

effective 22 April 1999 is hereby corrected to read as follows:

Shirley, NY, Brookhaven, NDB-A, Amdt 5, CANCELLED

The FAA published the following amendment in Docket No. 29475, Amdt No. 1918 to Part 97 of the Federal Aviation Regulations (Vol 64, FR No. 39, Page 9915; dated March 1, 1999) under Section 97.23 effective 20 May 1999, which is hereby amended as follows:

Grand Junction, CO, Walker Field, VOR OR GPS RWY 11, Amdt 1, CANCELLED, IS HEREBY RESCINDED. Amdt 1 remains in effect.

[FR Doc. 99-6635 Filed 3-17-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR parts 734, 740, 742, 752, 772, and 774.

[Docket No. 990311067-9067-01]

RIN: 0694-AB84

Removal of Commercial Communications Satellites and Related Items from the Department of Commerce's Commerce Control List for Retransfer to the Department of State's United States Munitions List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by removing commercial communications satellites and related items from the Commerce Control List (CCL) and retransferring these items to the United States Munitions List (USML). This regulation shall not apply to any export license issued by the Department of Commerce before March 15, 1999, or to any export license application filed under the Export Administration Regulations on or before March 14, 1999, and subsequently issued by the Department of Commerce.

DATES: This rule is effective March 15, 1999.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482-4196.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1998, the President signed the Strom Thurmond National Defense Authorization Act for Fiscal

Year 1999 (Pub. L. 105-261), which requires all satellites and related items on the Commerce Control List of the EAR be retransferred to the USML and controlled under Section 38 of the Arms Export Control Act. The Act defined "related items" to mean, "satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines." This retransfer reverses Presidential decisions shifting commercial communications satellites (COMSATS) from the jurisdiction of the Department of State to the Department of Commerce. Further, section 1514(a)(3) of the Act mandates that in the event of the failure of a launch from a foreign country of a satellite of United States origin, the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act, including requirements for licenses issued by the Secretary of State for participation in that investigation.

In accordance with the FY 1999 National Defense Authorization Act, this regulation returns COMSATS and related items to the jurisdiction of the Department of State. However, the international space station, which is controlled under the same entry on the CCL as COMSATS, remains subject to the jurisdiction of the Department of Commerce. Items specific to the international space station transferred to the Department of Commerce by commodity jurisdiction action and controlled under ECCN 9A004 also remain subject to Department of Commerce jurisdiction. All other commodities and software for "spacecraft" previously transferred by commodity jurisdiction will be reviewed in light of this rule. BXA will be contacting persons who have received commodity classifications that are affected by this change. In addition, entries on the CCL containing items that are "space-qualified" will be reviewed within 30 days of this retransfer to determine the appropriate jurisdiction and may result in a rule change.

The effective date for the retransfer of jurisdiction of COMSATS from the Department of Commerce to the Department of State is March 15, 1999. In accordance with the FY 1999 National Defense Authorization Act, this retransfer shall not affect any export license issued before March 15, 1999, or any export license application filed under the Export Administration Regulations on or before March 14, 1999, and subsequently issued by the

Department of Commerce. COMSATS licensed by the Department of Commerce, including those already exported, remain subject to the EAR and all terms and conditions of issued export licenses until their stated expiration date. Although this rule eliminates SI controls for items listed in ECCN 9A004, all Department of Commerce issued COMSAT licenses, including licenses issued after March 15, 1999, remain subject to SI controls throughout the validity of the license.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527) August 13, 1997 (62 FR 43629) and August 13, 1998 (63 FR 44121).

Rule Making Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor 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 current valid OMB Control Number. This regulation involves collections previously approved by the Office of Management and Budget under control numbers 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 45 minutes per manual submission and 40 minutes per electronic submission. In addition, miscellaneous and recordkeeping activities account for 12 minutes per submission. In Fiscal Year 1997, there were 12 applications submitted for exports of commercial communications satellites. As a result, the paper work burden on the public is reduced by 11 hours on an annual basis.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act requiring notice of proposed rule making, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5

U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rule making and an opportunity for public comment be given for this rule. Because a notice of proposed rule making and opportunities for public comment are not required to be given for this rule by 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 inapplicable.

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 Frank J. Ruggiero, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR part 734

Administrative practice and procedure, Exports, Foreign trade.

15 CFR parts 740 and 752

Administrative practice and procedure, Exports, Foreign trade, Reporting and record keeping requirements.

15 CFR parts 742, 772, and 774

Exports, Foreign Trade.

Accordingly, parts 734, 740, 742, 752, 772, and 774 of the Export Administration Regulations (15 CFR Parts 730-774) are amended as follows:

1. The authority citation for 15 CFR Part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

2. The authority citation for 15 CFR Part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

3. The authority citation for 15 CFR Part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228;

Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

4. The authority citation for 15 CFR Part 752 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp., p. 219; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

5. The authority citation for 15 CFR Part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

6. The authority citations 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); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 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; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

PART 734—[AMENDED]

7. Section 734.2 is amended by removing the second sentence of paragraph (b)(1) and the second sentence of paragraph (b)(4).

8. Section 734.4 is amended by revising paragraph (b) to read as follows:

§ 734.4 De minimis U.S. content.

* * * * *

(b) There is no *de minimis* level for the reexport of foreign-origin items that incorporate "Information security" systems and equipment, cryptographic devices, software and components specifically designed or modified therefor, and related technology controlled for "EI" reasons under ECCNs 5A002, 5D002, and 5E002. Certain mass market encryption software may become eligible for *de minimis* only after a one-time BXA review (refer to § 742.15(b)(1)).

* * * * *

PART 740—[AMENDED]

§ 740.2 [Amended]

9. Section 740.2 is amended by revising the phrase "manned aircraft, satellite," in paragraph (a)(5) to read "manned aircraft,".

PART 742—[AMENDED]

10. Section 742.14 is revised to read as follows:

§ 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) *License requirement.* Licenses are required for all destinations, except Canada, for ECCNs having an "SI" under the "Reason for Control" paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1. through a.12., .f, and related controls.

(b) *Licensing policy.* Pursuant to section 6 of the Export Administration Act of 1979, as amended, foreign policy controls apply to technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003.a.1. through a.12., .f, and related controls. These controls supplement the national security controls that apply to these items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

- (1) The country of destination;
- (2) The ultimate end-user(s);
- (3) The technology involved;
- (4) The specific nature of the end-use(s); and
- (5) The types of assurance against unauthorized use or diversion that are given in a particular case.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this § 742.14.

(d) [Reserved]

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PART 752—[AMENDED]

§ 752.3 [Amended]

11. Section 752.3 is amended by removing paragraph (a)(8) and redesignating paragraphs (a)(9), (a)(10), and (a)(11) as paragraphs (a)(8), (a)(9), and (a)(10).

PART 772—[AMENDED]

12. Part 772 is amended by removing the definition of "export of satellites".

Part 774—[AMENDED]

13. In Supplement No. 1 to part 774, Category 9—Propulsion Systems, Space

Vehicles and Related Equipment is amended by revising ECCN 9A004:

9A004 Space launch vehicles and "spacecraft".

License Requirements

Reason for Control: NS and AT

Control(s)	Country chart
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: Equipment in number. Components, parts and accessories in \$ value. Related Controls: (1.) See also 9A104. (2.) Space launch vehicles are under the jurisdiction of the Department of State. (3.) Effective March 15, 1999, all satellites, including commercial communications satellites, are subject to the ITAR. Effective March 15, 1999, all license applications for the export of commercial communications satellites will be processed by the State Department, Office of Defense Trade Controls. Retransfer of jurisdiction for commercial communications satellites and related items shall not affect the validity of any export license issued by the Department of Commerce prior to March 15, 1999, or of any export license application filed under the Export Administration Regulations on or before March 14, 1999, and subsequently issued by the Department of Commerce. Commercial communications satellites licensed by the Department of Commerce, including those already exported, remain subject to the EAR and all terms and conditions of issued export licenses until their stated expiration date. All licenses issued by the Department of Commerce for commercial communications satellites, including licenses issued after March 15, 1999, remain subject to SI controls throughout the validity of the license. Effective March 15, 1999, Department of State jurisdiction shall apply to any instance where a replacement license would normally be required from the Department of Commerce. Transferring registration or operational control to any foreign person of any item controlled by this entry must be authorized on a license issued by the Department of State, Office of Defense Trade Controls. This requirement applies whether the item is physically located in the United States or abroad. (4.) All other "spacecraft" not controlled under 9A004 and their payloads, and specifically designed or modified components, parts, accessories, attachments, and associated equipment, including ground support equipment, are subject to the export licensing authority of the Department of State unless otherwise transferred to the Department of Commerce via a commodity jurisdiction determination by the Department of State. (5.) Exporters requesting a license from the Department of Commerce for "spacecraft" and their associated parts and components, other than

the international space station, must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce. All specially designed or modified components, parts, accessories, attachments, and associated equipment for "spacecraft" that have been determined by the Department of State through the commodity jurisdiction process to be under the licensing jurisdiction of the Department of Commerce and that are not controlled by any other ECCN on the Commerce Control List will be assigned a classification under this ECCN 9A004. (6.) Technical data required for the detailed design, development, manufacturing, or production of the international space station (to include specifically designed parts and components) remains under the jurisdiction of the Department of State. This control by the ITAR of detailed design, development, manufacturing or production technology for NASA's international space station does not include that level of technical data necessary and reasonable for assurance that a U.S.-built item intended to operate on NASA's international space station has been designed, manufactured, and tested in conformance with specified requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations). All technical data and all defense services, including all technical assistance, for launch of the international space station, including launch vehicle compatibility, integration, or processing data, are controlled and subject to the jurisdiction of the Department of State, in accordance with 22 CFR parts 120 through 130.

Items

a. The international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Hardware specific to the international space station transferred to the Department of Commerce by commodity jurisdiction action is also included.

b. Specific items as may be determined to be not subject to the ITAR through the commodity jurisdiction procedure administered by the Department of State after March 15, 1999.

Dated: March 15, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99-6721 Filed 3-16-99; 12:02 pm]

BILLING CODE 3510-33-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for oral use of oxytetracycline hydrochloride soluble powder in the drinking water of chickens, turkeys, cattle, swine, and sheep for the treatment and control of various bacterial diseases.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0212.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506-0457, filed ANADA 200-247 that provides for use of oxytetracycline hydrochloride soluble powder (343 grams of oxytetracycline hydrochloride per pound) in the drinking water of chickens, turkeys, cattle, swine, and sheep for the treatment and control of various bacterial diseases.

Approval of Phoenix Scientific, Inc.'s ANADA 200-247 oxytetracycline hydrochloride soluble powder-343 is as a generic copy of Pfizer, Inc.'s NADA 8-622 Terramycin-343 (oxytetracycline soluble powder). ANADA 200-247 is approved as of February 10, 1999, and the regulations are amended in § 520.1660d (21 CFR 520.1660d) by revising paragraph (a)(7) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Also, § 520.1660d is amended by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug