

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 961206342-6342-01]

RIN 0694-AB46

Revisions to the Commerce Control List: Exports of Mixtures
Containing Trace Quantities of Precursor Chemicals; ECCNs 1C350
and 1C995

AGENCY: Bureau of Export Administration, Commerce

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the
Commerce Control List (CCL) of the Export Administration
Regulations (15 CFR parts 730-774) to simplify export controls on
mixtures that contain relatively small amounts, "traces", of
controlled precursor chemicals.

DATES: This rule is effective (DATE OF PUBLICATION).

FOR FURTHER INFORMATION CONTACT:

For questions on foreign policy controls, call Patricia Sefcik, Bureau of Export Administration, Telephone:
(202)482-0707.

For questions of a technical nature on chemical weapon precursors, biological agents, and equipment that can be used to produce chemical and biological weapons agents, call James Seevaratnam, Bureau of Export Administration, Telephone:
(202) 482-3343.

SUPPLEMENTARY INFORMATION:

Currently, Export Control Classification Number (ECCN) 1C350 on the Commerce Control List (CCL) includes an exemption from controls for mixtures containing certain concentrations of precursor and intermediate chemicals identified by that entry. This exemption is on a solvent-free basis.

This final rule amends the CCL of the Export Administration

Regulations (EAR) to implement a new treatment of "trace chemicals" under ECCN 1C350. If all the criteria set forth are met and the relevant General Prohibitions found in part 736 do not apply, exports may be made under ECCN 1C350 without applying for a license, for mixtures that contain a cumulative total concentration of no more than 10,000 parts by weight (pbw) per million, of all precursor or intermediate chemicals listed in ECCN 1C350. Such mixtures are controlled under ECCN 1C995. This treatment is not available for mixtures containing the following precursor chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856-11-8), Ethylphosphonyl difluoride (C.A.S. #753-98-0), and Methylphosphonyl difluoride (C.A.S. #676-99-3).

This rule also revises the "Related Definition" section of ECCN 1C995 to clarify that mixtures containing trace quantities are controlled under this entry.

This new treatment will permit export without applying for a license for many common commercial products while requiring license applications for those mixtures that contain significant quantities of precursor chemicals.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These collections have been approved by the Office of Management and Budget under control number 0694-0088. The effect of this rule will decrease license application requirements, thus reduce the paperwork burden on the public. Notwithstanding any other provision of law, no person is required to respond nor shall a 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 OMB Control Number.

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 (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 (see 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 rule. Because a notice of proposed rulemaking and an opportunity 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. 601et 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 Sharron Cook, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR part 774

Exports, Foreign trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR Parts 730-799) are amended as follows:

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; 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 (1995)); Notice of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)); Notice of August 14, 1996 (61 FR 42527, August 15, 1996).

PART 774 - [AMENDED]

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1 - Materials, Chemicals, "Microorganisms", and Toxins:

a. The License Requirements section of Export Control Classification Number (ECCN) 1C350 is amended by redesignating

License Requirement note 3 as note 4, and by adding a new License Requirement note 3; and

b. the List of Items Controlled under ECCN 1C995 is revised to read as follows:

1C350 Chemicals that may be used as precursors for toxic chemical agents.

License Requirements

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License Requirement Notes

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3. TRACE QUANTITIES:

a. A license is required for mixtures containing any amount (including trace quantities) of the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856-11-8), Ethylphosphonyl difluoride (C.A.S. #753-98-0), and

Methylphosphonyl difluoride (C.A.S. #676-99-3).

b. Except as noted in paragraph (a) of this note, a license is not required under this entry for mixtures that contain a cumulative total concentration of no more than 10,000 parts by weight (pbw) per million of all precursor or intermediate chemicals listed in this entry. The calculation for this paragraph (b) should not be done on a solvent-free basis (related ECCN: 1C995).

c. Countries Not Eligible: The following countries are not eligible for exports under this Trace Quantities Note: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

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1C995 Mixtures containing precursor and intermediate chemicals used in the "production" of chemical warfare agents that are not controlled by ECCN 1C350.

License Requirements

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License Exceptions

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List of Items Controlled

Unit: Kilograms

Related Controls: N/A

Related Definition: For calculation of de minimis quantities of controlled chemicals in mixtures, see License Requirement Notes 2 and 3 under ECCN 1C350, and §770.4 of the EAR.

Items: The list of items controlled is contained in the ECCN heading.

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Dated:

Sue E. Eckert
Assistant Secretary for
Export Administration