

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Part 774**

[Docket No. 060404096–6112–02]

RIN 0694–AD66

**Implementation of New Formula for Calculating Computer Performance: Adjusted Peak Performance (APP) in Weighted TeraFLOPS; Bulgaria; XP and MT Controls****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Correcting amendments.

**SUMMARY:** This document corrects four errors that appeared in a rule published by the Bureau of Industry and Security on April 24, 2006 (71 FR 20876). That rule implemented a new formula for computer performance as agreed to by the Wassenaar Arrangement, moved Bulgaria from Computer Tier 3 to Computer Tier 1, and made other related technical changes.

**DATES:** Effective May 2, 2006.

**FOR FURTHER INFORMATION CONTACT:** For questions of a general nature contact Sharron Cook, Office of Exporter Services, Regulatory Policy Division at (202) 482–2440 or e-mail: [scook@bis.doc.gov](mailto:scook@bis.doc.gov).

For questions of a technical nature contact: Joseph Young, Office of National Security and Technology Transfer Controls at 202–482–4197 or e-mail: [jyoung@bis.doc.gov](mailto:jyoung@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:****Background**

On April 24, 2006, the Bureau of Industry and Security published a final rule to implement the Wassenaar Arrangement's December 2005 agreement to revise the formula for calculating computer performance from Composite Theoretical Performance (CTP) measured in Millions of Theoretical Operations Per Second (MTOPS) to Adjusted Peak Performance (APP) measured in Weighted TeraFLOPS (Trillion Floating point Operations Per Second) (WT) (71 FR 20876) and to make certain other technical changes to the EAR. One such change was to remove missile technology as a reason for control from some Export Control Classification Numbers (ECCNs). In the preamble to the rule, the discussion of the changes made to Missile Technology Controls contained two typographical errors. In the second sentence under the heading "Missile Technology Controls" in the third column on page 20878, the word

"applies" should have been "applied" and the second reference to "9B005" should have been "9B006." ECCN 9B006 controls certain acoustic vibration test equipment.

The rule also revised Export Control Classification Number (ECCN) 4E001. The regulatory text for ECCN 4E001 appeared on page 20894 and contained two errors. The first error was in the License Exception TSR paragraph of the License Exceptions section. The phrase "Adjusted Peak Performance" ('APP') exceeding 0.1 Weighted TeraFLOPS (WT)" should have stated "'Adjusted Peak Performance' ('APP') not exceeding 0.1 Weighted TeraFLOPS (WT)" (emphasis added). The second error occurred in paragraph .b.2 of the *Items* paragraph in the "List of Items Controlled" section. The reference to "4D001.b.1" should have stated "4E001.b.1." ECCN 4E001.b.1 controls certain technology that is specially designed or modified for the development or production of certain digital computers.

This document corrects all four errors.

**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 three collections of information subject to the PRA. The first collection has been approved by OMB under control number 0694–0088, "Multi-Purpose Application," and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The second collection has been approved by OMB under control number 0694–0106, "Reporting and Recordkeeping Requirements under the Wassenaar Arrangement," and carries a burden hour estimate of 21 minutes for a manual or electronic submission. The third collection has been approved by OMB under control number 0694–0073, "Export Controls of High Performance Computers," and carries a burden hour estimate of 78 hours for a manual or electronic submission. This rule is expected to result in an immediate decrease in license applications, and in associated reporting and support documentation requirements, for high performance computers; however, this

decrease may be reduced over time as higher performance systems are marketed. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

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. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

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

Exports, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 15 CFR part 774 is corrected by making the following correcting amendments:

**PART 774—[CORRECTED]**

■ 1. The authority citation for 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; 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 2, 2005, 70 FR 45273 (August 5, 2005).

### Supplement No. 1 to Part 774 [Corrected]

■ 2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4E001 the “TSR” paragraph of the License Exceptions section, and the “items” paragraph in the List of Items Controlled section, are corrected to read as follows:

**4E001 “Technology” according to the General Technology Note, for the “development”, “production” or “use” of equipment or “software” controlled by 4A (except 4A980, 4A993 or 4A994) or 4D (except 4D980, 4D993, 4D994), and other specified technology, see List of Items Controlled.**

\* \* \* \* \*

#### License Exceptions

CIV: \* \* \*

TSR: Yes, except technology for commodities controlled by ECCN 4A003.b or ECCN 4A003.c is limited to technology for computers or electronic assemblies with an “Adjusted Peak Performance” (“APP”) not exceeding 0.1 Weighted TeraFLOPS (WT).

APP: \* \* \*

#### List of Items Controlled

Unit: \* \* \*

Related Controls: \* \* \*

Related Definitions: \* \* \*

Items:

a. “Technology” according to the General Technology Note, for the “development,” “production,” or “use” of equipment or “software” controlled by 4A (except 4A980, 4A993 or 4A994) or 4D (except 4D980, 4D993, 4D994).

b. “Technology”, other than that controlled by 4E001.a, specially designed or modified for the “development” or “production” of:

b.1. “Digital computers” having an “Adjusted Peak Performance” (“APP”) exceeding 0.04 Weighted TeraFLOPS (WT); or

b.2. “Electronic assemblies” specially designed or modified for enhancing performance by aggregation of processors so that the “APP” of the aggregation exceeds the limit in 4E001.b.1.

Dated: April 27, 2006.

**Eileen M. Albanese,**

*Director, Office of Exporter Services.*

[FR Doc. 06–4123 Filed 5–1–06; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 210

[Docket No. 2005N–0285]

### Current Good Manufacturing Practice Regulation and Investigational New Drugs; Withdrawal

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** The Food and Drug Administration (FDA) is withdrawing the direct final rule that published in the **Federal Register** of January 17, 2006, to amend its current good manufacturing practice (CGMP) regulations for human drugs, including biological products, to exempt most investigational “Phase 1” drugs from complying with the requirements in FDA’s regulations. FDA is withdrawing the rule because significant adverse comments were received.

**DATES:** The revision of 21 CFR part 210, published at 71 FR 2458 (January 17, 2006), is withdrawn as of May 2, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Monica Caphart, Center for Drug Evaluation and Research (HFD–320), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–9047, or Christopher Joneckis, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM–1), 1401 Rockville Pike, Rockville, MD 20852, 301–435–5681.

**SUPPLEMENTARY INFORMATION:** FDA published a direct final rule on January 17, 2006 (71 FR 2458), that was intended to revise the current good manufacturing practice (CGMP) regulations for human drugs, including biological products, to exempt most investigational “Phase 1” drugs from complying with the requirements in FDA’s regulations. In response to the direct final rule, the agency received significant adverse comments about the proposed revisions to the rule.

Under FDA’s direct final rule procedures, the receipt of any significant adverse comment will result in the withdrawal of the direct final rule. Thus, this direct final rule is being withdrawn, effective immediately. Comments received by the agency regarding the withdrawn rule will be considered in developing a final rule using the usual Administrative Procedure Act notice-and-comment procedures.

For the reasons set forth in the preamble of this notice, and under the authority of the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, the revision of 21 CFR part 210, published at 71 FR 2458 (January 17, 2006), is withdrawn.

Dated: April 25, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 06–4091 Filed 5–1–06; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9253]

RIN 1545–AY92

### Revisions to Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Revisions of Information Reporting Regulations; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects final regulations and removal of temporary regulations (TD 9253) that was published in the **Federal Register** on Tuesday, March 14, 2006 (71 FR 13003) relating to the withholding of tax under section 1441 on certain U.S. source income paid to foreign persons and related requirements governing collection, deposit, refunds, and credits of withheld amounts under sections 1461 through 1463.

**DATES:** This correction is effective March 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ethan Atticks, (202) 622–3840 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations and removal of temporary regulations (TD 9253) that is the subject of this correction are under section 1441 of the Internal Revenue Code.

##### Need for Correction

As published, TD 9253 contains an error that may prove to be misleading and is in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.