

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

b. Countries Not Eligible: The following countries are not eligible to receive sample shipments: Cuba, Iran, Libya, North Korea, Sudan, Syria.

c. Sample Shipments: A license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments, in any quantity, not exceeding the totals indicated in this paragraph may be exported without a license, in accordance with the provisions of this NOTE 1. A consignee that receives a sample shipment under this exclusion may not resell, transfer or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons. However, a sample shipment received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled "Report of Sample Shipments of Chemical Precursors" at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, Room 2705, Washington, DC 20230, Attn: "Report of Sample Shipments of Chemical Precursors".

2. **MIXTURES:** Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements:

a. A license is required, regardless of the concentrations in the mixture, for 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. A license is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture on a solvent free basis: Arsenic trichloride (C.A.S. #7784-34-1), Benzoic acid (C.A.S. #76-93-7), Diethyl ethylphosphonate (C.A.S. #78-38-6), Diethyl methylphosphonite (C.A.S. #15715-41-0), Diethyl-N,N-dimethylphosphoramidate (C.A.S. #2404-03-7), N,N-Diisopropyl-beta-

aminoethane thiol (C.A.S. #5842-07-9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S. #4261-68-1), N,N-Diisopropyl-beta-aminoethanol (C.A.S. #96-80-0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S. #96-79-7), Dimethyl ethylphosphonate (C.A.S. #6163-75-3), Dimethyl methylphosphonate (C.A.S. #756-79-6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S. #1498-40-4), Ethylphosphonous difluoride [Ethylphosphinyl difluoride] (C.A.S. #430-78-4), Ethylphosphonyl dichloride (C.A.S. #1066-50-8), Methylphosphonous dichloride [Methylphosphinyl dichloride] (C.A.S. #676-83-5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S. #753-59-3), Methylphosphonyl dichloride (C.A.S. #676-97-1), Pinacolyl alcohol (C.A.S. #464-07-3), 3-Quinuclidinol (C.A.S. #1619-34-7), and Thiodiglycol (C.A.S. #111-48-8); (Related ECCN: 1C995)

c. A license is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture on a solvent free basis (related ECCN: 1C995); and

d. A license is not required under this entry for mixtures when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN EAR99.

e. Calculation of concentrations of AG-controlled chemicals.

1. Usual Commercial Purposes. In calculating the percentage of an AG controlled chemical in a mixture (solution), any other chemical must be excluded if it was not added for usual commercial purposes, but was added for the sole purpose of circumventing the Export Administration Regulations.

2. "Solvent Free Basis Requirement." When calculating the percentage, by weight, of components in a chemical mixture, you must exclude from the calculation any component of the mixture that acts as a solvent.

3. Solvent—For purposes of this ECCN "A substance capable of dissolving another substance to form a uniformly dispersed mixture (solution)".

- Solvents are liquids at standard temperature and pressure (STP).
- In no instance is an AG controlled chemical considered a "solvent".
- All ingredients of mixtures are expressed in terms of weight.
- The solvent component of the mixture converts it into a solution.

3. **COMPOUNDS:** A license is not required under this entry for chemical compounds created with any chemicals

identified in this ECCN 1C350, unless those compounds are also identified in this entry.

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Dated: February 7, 1997.

Sue E. Eckert,
Assistant Secretary for Export
Administration.

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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 February 12, 1997.

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. 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 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 in 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: February 7, 1997.

Sue E. Eckert,

Assistant Secretary for Export Administration.

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