

telephone: (202) 267-8166; e-mail: [alberta.brown@faa.gov](mailto:alberta.brown@faa.gov).

For legal information, contact: Bruce Glendening, Operations Law Branch, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8011; facsimile: (202) 267-7971; e-mail: [bruce.glendening@faa.gov](mailto:bruce.glendening@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

##### *A. Correction to Section References in Part 136 Subpart B*

On February 13, 2007, the FAA published the "National Air Tour Safety Standards" final rule (72 FR 6884) in which we designated the existing sections in part 136, consisting of §§ 136.1 through 136.11, as subpart B, consisting of §§ 136.31 through 136.49. The FAA inadvertently did not update the section references in the text of those sections to reflect the new numbering. This document corrects that oversight.

##### *B. Comments Against Part 135 Certification*

In the preamble to the February 13, 2007, final rule, on pages 6891-6892, the FAA discussed comments that opposed our proposal to require commercial air tour operators to conduct their operations under part 135. We explained the regulatory basis for our final decision and, in the second full paragraph of column 1 on page 6892, we described the regulations pertaining to the carriage of passengers under different categories of airworthiness certification. Upon review, we have determined that the first sentence of that paragraph was correct; however, the second sentence was not correct because we inadvertently omitted the words "for compensation or hire" when describing operations carrying passengers in aircraft with an "Experimental Category" airworthiness certificate. We therefore correct the preamble of the final rule on page 6892, column 1, the second full paragraph, by removing the sentence that reads, "An 'Experimental Category' certificate does not allow passengers at all."

##### *C. EAA Young Eagles Program*

During development of the "National Air Tour Safety Standards" final rule, we believed that the Experimental Aircraft Association (EAA) used its FAA-issued exemptions for all flights conducted under its Young Eagles program. Since publication of the final rule, however, we have learned that EAA uses its exemptions only for those

few Young Eagles flights that are flown for compensation or hire. We therefore clarify that the final rule applies to only Young Eagles flights that are flown for compensation or hire, but the rule does not apply to other Young Eagles flights.

#### List of Subjects in 14 CFR Part 136

Air transportation, Aircraft, Airplanes, Air tours, Air safety, Aviation safety, Commercial air tours, Helicopters, National Parks, Recreation and recreation areas, Reporting and recordkeeping requirements.

■ Accordingly, 14 CFR part 136 is corrected by making the following correcting amendments:

#### PART 136—COMMERCIAL AIR TOURS AND NATIONAL PARKS AIR TOUR MANAGEMENT

■ 1. The authority citation for part 136 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

##### **§ 136.33 [Amended]**

■ 2. Amend § 136.33—

■ A. In paragraph (d)(1)(iii) by removing the reference "§ 136.5" and adding in its place the reference "§ 136.35."

■ B. In paragraph (d)(3) by removing the reference "§ 136.5" and adding in its place the reference "§ 136.35."

##### **§ 136.37 [Amended]**

■ 3. Amend § 136.37—

■ A. In paragraph (d) by removing the reference "§ 136.9" and adding in its place the reference "§ 136.39."

■ B. In paragraph (h) by removing the reference "§ 136.11" and adding in its place the reference "§ 136.41."

Issued in Washington, DC, on June 1, 2007.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E7-10972 Filed 6-6-07; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF COMMERCE

#### Bureau of Industry and Security

#### 15 CFR Part 774

[Docket No. 070426098-7100-01]

RIN 0694-AE03

#### Additional Corrections to the Rule That Implemented the New Formula for Calculating Computer Performance: Adjusted Peak Performance (APP) in Weighted TeraFLOPS

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

**ACTION:** Final rule; correction.

**SUMMARY:** This rule makes changes to regulations implementing the new formula for calculating computer Adjusted Peak Performance in Weighted TeraFLOPS. This rule corrects the availability of the license exception for technology and software under restriction for specified "software" and "technology" for computers. These additional changes are intended to correct the scope of the license exception in certain Export Control Classification Numbers that were unintentionally narrowed by the rule published on March 22, 2007. In addition, this rule corrects a reference to a nonexistent Export Control Classification Number found in specified "technology" for computers.

**DATES:** This rule is effective June 7, 2007.

**ADDRESSES:** Although this is a final rule, comments are welcome and should be sent to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov), fax (202) 482-3355, or to Regulatory Policy Division, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, Washington, DC 20230. Please refer to regulatory identification number (RIN) 0694-AE03 in all comments, and in the subject line of e-mail comments. Comments on the collection of information should be sent to David Rostker, Office of Management and Budget (OMB), by e-mail to [David\\_Rostker@omb.gov](mailto:David_Rostker@omb.gov), or by fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Joseph Young, Information Technology Controls Division, by telephone at 202-482-4197 or by e-mail at [jyoung@bis.doc.gov](mailto:jyoung@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau of Industry and Security (BIS) published a final rule on April 24, 2006 (71 FR 20876) that implemented the new formula for calculating computer Adjusted Peak Performance (APP) in Weighted TeraFLOPS (WT). Subsequently, BIS published a final rule on March 22, 2007 (72 FR 13440) that corrected the April 24, 2006 final rule, by removing certain references to Missile Technology controls and adjusting the scope of controls and license exceptions in certain Export Control Classification Numbers (ECCNs).

In adjusting the scope and license exceptions in certain ECCNs, the March 22, 2007 final rule unintentionally narrowed the scope of the license exception for technology and software under restriction (License Exception TSR) for ECCNs 4D001 (specified "software") and 4E001 (specified

“technology”). That correction rule inserted language in ECCN 4D001 that limited the use of License Exception TSR to software described in 4D001.b that meets the requisite APP parameter. Likewise, that correction rule inserted language in ECCN 4E001 that limited the use of License Exception TSR to technology described in 4E001.b that meets the requisite APP parameter.

To properly correct the scope of License Exception TSR, as intended by the original April 24, 2006 final rule, this rule changes the text of License Exception TSR for ECCN 4D001 to read: “Yes, except for ‘software’ for the ‘development’ or ‘production’ of commodities with an ‘Adjusted Peak Performance’ (‘APP’) exceeding 0.1 WT.” Similarly, this rule changes the text of License Exception TSR for ECCN 4E001 to read: “Yes, except for ‘technology’ for the ‘development’ or ‘production’ of commodities with an ‘Adjusted Peak Performance’ (‘APP’) exceeding 0.1 WT.”

Moreover, this rule makes an additional correction to a reference made in the List of Items Controlled section for ECCN 4E001. Specifically, 4E001.a refers to ECCN 4A993. Currently, ECCN 4A993 does not exist in the Commerce Control List. Therefore, this rule removes the reference to “4A993” in 4E001.a.

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 3, 2006, 71 FR 44551 (August 7, 2006), 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 not 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 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 a collection of information subject to the requirements of the PRA. This collection has previously 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. BIS expects

that this rule will not change that burden hour estimate.

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. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Steven Emme, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

#### 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. 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; 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; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; 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 3, 2006, 71 FR 44551 (August 7, 2006).

#### Supplement No. 1 to Part 774 [Amended]

■ 2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4D001 is amended by revising the License Exceptions section, to read as follows:

#### 4D001 Specified “Software”, See List of Items Controlled

\* \* \* \* \*

#### License Exceptions

CIV: N/A

TSR: Yes, except for “software” for the “development” or “production” of commodities with an “Adjusted Peak Performance” (‘APP’) exceeding 0.1 WT.

APP: Yes to specific countries (see § 740.7 of the EAR for eligibility criteria).

\* \* \* \* \*

■ 3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4E001, is amended:

■ a. By revising the License Exceptions section as set forth below;

■ b. By revising paragraph (a) in the “Items” paragraph of the List of Items Controlled section, as follows:

#### 4E001 Specified “Technology”, See List of Items Controlled

\* \* \* \* \*

#### License Exceptions

CIV: N/A

TSR: Yes, except for “technology” for the “development” or “production” of commodities with an “Adjusted Peak Performance” (‘APP’) exceeding 0.1 WT.

APP: Yes to specific countries (see § 740.7 of the EAR for eligibility criteria).

#### List of Items Controlled

Unit: \* \* \*

Related Controls: \* \* \*

Related Definitions: \* \* \*

Items:

a. “Technology” according to the General Technology Note, for the “development”, “production”, or “use” of equipment or “software” controlled by 4A (except 4A980 or 4A994) or 4D (except 4D980, 4D993, 4D994).

\* \* \* \* \*

Dated: June 1, 2007.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. E7–11016 Filed 6–6–07; 8:45 am]

BILLING CODE 3510–33–P