

creating additional controlled airspace at West Bend Municipal Airport (74 FR 68746) Docket No. FAA-2009-1149. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by adding additional Class E airspace extending upward from 700 feet above the surface to accommodate SIAPs at West Bend Municipal Airport, West Bend, WI. This action is necessary for the safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at West Bend Municipal Airport, West Bend, WI.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.*

\* \* \* \* \*

#### AGL WI E5 West Bend, WI [Amended]

West Bend Municipal Airport, WI  
(Lat. 43°25′20″ N., long. 88°07′41″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of West Bend Municipal Airport, and within 2 miles each side of the 239° bearing from the airport extending from the 7.4-mile radius to 11.4 miles southwest of the airport, excluding that airspace within the Hartford, WI, Class E airspace area.

Issued in Fort Worth, Texas, on March 11, 2010.

**Roger M. Trevino,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

[FR Doc. 2010-6158 Filed 3-22-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 774

[Docket No. 100119033-0042-01]

RIN 0694-AE85

### Implementation of Both the Understandings Reached at the 2009 Australia Group (AG) Plenary Meeting and a Decision Adopted Under the AG Intersessional Silent Approval Procedures

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) is publishing this final rule to amend the Export Administration Regulations (EAR) to implement the understandings reached at the September 2009 plenary meeting of the Australia Group (AG). This rule also amends the EAR to implement a decision recommended at the 2009 AG Plenary that was adopted under the AG intersessional silent approval procedures in October 2009.

Consistent with the understandings reached at the 2009 AG Plenary, this final rule amends the EAR to reflect the addition of technical notes to the AG “Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology and Software.” The purpose of the new technical notes is to: clarify the term “alloys,” as used in reference to the types of “materials” from which such equipment is made; and clarify the term “nominal size,” as used in reference to the valves described on this AG control list.

This final rule also amends the EAR to reflect the AG decision (recommended at the 2009 AG Plenary and adopted under the AG intersessional silent approval procedures) to remove “white pox” virus from the AG “List of Biological Agents for Export Control.”

**DATES:** This rule is effective March 23, 2010. 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-AE85, by any of the following methods:

- *E-mail:* [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include “RIN 0694-AE85” 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:* Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th Street & Pennsylvania Avenue, W., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE85.

Send comments regarding this collection of information, 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 Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & 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–AE85)—all comments on the latter should be submitted by one of the three methods outlined above.

**FOR FURTHER INFORMATION CONTACT:** Dr. Betty Lee, Microbiologist, Chemical and Biological Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, *Telephone:* (202) 482–5817.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to implement the understandings reached at the annual plenary meeting of the Australia Group (AG) that was held in Paris, France, on September 21–25, 2009, as well as a decision recommended at the 2009 AG Plenary that was adopted under the AG intersessional silent approval procedures in October 2009. The AG is a multilateral forum, consisting of 40 participating countries, that maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. The AG periodically reviews items on its control list to enhance the effectiveness of participating governments' national controls and to achieve greater harmonization among these controls.

Consistent with the understandings reached at the 2009 AG Plenary, this final rule amends the EAR to conform with certain changes to the AG “Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology and Software.” Specifically, this rule amends Export Control Classification Number (ECCN) 2B350 (Chemical manufacturing

facilities and equipment) on the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) by adding a new technical note and amending an existing technical note to clarify the use of the terms “nominal size” and “alloy” in connection with items controlled under this ECCN.

First, this rule adds a new technical note immediately following 2B350.g to clarify that, for purposes of the valves described therein, the term “nominal size” is defined as the smaller of the inlet and outlet port diameters. Second, this rule amends Technical Note 2 at the end of ECCN 2B350 to clarify that, with respect to the “materials” from which the equipment is made, the term “alloy,” when not accompanied by a specific elemental concentration, is understood as identifying those alloys where the identified metal is present in a higher percentage by weight than any other element.

Finally, this rule amends ECCN 1C351 on the CCL to reflect the AG decision (recommended at the 2009 AG Plenary and adopted under the AG intersessional silent approval procedures) to remove “white pox” virus from the AG “List of Biological Agents for Export Control.” Consistent with this change, this rule renumbers and/or reorders certain viruses listed in ECCN 1C351.a to conform with the format in the AG List of Biological Agents. The AG decision to remove this virus from its list of biological agents is based on the fact that the International Committee on Taxonomy of Viruses does not recognize “white pox” virus as a separate entity, since the virus has been determined to be a laboratory artifact resulting from sample contamination with the variola virus.

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.

**Saving Clause**

Shipments of items removed from eligibility for export or reexport under a license exception or without a license (*i.e.*, under the designator “NLR”) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on April 22, 2010, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previously

applicable license exception or without a license (NLR) so long as they are exported or reexported before May 7, 2010. Any such items not actually exported or reexported before midnight, on May 7, 2010, require a license in accordance with this regulation.

“Deemed” exports of “technology” and “source code” removed from eligibility for export under a license exception or without a license (under the designator “NLR”) as a result of this regulatory action may continue to be made under the previously available license exception or without a license (NLR) before May 7, 2010. Beginning at midnight on May 7, 2010, such “technology” and “source code” may no longer be released, without a license, to a foreign national subject to the “deemed” export controls in the EAR when a license would be required to the home country of the foreign national in accordance with this regulation.

**Rulemaking Requirements**

1. This rule has been determined to be not significant for purposes of Executive Order 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 contains a collection of information subject to the requirements of the PRA. This collection has been approved by OMB under Control Number 0694–0088 (Multi-Purpose Application), which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, as indicated in the **ADDRESSES** section of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 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 (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 final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 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 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.

List of Subjects in 15 CFR Part 774

Exports, Foreign trade, 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 FR 41325 (August 14, 2009).

Supplement No. 1 to Part 774—[Amended]

2. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, “Microorganisms” & “Toxins,” ECCN 1C351 is amended by revising paragraph (a) under “Items” in the List of Items Controlled, to read as follows:

1C351 Human and zoonotic pathogens and “toxins”, as follows (see List of Items Controlled).

\* \* \* \* \*

List of Items Controlled

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

- a. Viruses, as follows:
a.1. Chikungunya virus;
a.2. Congo-Crimean haemorrhagic fever virus (a.k.a. Crimean-Congo haemorrhagic fever virus);
a.3. Dengue fever virus;
a.4. Eastern equine encephalitis virus;
a.5. Ebola virus;

- a.6. Hantaan virus;
a.7. Junin virus;
a.8. Lassa fever virus;
a.9. Lymphocytic choriomeningitis virus;
a.10. Machupo virus;
a.11. Marburg virus;
a.12. Monkey pox virus;
a.13. Rift Valley fever virus;
a.14. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
a.15. Variola virus;
a.16. Venezuelan equine encephalitis virus;
a.17. Western equine encephalitis virus;
a.18. Yellow fever virus;
a.19. Japanese encephalitis virus;
a.20. Kyasanur Forest virus;
a.21. Louping ill virus;
a.22. Murray Valley encephalitis virus;
a.23. Omsk haemorrhagic fever virus;
a.24. Oropouche virus;
a.25. Powassan virus;
a.26. Rocio virus;
a.27. St. Louis encephalitis virus;
a.28. Hendra virus (Equine morbillivirus);
a.29. South American haemorrhagic fever (Sabia, Flexal, Guanarito);
a.30. Pulmonary and renal syndrome-haemorrhagic fever viruses (Seoul, Dobrava, Puumala, Sin Nombre); or
a.31. Nipah virus.

\* \* \* \* \*

3. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B350 is amended by adding a Technical Note immediately following paragraph (g) under “Items” in the List of Items Controlled and by revising Technical Note 2 at the end of the entry to read as follows:

2B350 Chemical manufacturing facilities and equipment, except valves controlled by 2A226 or 2A292, as follows (see List of Items Controlled).

\* \* \* \* \*

List of Items Controlled

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

\* \* \* \* \*
g. \* \* \*

Technical Note to 2B350.g: The ‘nominal size’ is defined as the smaller of the inlet and outlet port diameters

\* \* \* \* \*
j. \* \* \*

Technical Note 1: \* \* \*

Technical Note 2: For the items listed in 2B350, the term ‘alloy,’ when not

accompanied by a specific elemental concentration, is understood as identifying those alloys where the identified metal is present in a higher percentage by weight than any other element.

Dated: March 17, 2010.

Kevin J. Wolf,
Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 0908041218-91220-01]

RIN 0694-AE58

Wassenaar Arrangement 2008 Plenary Agreements Implementation: Categories 1, 2, 3, 4, 5 Parts I and II, 6, 7, 8 and 9 of the Commerce Control List, Definitions, Reports; Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; correcting amendment.

SUMMARY: The Bureau of Industry and Security (BIS) published a final rule in the Federal Register on Friday, December 11, 2009, that revised the Export Administration Regulations (EAR) by amending entries for certain items that are controlled for national security reasons in Categories 1, 2, 3, 4, 5 Part I (telecommunications), 5 Part II (information security), 6, 7, 8, and 9; adding new entries to the Commerce Control List, revising reporting requirements, and adding and amending EAR Definitions. That final rule contained errors that affected Export Control Classification Numbers 1A004 and 5A001. This document corrects these errors.

DATES: Effective Date: This rule is effective March 23, 2010.

ADDRESSES: Written comments on this rule may be sent to the Federal Register eRulemaking Portal: http://www.regulations.gov, or by e-mail to publiccomments@bis.doc.gov. Include RIN 0694-AE58 in the subject line of the message. Comments may be submitted by mail or hand delivery to Sharron Cook, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, 14th St., & Pennsylvania Avenue, NW., Room H2705, Washington, DC 20230, ATTN: RIN AE58; or by fax to (202) 482-3355.