

through X inclusive, dated January 19, 2006, specifies a compliance time relative to the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(h) If any crack is found during any inspection required by this AD, and Boeing Alert Service Bulletin 737-53A1261, including Appendices A through X inclusive, dated January 19, 2006, specifies to contact Boeing for appropriate action: Before further flight, repair the crack in accordance with the procedures specified in paragraph (k) of this AD.

(i) For airplanes on which a repair has been previously accomplished: If, during accomplishment of the corrective actions required by paragraph (f) of this AD, it is found that the repair was not done per the Boeing 737-100/200 Structural Repair Manual (SRM) 53-10-4, Figure 1, or the Boeing 737-300/400/500 SRM 53-00-07, Figure 201, Repair 1, as applicable; before further flight, repair in accordance with the procedures specified in paragraph (k) of this AD.

Optional Terminating Action

(j) Accomplishing the actions specified in paragraph (j)(1), (j)(2), or (j)(3) of this AD, as applicable, terminates the repetitive inspections required by paragraph (f) of this AD for the repaired or modified frames only.

(1) Accomplishment of the repair specified in Part 3, or the preventive modification specified in Part 4, of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1261, including Appendices A through X inclusive, dated January 19, 2006.

(2) Accomplishment of the repair or the preventive modification specified in Boeing Message M-7200-02-01294, dated August 20, 2002.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 737-53A1261, dated January 19, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

(3) You may review copies of the service information incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on June 12, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-14471 Filed 7-7-08; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 745 and 774

[Docket No. 080528717-8722-01]

RIN 0694-AE36

Implementation of the Understandings Reached at the April 2008 Australia Group (AG) Plenary Meeting; Additions to the List of States Parties to the Chemical Weapons Convention (CWC)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is publishing this final rule to amend the Export Administration Regulations (EAR) to implement the understandings reached at the April 2008 plenary meeting of the Australia Group (AG). This final rule amends the EAR to reflect changes to the AG "Control List of Biological Agents" that the countries participating in the AG adopted at the plenary meeting. Specifically, this rule revises the Commerce Control List (CCL) entry that controls animal pathogens on the AG "Control List of Biological Agents" by revising the listing for avian influenza viruses to replace the description of highly pathogenic avian influenza (HPAI) with new HPAI language that is based on the definition currently used by the World Organization for Animal Health (OIE).

This rule also amends the provisions in the EAR that describe the advance

notification and annual report requirements for exports of Chemical Weapons Convention (CWC) Schedule 1 chemicals and the End-Use Certificate requirement for certain exports of CWC Schedule 3 chemicals by updating the fax number and address for submitting these documents to BIS.

Finally, this rule amends the list of countries that currently are States Parties to the CWC by adding "Congo (Republic of the)" and "Guinea-Bissau," which recently became States Parties. As a result of this change, the CW (Chemical Weapons) license requirements and policies in the EAR that apply to these two countries now conform with those applicable to other CWC States Parties.

DATES: This rule is effective July 8, 2008. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694-AE36, by any of the following methods:

- **E-mail:** publiccomments@bis.doc.gov. Include "RIN 0694-AE36" in the subject line of the message.
- **Fax:** (202) 482-3355. Please alert the Regulatory Policy Division, by calling (202) 482-2440, if you are faxing comments.
- **Mail or Hand Delivery/Courier:** Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: RIN 0694-AE36.

Send comments regarding this collection of information, including suggestions for reducing the burden, 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; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e., RIN 0694-AE36)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Elizabeth Scott, Director, Chemical and Biological Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482-3343.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to implement the understandings reached at the annual plenary meeting of the Australia Group (AG) that was held in Paris on April 14–18, 2008. The Australia Group is a multilateral forum, consisting of 40 participating countries, that maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. The AG periodically reviews items on its control list to enhance the effectiveness of participating governments' national controls and to achieve greater harmonization among these controls.

The understandings reached at the April 2008 annual plenary meeting included a decision to update the AG "Control List of Biological Agents" by revising the listing for avian influenza viruses to replace the description of highly pathogenic avian influenza (HPAI), which was based on a European Community (EC) directive (Directive 92/40/EC) that was repealed, effective July 1, 2007. This decision allows AG participating countries to adopt HPAI language that is based on the definition currently used by the World Organization for Animal Health (OIE). The latter is the standard definition used by international reference laboratories for the identification and characterization of HPAI. The OIE criteria for classifying an avian influenza (AI) virus as a highly pathogenic avian influenza (HPAI) virus are described in the "Manual of Diagnostic Tests and Vaccines for Terrestrial Animals" (5th edition, 2004; see Chapter 2.7.12: Avian Influenza; last modified May 2005).

This final rule amends the EAR to implement the AG decision concerning the characterization of HPAI viruses by revising the listing for avian influenza viruses in Export Control Classification Number (ECCN) 1C352.a.2 on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR) to conform with the OIE definition of HPAI. As a result of the changes made by this rule, an avian influenza (AI) virus will be considered to be highly pathogenic if the virus: (1) Has an intravenous pathogenicity index (IVPI) in 6-week-old chickens greater than 1.2; or (2) causes at least 75 percent mortality in 4- to 8-week-old chickens infected intravenously.

In addition, this rule adds a new Note to ECCN 1C352.a.2 that identifies certain AI viruses of the H5 or H7

subtype that are controlled under this ECCN even though they do not possess either of the two HPAI characteristics described above. This new Note requires that AI viruses of the H5 or H7 subtype that do not have either of these characteristics be sequenced to determine whether multiple basic amino acids are present at the cleavage site of the haemagglutinin molecule (HA0). If the test indicates that the amino acid motif is similar to that observed for other HPAI isolates, then the isolate being tested should be considered as HPAI and the virus is controlled under ECCN 1C352.a.2.

This rule also amends Section 745.1(a)(2) and (b)(3) of the EAR, which describe the advance notification and annual report requirements that apply to exports of Chemical Weapons Convention (CWC) Schedule 1 chemicals, by updating the fax number and address for submitting these documents to BIS. In addition, this rule amends Section 745.2(a)(2) of the EAR, which describes the End-Use Certificate requirement that applies to certain exports of CWC Schedule 3 chemicals (i.e., exports to States not Party to the CWC), by updating the fax number and address for submitting this document to BIS.

Finally, this rule amends Supplement No. 2 to Part 745 of the EAR (titled "States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction") by adding "Congo (Republic of the)" and "Guinea-Bissau," which became States Parties to the CWC on January 3, 2008, and June 19, 2008, respectively. As a result of this change, the CW (Chemical Weapons) license requirements and policies that apply to these two countries now conform with those applicable to other CWC States Parties, as described in Section 742.18 of the EAR.

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 15, 2007, 72 FR 46137 (August 16, 2007), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Saving Clause

Shipments of items removed from eligibility for export or reexport under a license exception or without a license (i.e., under the designator "NLR") as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route

aboard a carrier to a port of export, on August 7, 2008, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previously applicable license exception or without a license (NLR) so long as they are exported or reexported before August 22, 2008. Any such items not actually exported or reexported before midnight, on August 22, 2008, require a license in accordance with this regulation.

"Deemed" exports of "technology" and "source code" removed from eligibility for export under a license exception or without a license (under the designator "NLR") as a result of this regulatory action may continue to be made under the previously available license exception or without a license (NLR) before August 22, 2008. Beginning at midnight on August 22, 2008, such "technology" and "source code" may no longer be released, without a license, to a foreign national subject to the "deemed" export controls in the EAR when a license would be required to the home country of the foreign national in accordance with this regulation.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 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 contains a collection of information subject to the requirements of the PRA. This collection has 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, as indicated in the "ADDRESSES" section of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C.

553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date are inapplicable for those changes to Export Control Classification Number (ECCN) 1C352.a.2 on the Commerce Control List (Supplement No. 1 to part 774) and to Supplement No. 2 to part 745, because those revisions involve a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date are inapplicable for those changes to sections 745.1(a)(2) and (b)(3) and 745.2(a)(2), because those revisions relate to rules of agency organization, procedure, or practice. 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. 553 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. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 745

Administrative practice and procedure, Chemicals, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, parts 745 and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

PART 745—[AMENDED]

■ 1. The authority citation for 15 CFR part 745 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of November 8, 2007, 72 FR 63963 (November 13, 2007).

■ 2. Section 745.1 is amended by revising paragraphs (a)(2) and (b)(3) to read as follows:

§ 745.1 Advance notification and annual report of all exports of Schedule 1 chemicals to other States Parties.

* * * * *

(a) * * *

(2) Send the notification either by fax to (202) 482–1731 or by mail or courier delivery to the following address: Information Technology Team, Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Attn: “Advance Notification of Schedule 1 Chemical Export”.

* * * * *

(b) * * *

(3) Send the report either by fax to (202) 482–1731 or by mail or courier delivery to the following address: Information Technology Team, Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Attn: “Annual Report of Schedule 1 Chemical Export”.

■ 3. Section 745.2(a)(2) is revised to read as follows:

§ 745.2 End-Use Certificate reporting requirements under the Chemical Weapons Convention.

* * * * *

(a) * * *

(2) Submit a copy of the End-Use Certificate, no later than 7 days after the date of export, either by fax to (202) 482–1731 or by mail or courier delivery to the following address: Information Technology Team, Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Attn: “CWC End-Use Certificate Report”.

* * * * *

Supplement No. 2 to Part 745—[Amended]

■ 4. Supplement No. 2 to Part 745 is amended:

- a. By revising the undesignated center heading “List of States Parties as of August 1, 2007” to read “List of States Parties as of July 1, 2008”; and
- b. By adding, in alphabetical order, the countries “Congo (Republic of the)” and “Guinea-Bissau”.

PART 774—[AMENDED]

■ 5. 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; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p.

228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 15, 2007, 72 FR 46137 (August 16, 2007).

Supplement No. 1 to Part 774—[Amended]

■ 6. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms” & “Toxins,” ECCN 1C352 is amended by revising paragraph (a)(2) under “Items” in the List of Items Controlled to read as follows:

1C352 Animal pathogens, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

a. * * *

a.2. Avian influenza (AI) viruses identified as having high pathogenicity (HP), as follows:

a.2.a. AI viruses that have an intravenous pathogenicity index (IVPI) in 6-week-old chickens greater than 1.2; or

a.2.b. AI viruses that cause at least 75% mortality in 4- to 8-week-old chickens infected intravenously.

Note: Avian influenza (AI) viruses of the H5 or H7 subtype that do not have either of the characteristics described in 1C352.a.2 (specifically, 1C352.a.2.a or a.2.b) should be sequenced to determine whether multiple basic amino acids are present at the cleavage site of the haemagglutinin molecule (HA0). If the amino acid motif is similar to that observed for other HPAI isolates, then the isolate being tested should be considered as HPAI and the virus is controlled under 1C352.a.2.

* * * * *

Dated: July 1, 2008.

Eileen M. Albanese,

Acting Assistant Secretary for Export Administration.

[FR Doc. E8–15386 Filed 7–7–08; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9411]

RIN 1545–BE78

Elections Regarding Start-up Expenditures, Corporation Organizational Expenditures, and Partnership Organizational Expenses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.