

Rules and Regulations

Federal Register

Vol. 75, No. 197

Wednesday, October 13, 2010

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 772 and 774

[Docket No. 100413184-0299-01]

RIN 0694-AE91

Wassenaar Arrangement 2009 Plenary Agreements Implementation: Categories 1, 2, 3, 4, 5 Part I, 6, 7, and 9 of the Commerce Control List, Definitions, Reports; Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Correcting amendments.

SUMMARY: The Bureau of Industry and Security (BIS) published a final rule in the *Federal Register* on Tuesday, September 7, 2010 (75 FR 54271) 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), 6, 7, 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 (ECCNs) 6A005, 6A008, and 9A001, as well as the definition of “energetic materials.” In addition, that final rule’s preamble erroneously identified ECCN 6E993 as one of the ECCNs that was revised in the rule’s text. This document corrects these errors.

DATES: *Effective Date:* This rule is effective: October 13, 2010.

FOR FURTHER INFORMATION CONTACT: For general questions contact Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at (202) 482-2440 or by e-mail: scCook@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2010, the final rule, “Wassenaar Arrangement 2009 Plenary Agreements Implementation: Categories 1, 2, 3, 4, 5 Part I, 6, 7, and 9 of the Commerce Control List, Definitions, Reports” was published in the *Federal Register* (75 FR 54271). The preamble of the September 7th rule listed ECCN 6E993 as one of the ECCNs that was revised, but it was not, in fact, revised by the rule. Through publication of this rule, BIS is clarifying that ECCN 6E993 was not revised by the September 7th rule. The September 7th rule also added an incomplete definition for “energetic materials” in section 772.1. This rule corrects that error by adding the missing text to the definition.

In the Commerce Control List, the rule did not remove a note after 6A008.f that had been moved to the items paragraph of ECCN 6A008. This rule removes the note after 6A008.f. Also, the rule listed an incorrect citation of “6.A.5.d.1.d” instead of “6A005.d.1.d” in 6A005.d.1.e; this rule corrects this citation. The rule also included two incomplete citations in the introductory text of ECCN 9A001.a; this rule replaces the citations “.a or .h” with “9E003.a or 9E003.h”.

Rulemaking Requirements

1. This final 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 involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694-0088, “Multi Purpose Application,” and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The other of the collections has been approved by OMB under control number 0694-0106, “Reporting and Recordkeeping Requirements under the Wassenaar Arrangement,” and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Send comments regarding

these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to Jasmeet Seehra, OMB Desk Officer, by e-mail at Jasmeet_K_Seehra@omb.eop.gov or by fax to (202) 395-7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6622, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under 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 (5 U.S.C. 553(a)(1)). The changes contained in this rule are non-substantive technical corrections of a previously published rule that has already been exempted from notice and comment and delay in effective date provisions because the content of the September 7, 2010 rule involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). The corrections contained in this final rule are essential to ensuring the accurate and complete implementation of the September 7th rule.

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. 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, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230.

List of Subjects

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, Parts 772 and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

PART 772—[AMENDED]

■ 1. The authority citation for 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

■ 2. Section 772.1 is amended by adding the phrase “subclasses of energetic materials.” to the end of the definition for “Energetic materials.”

PART 774—[AMENDED]

■ 3. 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); 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; 15 U.S.C. 1824a; 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 12, 2010, 75 FR 50681 (August 16, 2010).

■ 4. In Supplement No. 1 to Part 774 (the Commerce Control List):

■ a. Category 6 Sensors, ECCN 6A005 is amended by removing the reference “6.A.5.d.1.d” and adding in its place “6A005.d.1.d” in paragraph d.1.e in the Items paragraph of the List of Items Controlled section.

■ b. Category 6—Sensors, ECCN 6A008 is amended by removing the Note from paragraph f in the Items paragraph of the List of Items Controlled section.

■ c. Category 9, Aerospace and Propulsion, ECCN 9A001 is amended by revising the introductory text of paragraph (a) in the Items paragraph of the List of Items Controlled section to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

9A001 Aero gas turbine engines having any of the following (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:
a. Incorporating any of the technologies controlled by 9E003.a or 9E003.h; or
* * * * *

Bernard Kritzer,
Director, Office of Exporter Services.
[FR Doc. 2010–25554 Filed 10–12–10; 8:45 am]
BILLING CODE 3510–33–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2008–0041]

RIN 0960–AG87

Disability Determinations by State Agency Disability Examiners

AGENCY: Social Security Administration.
ACTION: Final rules.

SUMMARY: We are revising our rules on a temporary basis to permit State agency disability examiners to make fully favorable determinations in certain claims for disability benefits under titles II and XVI of the Social Security Act (Act) without the approval of a State agency medical or psychological consultant. These changes apply only to claims we consider under our rules for quick disability determinations (QDD) or under our compassionate allowance initiative.

DATES: These final rules are effective on November 12, 2010.

FOR FURTHER INFORMATION CONTACT: Nancy Schoenberg, Office of Compassionate Allowances and Disability Outreach, Social Security Administration, 4692 Annex, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–9408, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

Our Current Rules

Under our current rules, a State agency disability examiner and a State agency medical or psychological consultant generally work together to make a disability determination at the first two levels of the administrative review process for adjudicating

disability claims under titles II and XVI of the Act.¹ The members of the team are jointly responsible for the determination.² Except in prototype States, a State agency disability examiner may solely make a disability determination, without consulting a medical consultant, only when there is no medical evidence to evaluate and the claimant fails or refuses, without a good reason, to undergo a consultative examination.³

Although we evaluate all disability claims using the same criteria, we have developed two methods for expediting certain claims where there is a high probability that we will find the claimant disabled. In the QDD process, we use a computer-based predictive model to analyze specific elements of data in electronic claim files. The predictive model identifies claims in which there is a high potential that the claimant is disabled and in which we can quickly and easily obtain evidence supporting the claimant’s allegations.⁴ In the compassionate allowance initiative, we use a list of conditions to quickly identify diseases and other medical conditions that invariably qualify under the Listing of Impairments (“listings”) in our regulations⁵ at step 3 of the sequential evaluation process for initial claims⁶ based on minimal, but sufficient, objective medical information.⁷

¹ 20 CFR 404.900 and 416.1400.
² 20 CFR 404.1615(c)(1) and 416.1015(c)(1).
³ 20 CFR 404.1615(c)(2) and 416.1015(c)(2). In some States, we are testing a modification to the disability determination procedures that allows State agency disability examiners called “single decisionmakers” (SDM) to make both favorable and unfavorable determinations alone in some cases; that is, without working in a team with a medical or psychological consultant. 20 CFR 404.906(b)(2) and 416.1406(b)(2). We are continuing that testing. However, the changes in these final rules apply in all States, including SDM States. They allow SDMs and other disability examiners to make fully favorable determinations alone in QDD and compassionate allowance claims.
⁴ 20 CFR 404.1619 and 416.1019. Our data demonstrate that the model is working as we intend. See, for example, “Good Practices in Social Security: The Quick Disability Determination (QDD) and Compassionate Allowances (CAL) Initiatives: A case of the Social Security Administration,” International Social Security Association (ISSA), 2009, available at: <http://www.issa.int/aiss/Observatory/Good-Practices/The-Quick-Disability-Determination-QDD-and-Compassionate-Allowances-CAL-Initiatives>. In that paper, we reported to ISSA that the processing time for QDD allowances is about 12 days.
⁵ 20 CFR part 404 subpart P appendix 1, which also applies to title XVI under 20 CFR 416.925.
⁶ 20 CFR 404.1520(a)(4)(iii) and (d) and 416.920(a)(4)(iii) and (d).
⁷ See, generally, <http://www.socialsecurity.gov/compassionateallowances/>. In October 2008, we issued an initial list of 50 conditions that we consider for compassionate allowance. See <http://www.socialsecurity.gov/compassionateallowances/conditions.htm>. We created this list based on input