

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2008–0032, dated February 21, 2008; and Airbus Mandatory Service Bulletin A320–31–1276, Revision 01, dated March 5, 2008; for related information.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A320–31–1276, Revision 01, dated March 5, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: account.airworth-eas@airbus.com; Internet <http://www.airbus.com>.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on October 26, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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

[Docket No. 090126060–91251–01]

RIN 0694–AE53

Revisions to the Export Administration Regulations Based on the 2008 Missile Technology Control Regime Plenary Additions

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to reflect changes to the Missile Technology Control Regime (MTCR) Annex that were accepted by MTCR member countries at the November 2008

Plenary in Canberra, Australia. In addition, this rule also clarifies certain EAR controls to properly reflect the intent of changes to items that were previously accepted by MTCR members at past MTCR Plenary meetings.

DATES: *Effective Date:* This rule is effective November 9, 2009. 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–AE53, by any of the following methods:

E-mail: publiccomments@bis.doc.gov
Include “RIN 0694–AE53” 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–AE53.

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

Jasmeet K. Seehra@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–AE53)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT:

Dennis L. Krepp, Nuclear and Missile Technology Controls Division, Bureau of Industry and Security, Telephone: (202) 482–1309.

SUPPLEMENTARY INFORMATION:**Background**

The Missile Technology Control Regime (MTCR) is an export control arrangement among 34 nations, including most of the world’s advanced suppliers of ballistic missiles and missile-related materials and equipment. The regime establishes a common export control policy based on a list of controlled items (the Annex) and on guidelines (the Guidelines) that member countries implement in accordance with their national export controls. The goal of maintaining the

Annex and the Guidelines is to stem the flow of missile systems capable of delivering weapons of mass destruction to the global marketplace.

While the MTCR was originally created to prevent the spread of missiles capable of carrying a nuclear warhead, it was expanded in January 1993 to also address threats associated with delivery systems for chemical and biological weapons. MTCR members voluntarily pledge to adopt the regime’s export Guidelines and to restrict the export of items contained in the regime’s Annex. The implementation of the regime’s Guidelines is effectuated through the national export control laws and policies of the regime members.

In January 1993, complete rocket systems and unmanned aerial vehicle systems that were capable of a “range” equal to or greater than 300 km, regardless of the payload, were added to the MTCR Annex (Category II, Item 19). This was based on concerns of MTCR members that rocket systems and unmanned aerial vehicle systems that were capable of a “range” equal to or greater than 300 km, but that did not meet the 500 kg “payload” parameter from Category I of the MTCR Annex, were a proliferation concern. “Missiles” are defined in § 772.1 of the EAR as being capable of delivering at least 500 kilograms payload to a range of at least 300 kilometers. To supplement the change made in 1993, the MTCR members decided at the 2008 Plenary to clarify the controls applicable to ECCN 2B116 by making it clear that the items in this ECCN were controlled when used in systems that were capable of a range of at least 300 km, regardless of the payload capacity. For consistency with the MTCR Annex, this same language also needed to be added to ECCN 1B101. Therefore, this rule clarifies the scope of these ECCNs by adding the new language “capable of a range of at least 300 km” to these ECCNs.

Amendments to the Export Administration Regulations

This final rule revises the Export Administration Regulations (EAR) to reflect changes to the MTCR Annex accepted at the November 2008 Plenary in Canberra, Australia. In addition, this rule also clarifies certain EAR controls to properly reflect the intent of changes to items previously accepted by MTCR members at past MTCR Plenary meetings. Corresponding MTCR Annex references are provided below for the MTCR Annex changes accepted at the November 2008 Plenary.

This rule amends the Commerce Control List (CCL) (Supplement No. 1 to

Part 774 of the EAR) to reflect changes to the MTCR Annex. Specifically, the following Export Control Classification Numbers (ECCNs) are affected:

The heading of ECCN 1B101 is amended by revising the heading to add the text “usable for rockets, missiles, or unmanned aerial vehicles capable of achieving a “range” equal to or greater than 300 km and their subsystems”. This change makes it clear that this ECCN controls this type of equipment only if it is usable for these types of systems and their subsystems. This change is expected to have a minimal impact on license applications.

Also under ECCN 1B101, paragraph (a) is amended by adding additional text to expand the scope of equipment controlled in this entry (MTCR Annex Change Category II: Item 6.B.1.a). Paragraph (a) is amended to add certain fiber placement machines to the types of equipment controlled under paragraph (a). This change is being made because a determination was made by the MTCR members that in addition to certain filament winding machines, certain fiber placement machines are also a concern for missile proliferation. BIS expects this change to result in a slight increase in the number of license applications submitted.

The License Requirements and “items” paragraph of ECCN 1C011 are amended to correct the text by deleting the reference to boron carbide and replacing it with boron alloy in the MT control section of this ECCN, and by making conforming changes to the MT and NS License Requirements for this ECCN. This is a change made to conform to the MTCR Annex. The correct language from the MTCR Annex is boron alloy, but because 1C001.b is also a National Security (NS) controlled paragraph that correctly uses the text boron carbide for the NS portion of the control, this rule needed to add the correct text for the MT controlled boron alloy. To effect this change, reference to boron alloy was included in a new “items” paragraph in this ECCN (1C011.e), but reference to boron carbide is retained in the NS control section of this ECCN. Paragraph 1C011.b still controls boron for MT reasons, and therefore, to conform with the text of the MTCR Annex, this rule clarifies the MT control to make it clear what portion of paragraph 1C011.b is MT controlled. This rule also revises the NS control section of 1C011 to specify that the NS control applies to the entire entry, with the exception of 1C011.e. This change is expected to have no impact on license applications.

The heading of ECCN 2B116 is amended by including the text “usable

for rockets, missiles, or unmanned aerial vehicles capable of achieving a “range” equal to or greater than 300 km and their subsystems” (MTCR Annex Change Category II: Item 15.B.1). This change makes it clear that this ECCN controls these vibration test systems and equipment only if they are usable for these types of systems and their subsystems. This change is expected to have a minimal impact on license applications.

Also under ECCN 2B116, paragraph (b) is amended by adding text to clarify the scope of the entry (MTCR Annex Change Category II: Item 15.B.1.b). Specifically, this rule adds the word “control” after the word “real-time” to clarify that the bandwidth that is within the scope of this ECCN entry is ‘real-time control bandwidth’. This change is being made for consistency with the MTCR Annex and to provide better guidance to the public regarding the intent of this control. BIS expects this change to have a minimal impact on license applications.

Also under ECCN 2B116, this rule adds a new technical note to the “items” paragraph to provide an ECCN-specific definition of ‘real-time control bandwidth’, which is now defined as, “the maximum rate at which a controller can execute complete cycles of sampling, processing data and transmitting control signals” (MTCR Annex Change Category II: Technical note to Item 15.B.1.b) This new definition will assist the public in understanding the scope of this revised control parameter. BIS expects this change to have a minimal impact on license applications.

Paragraph (b) of ECCN 2B120 is amended by adding text to clarify the types of motion simulators/rate tables classified under this entry. Specifically, this rule clarifies that the motion simulators/rate tables controlled under this ECCN entry include motion simulators/rate tables designed or modified to incorporate slirings or integrated non-contact devices capable of transferring electrical power, signal information or both (MTCR Annex Change Category II: Item 9.B.2.c.2). This change is being made to provide for consistency with the MTCR Annex and to provide better guidance to the public regarding the intent of this control. Specifically, the additional text on slirings is added for greater clarity regarding intent of the control, and the text on non-contact devices is added to reflect accepted provisions by the MTCR members. BIS expects this change to have a minimal impact on license applications.

Also, in paragraph (c)(3) of ECCN 2B120, this rule adds quotation marks around the term “accuracy” to indicate that this CCL term is a defined term in § 772.1 of the EAR (MTCR Annex Change Category II: Item 9.B.c.3.c). BIS expects this change to have no impact on license applications, as BIS has always interpreted this term according to the definition in § 772.1.

Paragraph (b) of ECCN 2B121 is amended by adding quotation marks around the term “accuracy” to indicate that this CCL term is a defined term in § 772.1 of the EAR (MTCR Annex Change Category II: Item 9.B.2.d.2). BIS expects this change to have no impact on license applications, as BIS has always interpreted this term according to the definition in § 772.1.

The heading of ECCN 2B122 is amended by adding text to clarify the types of centrifuges classified under this entry. Specifically, this rule clarifies that the centrifuges controlled under this ECCN heading include centrifuges designed or modified to incorporate slirings or integrated non-contact devices capable of transferring electrical power, signal information or both (MTCR Annex Change Category II: Item 9.B.2.e). This change is being made for consistency with the MTCR Annex and to provide better guidance to the public regarding the intent of this control. Specifically, the additional text on slirings is added for greater clarity regarding intent of the control and the text on non-contact devices is added to reflect accepted provisions by the MTCR members. BIS expects this change to have a minimal impact on license applications.

Paragraph (b)(2)(a) of ECCN 6A108 is amended by revising the control parameter for milliradians from 3 to 1.5 milliradians (MTCR Annex Change Category II: Item 12.A.5.b.1). BIS is changing this milliradian control threshold because the current text was based on an erroneous conversion factor and the MTCR members accepted that using 1.5 milliradians would be sufficient to capture systems of concern for missile proliferation. BIS expects this change to have no impact on license applications.

The MT “control(s)” paragraph in the License Requirements section of ECCN 7A003 is amended to clarify that the MT control applies to commodities in 7A003.d that meet or exceed the parameters of 7A103. Prior to the publication of this rule, the MT control applied to “items” paragraphs a, b, c, and d of this ECCN entry. However, there is no corresponding control text in the MTCR Annex for ECCN 7A003 “items” paragraphs a, b and c. The

corresponding control text in the MTCR Annex for ECCN 7A003 only applies to “items” paragraph d of this ECCN entry, which this change clarifies. BIS expects this change to have no impact on license applications because the rule makes no change to the commodities controlled under this ECCN entry; the rule is limited to clarifying what portions of this ECCN entry are subject to MT controls.

Paragraph (b) of ECCN 7A101 is amended to add text to clarify the scope of this ECCN entry (MTCR Annex Change Category II: Item 9.A.5). Specifically, this rule modifies the control parameter to clarify that only accelerometers that are designed for use in inertial navigation systems or in guidance systems of all types fall within the scope of this ECCN entry. Paragraph (b) of ECCN 7A101 is also amended to add a note to further clarify that the ECCN does not include accelerometers that are designed to measure vibration or shock (MTCR Annex Change Category II: Item 9.A.5). This change is being made to clarify what types of accelerometers are within the scope of this ECCN. This more precise text will clearly indicate to the public what accelerometers are within the scope of this ECCN. BIS expects these two changes to have no impact on license applications as BIS has always interpreted this ECCN in this manner.

The heading of ECCN 7A102 is amended and new “items” paragraphs (a) and (b) are added to clarify the scope of this ECCN entry as it relates to gyros (MTCR Annex Change Category II: Item 9.A.5). Specifically this rule modifies the control parameter to clarify that only gyros that are designed for use in inertial navigation systems or in guidance systems of all types fall within the scope of this ECCN entry. BIS expects this change to have no impact on license applications as BIS has always interpreted this ECCN in this manner.

Paragraph (a) of ECCN 7A103 is amended by redesignating the existing Note to paragraph (a) as Note 1 and adding a new Note 2 to clarify what ECCN 7A001 and 7A002 commodities are within the scope of “items” paragraph (a) of ECCN 7A103. This new note clarifies that “items” paragraph (a) does not control inertial or other equipment using accelerometers or gyros controlled by 7A001 or 7A002 that are only NS controlled.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory

action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on November 9, 2009, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before December 9, 2009. Any such items not actually exported or reexported before midnight, on December 9, 2009, require a license in accordance with this rule.

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 August 13, 2009 (74 FR 41325 (August 14, 2009)), 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 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 contains 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 in 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 774—[AMENDED]

■ 1. 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 August 13, 2009, 74 Fed. Reg. 41325 (August 14, 2009).

■ 2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms” & “Toxins”, Export Control Classification Number (ECCN) 1B101 is amended by revising the Heading and 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

* * * * *

1B101 Equipment, other than that controlled by 1B001, for the “production” of structural composites, fibers, prepregs or preforms, usable for rockets, missiles, or unmanned aerial vehicles capable of achieving a “range” equal to or greater than 300 km and their subsystems, as follows (see List of Items Controlled); and specially designed components, and accessories therefor.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

a. Filament winding machines or fiber placement machines, of which the motions for positioning, wrapping and winding fibers can be coordinated and programmed in three or more axes, designed to fabricate composite structures or laminates from fibrous or filamentary materials, and coordinating and programming controls;

* * * * *

■ 3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals,

“Microorganisms” & “Toxins”, Export Control Classification Number (ECCN) 1C011 is amended:

- a. By revising the License Requirements section;
- b. By revising paragraph (d) of the “items” paragraph in the List of Items Controlled section; and
- c. By adding paragraph (e) at the end of the “items” paragraph in the List of Items Controlled section, to read as follows:

1C011 Metals and compounds, as follows (see List of Items Controlled). License Requirements.

Reason for Control: NS, MT, AT

<i>Control(s)</i>	<i>Country chart</i>
NS applies to entire entry, except 1C011.e.	NS Column 1.
MT applies to 1C011.a and .b (for boron) and .e.	MT Column 1.
AT applies to entire entry	AT Column 1.
* * * * *	

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

- * * * * *
- d. Nitroguanidine (NQ) (CAS 556–88–7);
- e. Boron alloys of 85% purity or higher and a particle size of 60 µm or less.

■ 4. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B116 is amended:

- a. By revising the Heading;
- b. By revising paragraph (b) of the “items” paragraph in the List of Items Controlled section; and
- c. By revising the Technical Notes at the end of the “items” paragraph in the List of Items Controlled section, to read as follows:

2B116 Vibration test systems and equipment, usable for rockets, missiles, or unmanned aerial vehicles capable of achieving a “range” equal to or greater than 300 km and their subsystems, and components therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

- * * * * *
- b. Digital controllers, combined with specially designed vibration test “software”, with a ‘real-time control bandwidth’ greater than 5 kHz and designed for use with vibration test systems described in 2B116.a;
- c. * * *
- d. * * *

Technical Notes:

(1) ‘Bare table’ means a flat table, or surface, with no fixture or fitting.

(2) ‘Real-time control bandwidth’ is defined as the maximum rate at which a controller can execute complete cycles of sampling, processing data and transmitting control signals.

■ 5. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B120 is amended by revising paragraphs (b) and (c)(3) of the “items” paragraph in the List of Items Controlled section, to read as follows:

2B120 Motion simulators or rate tables (equipment capable of simulating motion), having all of the following characteristics (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

- * * * * *
- b. Designed or modified to incorporate slippings or integrated non-contact devices capable of transferring electrical power, signal information, or both; and
- c. Having any of the following characteristics:

c.3. A positioning “accuracy” equal to or better than 5 arc-second.

* * * * *

■ 6. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B121 is amended by revising paragraph (b) of the “items” paragraph in the List of Items Controlled section, to read as follows:

2B121 Positioning tables (equipment capable of precise rotary position in any axis), other than those controlled in 2B120, having all the following characteristics (See List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

- * * * * *
- b. A positioning “accuracy” equal to or better than 5 arc-second.

* * * * *

■ 7. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B122 is amended by revising the Heading, to read as follows:

2B122 Centrifuges capable of imparting accelerations above 100 g and designed or

modified to incorporate slippings or integrated non-contact devices capable of transferring electrical power, signal information, or both.

* * * * *

■ 8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A108 is amended by revising paragraph (b)(2)(a) of the “items” paragraph in the List of Items Controlled section, to read as follows:

6A108 Radar systems and tracking systems, other than those controlled by 6A008, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

- * * * * *
- b.2. * * *
- b.2.a. Angular resolution better than 1.5 milliradians;

* * * * *

■ 9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7A003 is amended by revising the MT “Control(s)” paragraph in the License Requirements section, to read as follows:

7A003 Inertial Systems and specially designed components therefor. License Requirements.

Reason for Control: * * *

<i>Control(s)</i>	<i>Country chart</i>
* * * * *	
MT applies to commodities in 7A003.d that meet or exceed the parameters of 7A103.	MT Column 1.
* * * * *	

■ 10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7A101 is amended:

- a. By revising paragraph (b) of the “items” paragraph in the List of Items Controlled section, and
- b. By adding a new “Note to paragraph (b)” at the end of paragraph (b) of the “items” paragraph in the List of Items Controlled section, to read as follows:

7A101 Accelerometers, other than those controlled by 7A001 (see List of Items Controlled), and specially designed components therefor.

* * * * *

List of Items Controlled*Unit:* * * **Related Controls:* * * **Related Definitions:* * * **Items:*

* * * * *

b. Accelerometers of any type, designed for use in inertial navigation systems or in guidance systems of all types, specified to function at acceleration levels greater than 100 g.

Note to paragraph (b): This paragraph (b) does not include accelerometers that are designed to measure vibration or shock.

■ 11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7A102 is amended:

■ a. By revising the Heading, and

■ b. By revising the “items” paragraph in the List of Items Controlled section, to read as follows:

7A102 Gyros, other than those controlled by 7A002 (see List of Items Controlled), and specially designed components therefor.

* * * * *

List of Items Controlled*Unit:* * * **Related Controls:* * * **Related Definitions:* * * **Items:*

a. All types of gyros, usable in rockets, missiles, or unmanned aerial vehicles capable of achieving a “range” equal to or greater than 300 km, with a rated “drift rate” ‘stability’ of less than 0.5 degrees (1 sigma or rms) per hour in a 1 g environment.

b. Gyros of any type, designed for use in inertial navigation systems or in guidance systems of all types, specified to function at acceleration levels greater than 100 g.

Technical Note: In this entry, the term ‘stability’ is defined as a measure of the ability of a specific mechanism or performance coefficient to remain invariant when continuously exposed to a fixed operating condition. (This definition does not refer to dynamic or servo stability.) (IEEE STD 528–2001 paragraph 2.247).

■ 12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 7—Navigation and Avionics, Export Control Classification Number (ECCN) 7A103 is amended by redesignating the Note as Note 1 and adding a Note 2 at the end of paragraph (a) of the “items” paragraph in the List of Items Controlled section, to read as follows:

7A103 Instrumentation, navigation equipment and systems, other than those controlled by 7A003, and specially designed components therefor.

* * * * *

List of Items Controlled*Unit:* * * **Related Controls:* * * **Related Definitions:* * * **Items:*

a. * * *

Note 1: 7A103.a does not control equipment containing accelerometers specially designed and developed as MWD (Measurement While Drilling) sensors for use in down-hole well services operations.

Note 2: 7A103.a does not control inertial or other equipment using accelerometers or gyros controlled by 7A001 or 7A002 that are only NS controlled.

* * * * *

Dated: November 4, 2009.

Matthew S. Borman,*Acting Assistant Secretary for Export Administration.*

[FR Doc. E9–26961 Filed 11–6–09; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION**17 CFR Part 4**

[RIN 3038–AC38]

Commodity Pool Operator Periodic Account Statements and Annual Financial Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is amending its regulations governing the periodic account statements that commodity pool operators (“CPOs”) are required to provide to commodity pool participants and the annual financial reports that CPOs are required to provide to commodity pool participants and file with the National Futures Association (“NFA”). The amendments: specify detailed information that must be included in the periodic account statements and annual reports for commodity pools with more than one series or class of ownership interest; clarify that the periodic account statements must disclose either the net asset value per outstanding participation unit in the pool, or the total value of a participant’s interest or share in the pool; extend the time period for filing and distributing annual reports of commodity pools that invest in other funds; codify existing Commission staff interpretations regarding the proper accounting treatment and financial statement presentation of certain income and expense items in the periodic account statements and annual reports; streamline annual reporting

requirements for pools ceasing operation; establish conditions for use of International Financial Reporting Standards (“IFRS”) in lieu of U.S. Generally Accepted Accounting Principles (“U.S. GAAP”) and a notice procedure for CPOs to claim such relief; and clarify and update several other requirements for periodic and annual reports prepared and distributed by CPOs.

DATES: *Effective date:* This rule is effective December 9, 2009.

Applicability dates: Amendments to §§ 4.7(b)(3) and 4.22(c) (other than 4.22(c)(7)) are applicable to commodity pool annual reports for fiscal years ending December 31, 2009 and later.

FOR FURTHER INFORMATION CONTACT:

Eileen R. Chotiner, Senior Compliance Analyst, at (202) 418–5467, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: (echotiner@cftc.gov).

SUPPLEMENTARY INFORMATION:**I. Background**

On February 24, 2009, the Commission published¹ for public comment proposed amendments to the reporting provisions applicable to CPOs under Part 4 of its regulations (“Proposed Part 4 Amendments”).² Pursuant to regulations contained in Part 4, a registered CPO must distribute an account statement to each participant in each commodity pool that it operates within 30 days of the end of the reporting period, and must file with NFA, and provide to each participant, an annual financial report for each commodity pool that it operates within 90 days of the end of the pool’s fiscal year or the permanent cessation of the pool’s trading. The Part 4 Amendments codify existing staff interpretations, clarify reporting for series funds, extend financial reporting filing deadlines for CPOs operating commodity pools that that invest in other funds, and streamline certain filing requirements for pools ceasing operation.

II. Comments Received

The Commission received four comment letters in response to the Proposed Part 4 Amendments. Comments were submitted by NFA; the Committee on Futures Regulation of the New York City Bar Association (“NYC Bar”); Arthur F. Bell & Associates, LLC,

¹ 74 FR 8220 (February 24, 2009).

² Commission regulations referred to herein are found at 17 CFR Ch. I (2009 edition).