the USML (22 CFR part 121). Within Category XV(d) of the USML, the U.S. Department of State is changing the measurement for the single event upset rate parameter. As a result, radiation-hardened microelectronic circuits that meet or exceed the four unchanged parameters in Category XV(d) and whose single event upset rate parameter lies between the old and new standard will be moved to the Commerce Control List (CCL) under ECCN 3A001.a.1.

To reflect the new licensing jurisdiction standard in the USML, this rule adds language to the "Related Controls" paragraph of ECCN 3A001 to assist readers in correctly determining whether certain microelectronic circuits

are covered by the CCL and subject to the licensing jurisdiction of the Bureau of Industry and Security of the U.S. Department of Commerce, or are on the USML and subject to the licensing jurisdiction of the Directorate of Defense Trade Controls of the U.S. Department of State.

Specifically, the language added to ECCN 3A001 states that the following are subject to the licensing jurisdiction of the Department of State, Directorate of Defense Trade Controls: Radiation-hardened microelectronic circuits controlled by Category XV(d) of the United States Munitions List (USML) and all specifically designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment controlled by Category XV(e) of the USML.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 3, 2006, 71 FR 44551 (August 7, 2006), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not 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 of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves a collection of information subject to the requirements of the PRA. This collection has previously been approved by OMB under control number 0694-0088 (Multi-Purpose Application), which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. BIS expects that this rule will not change that burden hour estimate.

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

4. BIS finds that there is good cause under 5 U.S.C. 553 (b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment

because it is unnecessary. The revisions made by this rule are clarifying in nature and do not affect the rights and obligations of the public because they merely provide a cross reference to related regulations of another administrative agency. Because these revisions are not substantive changes to the EAR, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form.

List of Subjects in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730–774) 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); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006).

■ 2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, ECCN 3A001 is amended by adding a note (3) to the “Related Controls” paragraph in the “List of Items Controlled” section before the phrase “*See also* 3A101, 3A201, and 3A991” to read as follows:

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

* * * * *

Category 3—Electronics

* * * * *

3A001 Electronic components, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * * (3) The following commodities are under the export licensing authority of the Department of State, Directorate of Defense Trade Controls (22 CFR part 121): (a) Radiation-hardened microelectronic circuits controlled by Category XV (d) of the United States Munitions List (USML); and (b) All specifically designed or modified systems or subsystems, components, parts, accessories, attachments, and associated equipment controlled by Category XV (e) of the USML.

* * *

Dated: July 5, 2007.

Christopher A. Padilla,

Assistant Secretary for Export Administration.

[FR Doc. E7–13364 Filed 7–16–07; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 5867]

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

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State, in consultation with the Departments of Defense and Commerce, is amending the text of the United States Munitions List (USML), Category XV—Spacecraft Systems and Associated Equipment to clarify the coverage and to alter one of the five performance characteristics that define radiation-hardened microelectronic circuits that are subject to the licensing jurisdiction of the International Traffic in Arms Regulations (ITAR).

DATES: *Effective Date:* This rule is effective July 17, 2007.

ADDRESSES: Interested parties are invited to submit comments at any time by the following methods:

- *Mail:* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, USML Part 121, Category XV, 12th Floor, SA–1, Washington DC 20522–0112.

- *E-mail:* DTCPResponseTeam@state.gov with the subject line: USML Review—Category XV.

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

Comments will be accepted at any time.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Tomchik, Office of Defense

Trade Controls Policy, Department of State, Telephone (202) 663–2799 or Fax (202) 261–8199. ATTN: Regulatory Change, USML Part 121, Category XV.

SUPPLEMENTARY INFORMATION: The specific results of the Department of State-led interagency review are as follows:

1. Category XV. One substantive change is made to the characteristics defining radiation hardened microelectronic circuits in paragraph (d). The exponential measure describing the single event upset rate described in (d)(4) is changed from 1×10^{-7} to 1×10^{-10} . This change reflects the minimal performance standard for space applications, and addresses the outcome of evolving refinements in the manufacturing process for these circuits.

2. Several additional textual clarifications are made to the five characteristics. The word “threshold” is inserted in (d)(2) and (d)(4) for purposes of technical clarity. In (d)(3) the insertion of the expression “1 MeV Equivalent” describes the energetic activity of neutrons. Finally, in (d)(4) an expression is added to clarify the representative environment for performance in space.

3. It is stressed that any microelectronic circuit that is specifically designed, developed, configured, adapted, or modified for a military or space application, to include its incorporation into any defense article described on the United States Munitions List (USML) remains subject to the licensing requirements of the International Traffic in Arms Regulations (ITAR).

4. Manufacturers and exporters are responsible for compliance with the controls of this subchapter. Consequently, the Department of State advises that companies must be able to demonstrate, either through testing, statistical analyses, design analyses, or other means, whether semiconductors meet or fail to meet the parameters established in USML Category XV(d). Records of such testing, analyses, or other means must be retained and made available as appropriate to demonstrate compliance.

Regulatory Analysis and Notices

Administrative Procedure Act

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

Regulatory Flexibility Act

This rule does not require analysis under the Regulatory Flexibility Act.