

(1) If the tailcone and slide deployments are successful according to the applicable McDonnell Douglas DC-9 airplane maintenance manual, no further action is required by this AD.

(2) If any tailcone and slide deployment is unsuccessful according to the applicable McDonnell Douglas DC-9 airplane maintenance manual, before further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, FAA.

#### Exception to Compliance Time for Repeat Deployment

(h) For any airplane on which the repeat tail cone drop deployment cannot be performed within 24 months after the effective date of this AD as required by paragraph (g) of this AD: Repeat the deployment as approved by the Manager, Los Angeles ACO, FAA, in accordance with the procedures specified in paragraph (i) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles ACO, FAA, ATTN: Ken Sujishi, Aerospace Engineer, Cabin Safety Branch, ANM-150L, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5353; fax (562) 627-5210; has the authority to approve AMOCs for this AD, if requested using 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.

#### Material Incorporated by Reference

(j) None.

Issued in Renton, Washington, on November 16, 2008.

**Stephen P. Boyd,**

*Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 770 and 774

[Docket No. 080305374-81467-01]

RIN 0694-AE31

#### Clarification of Export Control Jurisdiction for Civil Aircraft Equipment Under the Export Administration Regulations

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Export Administration Regulations (EAR) to clarify how Section 17(c) of the Export Administration Act of 1979 (EAA) is implemented in the EAR in accordance with the Department of Commerce's authority under the EAA. On August 14, 2008, the Department of State published a final rule amending Part 121 of the International Traffic in Arms Regulations (ITAR) to clarify how Section 17(c) of the EAA is implemented in relation to the ITAR (73 FR 47523).

This final rule provides guidance to assist the regulated public in determining what civil aircraft equipment (including parts, accessories, attachments, and components) is subject to the EAR based upon the statutory criteria of the EAA.

**DATES:** This rule is effective: December 3, 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-AE31, by any of the following methods:

*E-mail:* [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include "RIN 0694-AE31" 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:* Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694-AE31.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to [jseehra@omb.eop.gov](mailto:jseehra@omb.eop.gov), or by fax to (202) 395-7285; and to the U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & 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-AE31)—all comments on the latter should be submitted by one of the three methods outlined above.

**FOR FURTHER INFORMATION CONTACT:** Gene Christiansen, Senior Engineer/Licensing Officer, Office of National Security and Technology Transfer Controls, telephone: (202) 482-2984.

**SUPPLEMENTARY INFORMATION:**

## Background

### *Amendments to the ITAR To Clarify Application of Section 17(c) of the EAA*

On April 11, 2008 (73 FR 19778), the Department of State published the proposed rule, "Amendments to the International Traffic in Arms Regulations: The United States Munitions List". That proposed rule noted that there have been an increasing number of Commodity Jurisdiction (CJ) requests submitted to the Department of State for certain parts and components that have a long history of use on both civil and military aircraft. To provide guidance to the public regarding the proper export control jurisdiction for these parts and components, State proposed in that rule to amend the ITAR, Part 121, to add language clarifying how the criteria of Section 17(c) of the EAA are implemented in accordance with the Department of State's authority under the Arms Export Control Act (AECA). The State Department adopted the proposed rule, which was published, with minor edits, as a final rule on August 14, 2008 (73 FR 47523).

The State Department final rule added a new Note after Category VIII(h) to clarify that any part or component that (a) is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for civil, non-military aircraft (which expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft, defined by FAA Order 8110.101 effective date September 7, 2007 as "civil aircraft procured or acquired by the military"); and (c) is an integral part of such civil aircraft, is subject to the EAR.

Pursuant to the Note to Category VIII(h) of the ITAR, exporters may generally determine whether an item meets the 17(c) criteria. However, where a part or component would fall under a paragraph within ITAR Category VIII designated as Significant Military Equipment (SME) or any other USML category designated as Significant Military Equipment (SME), were such item to be found subject to the ITAR, the exporter is required to submit a CJ request to determine whether the 17(c) criteria are met, except where an SME part or component was integral to civil aircraft prior to August 14, 2008. The Department of Commerce, based on its licensing authority under the EAA, will participate in the review of CJ requests under established interagency procedures. In the course of its review

of a CJ request, the Department of Commerce will apply the criteria of Section 17(c) in its review and recommendation, including an assessment of whether a part or component meets the definition of "standard equipment" included in the Note to Category VIII(h) of the ITAR. "Standard equipment" includes parts and components that are manufactured in compliance with an established and published industry specification or an established and published government specification (e.g., AN, MS, NAS, or SAE). Parts and components that are manufactured and tested to established but unpublished (e.g., proprietary) civil aviation industry specifications and standards are also "standard equipment," e.g., pumps, actuators, and generators.

*Purpose of This EAR Rule To Clarify Application of Section 17(c) of the EAA*

The purpose of this final rule amending the EAR is to clarify what parts and components meet the criteria of Section 17(c). Those that meet the Section 17(c) criteria are subject to the jurisdiction of the EAR.

Section 17(c) provides that notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration ("FAA"), in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the EAA. Since its passage, the Departments of State and Commerce have implemented Section 17(c) through various regulatory amendments and notices consistent with the aims of the EAA and the AECA.

*Amendments to the EAR To Clarify Application of Section 17(c) of the EAA*

In Section 770.2 (Item Interpretations), this rule revises paragraph (i) (*Interpretation 9: aircraft, parts, accessories and components*) to provide jurisdictional guidance for aircraft, parts, accessories and components, as follows:

This revised interpretation clarifies what (1) aircraft and related training equipment, (2) aircraft engines, and (3) components, parts, accessories, attachments, and associated equipment are subject to the jurisdiction of the Department of Commerce.

In Supplement No. 1 to Part 774 (Commerce Control List), this rule also makes a conforming change to paragraph (a) of the "Items" paragraph in the List of Items Controlled Section

of ECCN 9A991 to conform this paragraph to Section 121.3 of the ITAR.

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 July 23, 2008, 73 FR 43603 (July 25, 2008), 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, unless that collection of information displays a currently valid Office of Management and Budget 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, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes for a manual or electronic submission.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 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 because this regulation involves a military and foreign affairs function of the United States (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 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**

15 CFR Part 770

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, parts 770 and 774 of the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

**PART 770—[AMENDED]**

■ 1. The authority citation for 15 CFR part 770 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 2. Section 770.2 is amended by revising paragraph (i), to read as follows:

**§ 770.2 Item interpretations.**

\* \* \* \* \*

(i) *Interpretation 9: Civil aircraft and Civil aircraft equipment (including parts, accessories, attachments, components, and related training equipment).* Aircraft and related training equipment, parts, accessories, and components defined in Categories VIII and IX of the Munitions List are under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). All other aircraft, parts, accessories and components are subject to the EAR and under the export licensing authority of the U.S. Department of Commerce, as follows:

(1) *Aircraft and related training equipment.* (i) Aircraft not specifically designed, modified or equipped for military purposes, and

(ii) The following aircraft, so long as they have not been specifically equipped, re-equipped, or modified for military operations:

(A) Cargo aircraft bearing "C" designations and numbered C-45 through C-118 inclusive, C-121 through C-125 inclusive, and C-131, using reciprocating engines only.

(B) Trainer aircraft bearing "T" designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

(C) Utility aircraft bearing "U" designations and using reciprocating engines only.

(D) All liaison aircraft bearing an "L" designation.

(E) All observation aircraft bearing "O" designations and using reciprocating engines.

(2) *Engines.* (i) All reciprocating engines, and

(ii) All other aircraft engines not specifically designed or modified for military aircraft, except those defined in category VIII(f) of 22 CFR part 121.

(3) *Components, parts, accessories, attachments, and associated equipment.* Any aircraft tires as well as any

components, parts, accessories, attachments and associated equipment that are not specifically designed or modified for aircraft on the Munitions List and all components and parts not on the Munitions List by virtue of the criteria set forth in the note to Category VIII(h) of 22 CFR part 121.

\* \* \* \* \*

**PART 774—[AMENDED]**

■ 3. 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 July 23, 2008, 73 FR 43603 (July 25, 2008).

■ 4. 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) 9A991 is amended by revising paragraph (a) of the “Items” paragraph in the List of Items Controlled section, to read as follows:

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

\* \* \* \* \*

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.**

\* \* \* \* \*

**List of Items Controlled**

*Unit:* \* \* \*

*Related Controls:* \* \* \*

*Related Definitions:* \* \* \*

*Items:*

- a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:
  - a.1 Cargo aircraft bearing “C” designations and numbered C–45 through C–118 inclusive, C–121 through C–125 inclusive, and C–131, using reciprocating engines only.
  - a.2 Trainer aircraft bearing “T” designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).
  - a.3 Utility aircraft bearing “U” designations and using reciprocating engines only.
  - a.4 All liaison aircraft bearing an “L” designation.
  - a.5 All observation aircraft bearing “O” designations and using reciprocating engines.

\* \* \* \* \*

Dated: November 26, 2008.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. E8–28654 Filed 12–2–08; 8:45 am]

**BILLING CODE 3510–33–P**

**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

**21 CFR Parts 1300, 1315, and 1316**

[Docket No. DEA–293F]

**RIN 1117–AB08**

**Import and Production Quotas for Certain List I Chemicals**

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Final rule.

**SUMMARY:** On March 9, 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005, which mandates that DEA establish total annual requirements, and individual import, manufacturing, and procurement quotas for ephedrine, pseudoephedrine, and phenylpropanolamine. DEA issued an Interim Final Rule establishing procedures for applying for individual import, manufacturing, and procurement quotas. DEA is finalizing the rule with one change, to extend the authority to sign certifications to persons granted power of attorney to do so by the registrant.

**DATES:** *Effective Date:* December 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrisette Drive, Springfield, VA 22152; at (202) 307–7183.

**SUPPLEMENTARY INFORMATION:**

**DEA’s Legal Authority**

DEA implements the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), Parts 1300 to 1399. These regulations are designed to ensure that there is a sufficient supply of controlled substances for legitimate medical, scientific, research, and industrial purposes, for lawful exports, and for maintenance of reserve stocks,

while deterring the diversion of controlled substances to illegal purposes. The CSA mandates that DEA establish a closed system of control for manufacturing, distributing, and dispensing, importing, and exporting controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt) and comply with the applicable requirements for the activity. The CSA as amended also requires DEA to regulate the manufacture, distribution, import, and export of chemicals that may be used to manufacture controlled substances illegally. Listed chemicals that are classified as List I chemicals are important to the manufacture of controlled substances. Those classified as List II chemicals may be used to manufacture controlled substances.

On March 9, 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005 (CMEA), which is Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109–177). The Act amends the CSA by adding new provisions related to the importation, production, and sale of ephedrine, pseudoephedrine, and phenylpropanolamine, their salts, optical isomers, and salts of optical isomers, and products that contain any of the three chemicals.

**Combat Methamphetamine Epidemic Act of 2005**

The Combat Methamphetamine Epidemic Act of 2005 (CMEA) amends the CSA to tighten controls on the manufacture, distribution, import, export, and retail sale of three List I chemicals—ephedrine, pseudoephedrine, and phenylpropanolamine, and drug products containing them. CMEA imposes the following changes:

- Sales limits apply to retail sales of nonprescription (over-the-counter) (OTC) products, which the CMEA defined as “scheduled listed chemical products.” Regulated sellers are required to store the products behind the counter or in locked cabinets and maintain records on each sale, including verifying the name of the purchaser against an approved form of identification supplied by the purchaser. The exemption for blister packs has been removed. Thus, all products sold at retail are regulated under the CSA. (The law contained an exception from recordkeeping requirements for individual sales transactions consisting of a single