

to or by external network sources, and may be used for or interfaced with a diverse set of functions, including:

- Flight-safety-related control, communication, and navigation systems (airplane-control domain);
- Operator business and administrative support (operator-information domain); and
- Passenger information and entertainment systems (passenger-entertainment domain)

#### Discussion

The Embraer Model ERJ 190–300 airplane’s digital-systems network architecture is novel or unusual for commercial transport airplanes as it allows connection to airplane electronic systems and networks, and access from sources external to the airplane (e.g., operator networks, wireless devices, Internet connectivity, service-provider satellite communications, electronic flight bags, etc.) to the previously isolated airplane electronic assets. Airplane electronic assets include electronic equipment and systems, instruments, networks, servers, software and electronic components, field-loadable software and hardware applications, databases, etc. This proposed design may result in network security vulnerabilities from intentional or unintentional corruption of data and systems required for the safety, operation, and maintenance of the airplane.

The existing regulations and guidance material did not anticipate these types of digital-system architectures, nor access to airplane systems. Furthermore, 14 CFR part 25, and current system-safety assessment policy and techniques, do not address potential security vulnerabilities by unauthorized access to airplane data buses and servers. Therefore, these special conditions are issued to ensure that the security, integrity, and availability of airplane systems are not compromised by certain wired or wireless electronic connections between airplane data buses and networks.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

#### Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ 190–300 airplane. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these

special conditions would apply to that model as well.

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subject to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

#### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for electronic system-security protection from unauthorized external access on Embraer S.A. Model ERJ 190–300 airplanes.

1. The applicant must ensure that the airplane electronic systems are protected from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that electronic system-security threats are identified and assessed, and that effective electronic system-security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

3. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic system-security safeguards.

Issued in Renton, Washington, on June 2, 2017.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 740 and 774

[Docket No. 160217120–7396–02]

RIN 0694–AG85

#### Wassenaar Arrangement 2015 Plenary Agreements Implementation, Removal of Foreign National Review Requirements, and Information Security Updates; Corrections

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

**ACTION:** Correcting amendments.

**SUMMARY:** The Bureau of Industry and Security (BIS) maintains, as part of its Export Administration Regulations (EAR), the Commerce Control List (CCL), which identifies certain items subject to Department of Commerce jurisdiction. This rule corrects citations, replaces text that was inadvertently removed, and corrects other errors associated with the “Wassenaar Arrangement 2015 Plenary Agreements Implementation, Removal of Foreign National Review Requirements, and Information Security Updates” final rule published on September 20, 2016 (WA15 rule).

**DATES:** This rule is effective: June 14, 2017.

**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 email: [Sharron.Cook@bis.doc.gov](mailto:Sharron.Cook@bis.doc.gov).

*For technical questions contact:* Office of National Security and Technology Transfer Controls, Information Technology Control Division, Aaron Amundson at 202–482–0707.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 20, 2016, BIS published a final rule entitled, “Wassenaar Arrangement 2015 Plenary Agreements Implementation, Removal of Foreign National Review Requirements, and Information Security Updates” (81 FR 64656–64692), (WA15

rule). The Wassenaar Arrangement (WA) on Export Controls for Conventional Arms and Dual-Use Goods and Technologies is a group of 41 like-minded states committed to promoting responsibility and transparency in the global arms trade, and preventing destabilizing accumulations of arms. As a Participating State, the United States has committed to controlling for export all items on the WA control lists. The lists were first established in 1996 and have been revised annually thereafter. Proposals for changes to the WA control lists that achieve consensus are approved by Participating States at annual Plenary meetings. Participating States are charged with implementing the agreed list changes as soon as possible after approval. The United States' implementation of WA list changes ensures U.S. companies have a level playing field with their competitors in other WA Participating States. This rule affects three sections of the EAR by correcting citations, replacing text that was inadvertently removed, and correcting other errors associated with the publication of the September 20th WA15 rule.

**Part 740—License Exceptions, § 740.13 Technology and Software Unrestricted (TSU)**

The introductory paragraph of § 740.13 (License Exception TSU) of the EAR is corrected by removing the reference to “encryption source code (and corresponding object code) that would be considered publicly available under § 734.3(b)(3) of the EAR,” because the publicly available provisions for encryption were moved to § 742.15(b) in the WA15 rule. This action also adds to the introductory paragraph a reference to “release of technology and source code in the United States by U.S. universities to their bona fide and full time regular employees” as that authorization was added in § 740.13(f) of the EAR by the initial implementation rule (78 FR 22718), April 16, 2013.

**Part 740—License Exceptions, § 740.17 Encryption Commodities, Software, and Technology (ENC)**

This correcting action makes three changes to § 740.17 of the EAR, as described below.

In § 740.17, a Note that was inadvertently removed by the WA15 rule is added to introductory paragraph (b). The Note was omitted by error when the mass market provisions were moved from § 742.15(b) to § 740.17(b) in order to consolidate these provisions in one place.

Also in § 740.17, paragraph (b)(2)(i) is amended by replacing the incorrect reference to non-existing paragraph (a)(i)(A) and adding in its place the correct reference to paragraph (b)(2)(i)(A).

**Supplement No. 3 to Part 774 (Statements of Understanding)**

This correction rule amends the Notes to paragraph (a) by revising paragraph (6) to replace the reference to Note 1 to Category 5, Part II with a reference to Supplement No. 2 to part 774 of the EAR because Note 1 to Category 5, Part II was removed by the WA15 rule and replaced with the Supp. No. 2 reference.

**Export Administration Act**

Although the Export Administration Act of 1979, as amended, expired on August 21, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 4, 2016, 81 FR 52587 (August 8, 2016), has continued the Export Administration Regulations (EAR) in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

**Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” as defined under Executive Order 12866.

2. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

3. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a 30-day delay in effective date (5 U.S.C. 553) are inapplicable, because this regulation involves a military and foreign affairs function of the United

States (5 U.S.C. 553(a)(1)). Immediate implementation of these amendments fulfills the United States' international obligation to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement contributes to international security and regional stability by promoting greater responsibility in transfers of conventional arms and dual use goods and technologies, thus preventing destabilizing accumulations of such items. The Wassenaar Arrangement consists of 41 member countries that act on a consensus basis, and the changes set forth in this action make technical corrections to regulations implementing agreements reached at the December 2015 plenary session of the Wassenaar Arrangement. Because the United States is a significant exporter of the items covered by this rule, implementation of this rule is necessary for the Wassenaar Arrangement to achieve its purpose. Any delay in implementation will create a disruption in the movement of affected items globally, because of disharmony between export control measures implemented by Wassenaar Arrangement members, resulting in tension between member countries. Export controls work best when all countries implement the same export controls in a timely manner. Delaying this rulemaking to allow for notice and comment and a 30-day delay in effectiveness would prevent the United States from fulfilling its commitment to the Wassenaar Arrangement in a timely manner, and would injure the credibility of the United States in this and other multilateral regimes.

In addition, issuing a notice of proposed rulemaking would be inappropriate and contrary to the public interest in this instance, as this rule is merely making corrections to a previously published final rule.

Although there is no formal comment period, public comments on this final rule 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 2099, Washington, DC 20230.

4. Because this action merely makes technical correcting amendments to the previously published WA15 final rule, the analysis required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that is contained in the WA15 final rule continues to apply to the regulatory text that is corrected by this

action, and no additional analysis is necessary.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 740 and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 740 [AMENDED]

1. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 7201 et seq.; 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 4, 2016, 81 FR 52587 (August 8, 2016).

2. Section 740.13 is amended by revising the introductory text to read as follows:

§ 740.13 Technology and Software—unrestricted (TSU).

This license exception authorizes exports and reexports of operation technology and software; sales technology and software; software updates (bug fixes); "mass market" software subject to the General Software Note; and release of technology and source code in the United States by U.S. universities to their bona fide and full time regular employees. Note that encryption software subject to the EAR is not subject to the General Software Note (see paragraph (d)(2) of this section).

3. In § 740.17:

a. Paragraph (b) introductory text is amended by adding a Note to the paragraph; and

b. Paragraph (b)(2)(i) is amended by removing the reference "paragraph (a)(i)(A)" and adding in its place "paragraph (b)(2)(i)(A)".

The addition reads as follows:

§ 740.17 Encryption commodities, software, and technology (ENC).

(b) Note to paragraph (b) introductory text:

Mass market encryption software that would be considered publicly available under § 734.3(b)(3) of the EAR, and is authorized for export under this

paragraph (b), remains subject to the EAR until all applicable classification or self-classification requirements set forth in this section are fulfilled.

PART 774 [AMENDED]

4. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4601 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; 42 U.S.C. 2139a; 15 U.S.C. 1824a; 50 U.S.C. 4305; 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 4, 2016, 81 FR 52587 (August 8, 2016).

Supplement No. 3 to Part 774 [Amended]

5. In Supplement No. 3 to part 774, the Notes to paragraph (a) are amended by revising paragraph (6) to read as follows:

Supplement No. 3 to Part 774—Statements of Understanding

(6) For commodities and software "specially designed" for medical end-use that incorporate an encryption or other "information security" item subject to the EAR, see also section 3 (General "Information Security" Note (GISN)) to Supplement No. 2 to this part.

Dated: June 7, 2017.

Matthew S. Borman, Deputy Assistant Secretary for Export Administration.

[FR Doc. 2017-12269 Filed 6-13-17; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2017-0170]

RIN 1625-AA08

Special Local Regulation; Breakers to Bridge Paddle Festival, Lake Superior, Keweenaw Waterway, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation on Lake Superior within the

Keweenaw Waterway for the annual Breakers to Bridge Paddle Festival. This annual event historically occurs within the first 2 weeks of September and lasts for 1 day. This action is necessary to safeguard the participants and spectators on the water in a portion of the Keweenaw Waterway between the North Entry and the Portage Lake Lift Bridge located in Houghton, MI. This regulation will functionally restrict all vessel speeds while within a designated no-wake zone, unless otherwise specifically authorized by the Captain of the Port Duluth (COTP) or a designated representative. The area forming the subject of this permanent special local regulation is described below.

DATES: This rule is effective July 14, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, type USCG-2017-0170 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant John Mack, Waterways Management, MSU Duluth, Coast Guard; telephone 218-725-3818, email John.V.Mack@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

- COTP Captain of the Port Duluth
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On March 30, 2017 the Coast Guard published an NPRM in the Federal Register (82 FR 15662) entitled "Special Local Regulation; Breakers to Bridge Paddle Festival, Lake Superior, Keweenaw Waterway, MI." The NPRM proposed to establish a no-wake zone within the Keweenaw Waterway on an annual basis during the Breakers to Bridge Paddle Festival, and invited comments on our proposed regulatory action related to this fireworks display. The aforementioned NPRM was open for comment for 30 days, in which no comments were received.

III. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on