

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 020328073-2073-01]

RIN 0694-AC55

Revisions to the Export Administration Regulations as a Result of the September 2001 Missile Technology Control Regime (MTCR) Plenary Meeting**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), Commerce Control List (CCL), to reflect changes that were negotiated during the September 2001 Missile Technology Control Regime (MTCR) Plenary in Ottawa, Canada. These revisions include several changes to CCL entries ECCN 1C107 and ECCN 9A101. The revisions to ECCN 1C107 clarify what shapes and sizes are usable for rocket nozzles and reentry vehicle nose tips. The revisions to ECCN 9A101 expand the scope of items controlled, but will have a minimal effect on the number of license applications submitted to BIS.

DATES: This rule is effective May 20, 2002.

FOR FURTHER INFORMATION CONTACT:

Matthew Blaskovich, Office of Exporter Services, Bureau of Industry and Security, Telephone: (202) 482-2440.

SUPPLEMENTARY INFORMATION: The Missile Technology Control Regime (MTCR) is an export control arrangement among 33 nations including the world's most advanced suppliers of ballistic missiles and missile-related materials and equipment. The regime is designed to stem the spread of rockets and unmanned air vehicles systems capable of delivering weapons of mass destruction by establishing a common export control policy (the Guidelines) and a shared list of controlled items (the Annex) that each country implements through its own national legislation.

While the MTCR originally restricted transfers of missiles capable of carrying a nuclear warhead, it was expanded in January 1993 to also cover delivery systems for chemical and biological weapons. The only absolute prohibition in the regime's Guidelines is on the transfer of complete "production facilities" for specially designed items in Category I of the MTCR Annex.

MTCR members voluntarily pledge to adopt the regime's export Guidelines and to restrict the export of items contained in the regime's Annex. MTCR export controls are not bans, but regulatory efforts by individual partners to prevent transfers of items that could contribute to delivery systems for weapons of mass destruction.

This rule amends the Commerce Control List (CCL) to reflect the revisions to the MTCR Annex made at the September 2001 plenary meeting. These revisions include several changes to items 3.A.1 and 8.C.3 of the MTCR Annex and the addition of items 8.C.4 and 8.C.6 to the MTCR Annex, controlled on the CCL under ECCNs 9A101 and 1C107, respectively. Specific changes are:

ECCN 1C107 New parameters are inserted for fine grain recrystallized bulk graphites in paragraph (a), to clarify what bulk graphites are usable in "missiles." The remainder of the entry is restructured for clarity.

Paragraph (b) is divided into two paragraphs and redesignated as (c) and (d), and a new paragraph (b) has been created, from text that was previously in paragraph (a).

ECCN 9A101 The maximum thrust value (paragraph a.1) for lightweight turbojet and turbofan engines usable in "missiles," other than those controlled by 9A001, is changed from 1000 N to 400 N. The specific fuel consumption (paragraph a.2) is changed from 0.13 kg/N/hr to 0.15 kg/N/hr. In addition, clarifying language is added to paragraphs (a.2) and (b), and the text in the "Related Controls" paragraph is clarified.

Saving Clause

This rule revises the control parameters of ECCNs 1C107 and 9A101 on the Commerce Control List. For items under these entries, exports and reexports of items removed from eligibility for export or reexport without a license as a result of this regulatory action may continue to be exported or reexported without a license until June 19, 2002.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001) continues the Regulations in effect under the International Emergency Economic Powers Act.

Rule Making 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 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 current valid OMB Control Number. This rule involves 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. There are neither additions nor subtractions to these collections due to this rule.

3. This rule does not contain policies with Federalism 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 (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 Matthew Blaskovich, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects in 15 CFR Part 774

Exports, Foreign trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

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); 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, Publ. L. 106-387; Sec. 221, Publ. L. 107-56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001.

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1

(Materials, Chemicals, "Microorganisms," and Toxins) is amended by revising the List of Items Controlled section of ECCNs 1C107, to read as follows:

* * * * *

1C107 Graphite and ceramic materials, other than those controlled by 1C007, as follows (see List of Items Controlled).

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List of Items Controlled

Unit: Kilograms

Related Controls: N/A

Related Definitions: N/A

Items:

a. Fine grain recrystallized bulk graphites with a bulk density of 1.72 g/cm³ or greater, measured at 288 K (15 °C), and having a particle size of 100 micrometers or less, usable for rocket nozzles and reentry vehicle nose tips as follows:

a.1. Cylinders having a diameter of 120 mm or greater and a length of 50 mm or greater;

a.2. Tubes having an inner diameter of 65 mm or greater and a wall thickness of 25 mm or greater and a length of 50 mm or greater;

a.3. Blocks having a size of 120 mm × 120 mm × 50 mm or greater.

b. Pyrolytic or fibrous reinforced graphites, usable for rocket nozzles and reentry vehicle nose tips;

c. Ceramic composite materials (dielectric constant less than 6 at frequencies from 100 Hz to 10 GHz), for use in "missile" radomes; and

d. Bulk machinable silicon-carbide reinforced unfired ceramic, usable for nose tips.

3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9 (Propulsion Systems, Space Vehicles and Related Equipment) is amended by revising the List of Items Controlled section of ECCN 9A101, to read as follows:

9A101 Lightweight turbojet and turbofan engines (including turbocompound engines) usable in "missiles", other than those controlled by 9A001, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: Equipment in number; parts and accessories in \$ value

Related Controls: 9A101.b controls only engines for non-military unmanned air vehicles [UAVs] or remotely piloted vehicles [RPVs], and does not control other engines designed or modified for use in "missiles", which are subject to the export licensing authority of the

U.S. Department of State, Office of Defense Trade Controls (see 22 CFR part 121).

Related Definitions: N/A

Items:

a. Engines having both of the following characteristics:

a.1. Maximum thrust value greater than 400 N (achieved un-installed) excluding civil certified engines with a maximum thrust value greater than 8,890 N (achieved un-installed), and

a.2. Specific fuel consumption of 0.15 kg/N/hr or less (at maximum continuous power at sea level static and standard conditions); or

b. Engines designed or modified for use in "missiles", regardless of thrust or specific fuel consumption.

Dated: May 10, 2002.

James J. Jochum,

Assistant Secretary for Industry and Security.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 00C-0929]

Listing of Color Additives Exempt From Certification; Sodium Copper Chlorophyllin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of sodium copper chlorophyllin as a color additive in citrus-based dry beverage mixes. This action is in response to a petition filed by Kraft Foods, Inc.

DATES: This rule is effective June 20, 2002; except as to any provisions that may be stayed by the filing of proper objections. Submit written or electronic objections and requests for a hearing by June 19, 2002.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic objections and requests for a hearing to <http://www.fda.gov/dockets/ecomments>.

FOR FURTHER INFORMATION CONTACT: Aydin Örtan, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint

Branch Pkwy., College Park, MD 20740, 202-418-3076.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of March 14, 2000 (65 FR 13770), FDA announced that a color additive petition (CAP 0C0270) had been filed by Kraft Foods, Inc., c/o Flamm Associates, 622 Beachland Blvd., Vero Beach, FL 32963. The petition proposed to amend the color additive regulations to provide for the safe use of sodium copper chlorophyllin to color citrus-based dry beverage mixes.

II. Identity

Sodium copper chlorophyllin is manufactured from chlorophyll, the common pigment of green plants. The manufacturing process consists of three main steps: (1) Extraction of chlorophyll from plant material with an appropriate solvent, (2) preparation of water-soluble derivatives by alkaline hydrolysis of ester groups of chlorophyll (saponification), and (3) replacement of the magnesium ion of natural chlorophyll with copper. The final color additive product sodium copper chlorophyllin is a complex mixture of chlorophyll derivatives (Ref. 1). The petitioner specified the source of chlorophyll used to make sodium copper chlorophyllin as alfalfa (*Medicago sativa*) and provided data showing that sodium copper chlorophyllin prepared from chlorophyll extracted from alfalfa meets the proposed specifications. Therefore, in new § 73.125 (21 CFR 73.125) FDA is limiting the source of chlorophyll used to make sodium copper chlorophyllin to alfalfa.

The agency notes that the intended coloring effect of citrus-based dry beverage mixes is achieved when sodium copper chlorophyllin is used in an amount not exceeding 0.2 percent. Therefore, in new § 73.125 the agency is limiting the amount of sodium copper chlorophyllin in the dry mix to 0.2 percent.

III. Safety Evaluation

In evaluating the safety of the use of sodium copper chlorophyllin to color citrus-based dry beverage mixes, the agency considered: (1) The safety of chlorophyll and copper chlorophyllins, including the manufacturing process of sodium copper chlorophyllin; and (2) the safety of copper in sodium copper chlorophyllin.