

All items removed from national security (NS) controls as a result of changes to the Wassenaar List of Dual-Use Goods and Technologies will continue to be controlled for antiterrorism (AT) reasons.

- This rule amends part 772 of the EAR by adding a technical note to the definition of “microcomputer microcircuit” that was inadvertently not inserted in previous regulatory updates. The new technical note reads, “Technical Note 2: The internal storage may be augmented by an external storage.”

- This rule clarifies the scope of Wassenaar reporting requirements that apply to License Exception GOV, and makes the following amendments to the Wassenaar Reporting Requirements in section 743.1 of the EAR to conform with changes made to the Wassenaar Arrangement’s Annex 1 of the List of Dual-Use Goods and Technologies.

—This rule removes Wassenaar reporting requirements from part 743 for the following: 2B003; 6A001.a.1.b.1, a.2.c and .a.2.e (because these commodities are not eligible for License Exceptions LVS, GBS, or CIV); and 9D001, 9D002, 9D004.a and .c, 9E001, 9E002, 9E003.a.1., .a.2., .a.3., .a.4., .a.5., .a.8, and .a.9 (because these software and technology entries are not eligible for License Exceptions TSR or CIV).

—The Note to paragraph (c)(1)(ii) has also been modified to address the scope of reports required for 2D001 and 2E001.

—Paragraph (c)(2) has been modified to more closely harmonize with Annex 1 text for 4E001 and 4D001.

—This rule adds Wassenaar reporting requirements from part 743 for 5A001.b.5

- This rule makes the following amendments to the list of items ineligible for export or reexport under License Exception GOV, to conform with revisions to the Wassenaar Arrangement’s Annex 2 of the List of Dual-Use Goods and Technologies:

- For exports and reexports of commodities and software to the International Atomic Energy Agency (IAEA) and the European Atomic Energy Community (EURATOM), reexports by IAEA and EURATOM for official international safeguard use:

(1) The following items are added to the list of ineligible commodities:

(a) 6A001.a.1.b.1: object detection and location systems having a transmitting frequency below 5 kHz or a sound pressure level exceeding 224 dB (reference 1  $\mu$ Pa at 1 m) for equipment with an operating frequency in the band from 5 kHz to 10 kHz inclusive; and

(b) 6A001.a.2.a.4: Hydrophones when designed to operate at depths exceeding 35 m with acceleration compensation.

(2) In Supplement No. 1 to section 740.11, paragraph (a)(3), the following items are removed from the list of ineligible items:

(a) 6A003, 7D001, 7E001, 7E002, and 7E101 are removed because these items do not appear on Annex 2;

(b) The scope of 6A002 has been narrowed to 6A002.a.1.c, because this is the only paragraph in 6A002 that is on Annex 2;

(c) The scope of 6E001 and 6E002 have been narrowed to only exclude from eligibility technology according to the General Technology Note for the “development” and “production” of equipment in 6A002.a.1.c, because only this technology is both controlled for RS and listed on Annex 2. However, other technology under 6E001 and 6E002 are made ineligible for this license exception under other paragraphs in this supplement.

- For exports or reexports of items for official use within national territory by agencies of cooperating governments, and exports and reexports of items for diplomatic and consular missions of a cooperating government located in any country in Country Group B:

(1) The following items are added to the list of ineligible commodities:

(a) 6A001.a.1.b.1: object detection and location systems having a transmitting frequency below 5 kHz or a sound pressure level exceeding 224 dB (reference 1  $\mu$ Pa at 1 m) for equipment with an operating frequency in the band from 5 kHz to 10 kHz inclusive; and

(b) 6A001.a.2.a.4: Hydrophones when designed to operate at depths exceeding 35 m with acceleration compensation.

(2) In Supplement No. 1 to section 740.11, paragraph (b)(3), the following items are removed from the list of ineligible items:

(a) 6A003, 7D001, 7E001, 7E002, and 7E101 are removed because these items do not appear on Annex 2;

(b) The scope of 6A002 has been narrowed to 6A002.a.1.c, because this is the only paragraph in 6A002 that is on Annex 2; and

(c) The scope of 6E001 and 6E002 have been narrowed to only exclude from eligibility technology according to the General Technology Note for the “development” and “production” of equipment in 6A002.a.1.c, because only this technology is both controlled for RS and listed on Annex 2. However, other technology under 6E001 and 6E002 are made ineligible for this license exception under other paragraphs in this supplement.

This rule also adds a new Supplement No. 3, Statements of Understanding, to part 774 (the existing Supplement No. 3 is removed). This supplement will be used to place understandings affecting export controls that have been agreed upon in multilateral regimes or among agencies within the United States.

The first understanding to be placed in this supplement is a Wassenaar Arrangement statement of understanding concerning medical equipment. It states that commodities that are “specially designed for medical end-use” that “incorporate” commodities or software on the Commerce Control List in Supplement No. 1 to part 774 of the EAR that do not have a reason for control of Nuclear Nonproliferation (NP), Missile Technology (MT), or Chemical & Biological Weapons (CB), are classified as EAR99. This understanding has been a longstanding agreement in the Wassenaar Arrangement, and does not represent a policy or interpretation change under the EAR. BIS has implemented this understanding into decisions on classification requests and license applications, consistent with interpretation 2 in paragraph (b) of section 770.2, *i.e.*, the classification of the assembled machine also covers its component parts.

The statement of understanding has been modified from the original text as it appears in the Wassenaar Dual Use List of 2002, in order to harmonize the language with existing language in the EAR. BIS is providing guidance in notes to the medical statement of understanding to assist the public in determining what is considered “specially designed for medical end-use” and what “incorporate” means. The guidance provided for these terms only applies to the newly added Statement of Understanding for medical equipment.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001), as extended by the Notice of August 7, 2003, (68 FR 47833, 2003 WL 21877490), continues the Regulations in effect under the International Emergency Economic Powers Act

#### **Saving Clause**

Shipments of items removed from eligibility for export or reexport without a license, under a particular License Exception authorization or the designator NLR, as a result of this regulatory action, may continue to be exported or reexported under that License Exception authorization or designator until January 9, 2004. In