and has determined that it will have no effect on family well-being.

This rule contains information collection requirements which have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5, display of control numbers.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 204—IMMIGRANT PETITIONS

1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255; 8 CFR part 2.

2.Section 204.10 is amended by:

a. Removing the last two sentences in paragraph (a) and adding a new sentence in their place;

b. Revising paragraph (b);

c. Revising paragraph (d);

d. Revising paragraph (e)(2);

e. Redesignating paragraph (g) as paragraph (h);

f. Adding a new paragraph (g); and by

g. Revising newly redesignated paragraph (h) to read as follows:

§ 204.10 Petitions by, or for, certain scientists of the Commonwealth of Independent States or the Baltic states.

(a) *General.* * * * The Service must approve a petition filed on behalf of the alien on or before October 24, 1996, or until 750 petitions have been approved on behalf of eligible scientists, whichever is earliest.

(b) *Jurisdiction.* Form I–140 must be filed with the service center having jurisdiction over the alien's place of intended residence in the United States, unless specifically designated for local filing by the Associate Commissioner for Examinations. To clarify that the petition is for a Soviet scientist, the petitioner should check the block in part 2 of Form I–140 which indicates that the petition is for ''a member of the professions holding an advanced degree or an alien of exceptional ability'' and clearly print the words ''SOVIET SCIENTIST'' in an available space in Part 2.

* * * * *

(d) *Definitions.* As used in this section:

Baltic states means the sovereign nations of Latvia, Lithuania, and Estonia.

Eligible independent states and Baltic scientists means aliens:

(i) Who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(ii) Who are scientists or engineers who have expertise in a high-technology field which is clearly applicable to the design, development, or production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction, or who are working on the design, development, and production of ballistic missiles, nuclear, biological, chemical, or other high-technology weapons of mass destruction.

Independent states of the former Soviet Union means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

(e) * * *

(2) Evidence that the alien possesses exceptional ability in the field. Such evidence shall include:

(i) Form ETA 750B, Statement of Qualifications of Alien and a supplementary statement of relevant experience within the past ten years; and

(ii) Written testimony that the alien has expertise in a field described in paragraph (d) of this section, or that the alien is or has been working on a high-technology defense project or projects in a field described in paragraph (d) of this section, from either two recognized national or international experts in the same field or from the head or duly appointed designee of an agency of the Federal Government of the United States; and

(iii) Corroborative evidence of the claimed expertise, including the beneficiary's official Labor Record Book (Trudavaya Knizhka), any significant awards and publications, and other comparable evidence, or an explanation why the foregoing items cannot be submitted; or

(iv) In the case of a qualified scientist who establishes that he or she is unable to submit the initial evidence prescribed by paragraphs (e)(2) (ii) or (iii) of this section, a full explanation and statement of the facts concerning his or her eligibility. This statement must be sufficiently detailed so as to enable the Service to meaningfully consult with other government agencies as provided in paragraph (g) of this section.

* * * * *

(g) *Consultation with other United States Government agencies.* In evaluating the claimed qualifications of applicants under this provision, the Service may consult with other United States Government agencies having expertise in defense matters including, but not limited to, the Department of Defense, the Department of State, and the Central Intelligence Agency. The Service may, in the exercise of discretion, accept a favorable report from such agency as evidence in lieu of the documentation prescribed in paragraphs (e)(2) (ii) and (iii) of this section.

(h) *Decision on and disposition of petition.* If the beneficiary is outside of the United States, or is in the United States but seeks to apply for an immigrant visa abroad, the approved petition will be forwarded by the service center to the Department of State's National Visa Center. If the beneficiary is in the United States and seeks to apply for adjustment of status, the approved petition will be retained at the service center for consideration with the application for adjustment of status. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR part 103.

Dated: August 24, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–25931 Filed 10–18–95; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 773, 778 and 799

[Docket No. 951004245–5245–01]

RIN 0694–AB20

Revisions to the Export Administration Regulations: Exports of Sample Shipments Containing Precursor and Intermediate Chemicals; Revision to Australia Group Members; Aqueous Hydrofluoric Acid; and Clarifications

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), as part of the Export Administration Regulations (EAR). The changes made by this rule are based on discussions in the Australia Group (AG) and suggested changes by industry.

This rule amends the CCL by revising Export Control Classification Number (ECCN) 1C60 to clarify that this entry controls aqueous hydrofluoric acid. ECCN 1C60 controls dual-use precursors and intermediate chemicals useful in the production of chemical warfare agents and certain mixtures containing such chemicals.

In addition, this rule adds Poland, Romania and the Slovak Republic to the list of Australia Group countries, thereby making them eligible for the license exceptions accorded AG members.

DATES: This rule is effective October 19, 1995.

FOR FURTHER INFORMATION CONTACT:

For general questions, call Sharron Cook, Bureau of Export Administration, Regulatory Policy Division, Telephone: (202) 482–2440.

For questions on foreign policy controls, call Patricia Sefcik, Bureau of Export Administration, Chemical & Biological Controls Division, Telephone: (202) 482–0707.

For questions of a technical nature on chemical weapon precursors, biological agents, and equipment that can be used to produce chemical and biological weapons agents, call James Seevaratnam, Bureau of Export Administration, Chemical & Biological Controls Division, Telephone: (202) 482–3343.

SUPPLEMENTARY INFORMATION:

Background

The export control liberalization set forth in BXA's October 19, 1994 Federal Register notice (59 FR 52685) provides relief to the chemical industry from the previous zero tolerance on chemical mixtures containing an Australia Group (AG) controlled chemical precursor. Before October 19, 1994, the U.S. did *not* permit any preferential licensing treatment for exports of chemical mixtures that contained any quantity of an AG-controlled chemical.

In May 1994, the members of the AG agreed to harmonize licensing requirements for mixtures containing AG controlled chemicals in order to facilitate legitimate trade without allowing chemical weapons (CW) proliferators to circumvent AG controls. Accordingly, thresholds were agreed to for mixtures containing *de minimis* quantities, by weight, of AG controlled chemicals. In this regard, the ''solvent free basis'' provision for determining whether such chemical mixtures are subject to export licensing requirement was added to preclude proliferators from extracting meaningful quantities of AG controlled chemical precursors for use in the production of CW.

At the November/December 1994 meeting of the Australia Group, the delegates discussed certain technical revisions in the AG's harmonized controls on chemical weapons precursors. The changes discussed at the meeting are contained in this final rule. These changes refine and clarify the scope of controls on exports of sample shipments and mixtures containing controlled precursor and intermediate chemicals. This rule does not address controls on biological agents that are controlled by ECCN 1C61.

Consistent with an AG agreement, Commerce is adding a note to ECCN 1C60 to clarify that a validated license is required for aqueous hydrofluoric acid.

This rule also adds Poland, Romania and the Slovak Republic to the list of countries exempt from certain validated license requirements on the basis of their recent membership in the Australia Group. For consistency and conformity, Romania has been removed from Supplement No. 5 to Part 778.

The chemical industry commented on the October 1994 rule, and requested that BXA clarify the terms ''solvent'' and ''solvent free basis.'' Therefore, in Supplement No. 3 to Part 778, this rule sets forth the definition of solvent and provides examples of mixtures containing AG-controlled chemicals, with and without solvents, to assist companies in determining whether such mixtures require validated export licenses.

BXA also received comments concerning the reporting requirements for sample shipments. Many exporters recommended that reports for sample shipments should be submitted on a quarterly basis instead of within 30 days after each sample shipment. The reports and the reporting requirement have been under consideration and upon assessing the data, and in light of the revisions to sample shipments made by this rule, it was determined that the reporting requirement will be made quarterly, under OMB control number 0694–0086.

BXA also received comments on the potential confusion caused by including in ECCN 1C60 both precursor chemicals that require a license to most countries and sample and mixtures that are exempt from a validated license requirement to most destinations. Therefore, this rule establishes a new ECCN 1C95F for mixtures meeting the *de minimis* mixtures exemptions found in ECCN 1C60. However, 1C60 chemicals that meet the samples exemption do not lose their identity and therefore will remain classified under ECCN 1C60.

This final rule revises ECCN 1C60, which controls precursor and intermediate chemicals useful in the production of chemical warfare agents, as follows:

ECCN 1C60

(1) Note 1 to ECCN 1C60 is revised to modify the general license treatment for sample shipments containing controlled chemical precursors to eligible destinations (all destinations except Iran, Syria and Country Groups S and Z). Previously, general license treatment for sample shipments to eligible destinations has been available for only a single sample shipment equal to or less than a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Exporters may now use General License G–DEST to make multiple sample shipments of any quantity of precursor or intermediate chemicals, listed in ECCN 1C60, as long as the cumulative annual amount of each chemical to any one consignee does not exceed either a 55 gallon container or 200 kg. Reports on sample shipments must be made quarterly.

(2) Note 2 to ECCN 1C60 is clarified by adding a definition of ''Solvent''.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person 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 currently valid OMB Control Number.

Saving Clause

Shipments of aqueous hydrofluoric acid that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before October 19, 1995 may be exported under general license provisions up to and including November 16, 1995. Any aqueous hydrofluoric acid not actually exported before midnight November 16, 1995, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0010, 0694–0023, 0694–0067, and 0694–0086. This rule makes a revision to an OMB collection, control number 0694–0086. The public burden for this collection contained within the rulemaking will remain an estimated average of one-half hour per response, although the frequency for reporting has been decreased. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing this burden, to the Office of Security and Management Support, Room 4513, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: Paperwork Reduction Project—0694–0086).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. 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. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

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, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 773 and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, Parts 773, 778 and 799 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

1. The authority citations for 15 CFR Part 773 and 778 continue to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994) and Notice of August 15, 1995 (60 FR 42767).

2. The authority citation for 15 CFR Part 799 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994); and Notice of August 15, 1995 (60 FR 42767).

PART 773—[AMENDED]

3. Section 773.9 is amended by:

i. Revising paragraph (a)(1);

ii. Revising the phrase ''ECCN 1C60B or 1C64E'' or ''ECCNs 1C60C or 1C64E'' to read ''ECCN 1C60C'' in the following paragraphs:

A. (f)(1)(iv), last sentence;

B. (f)(2)(i)(B), last sentence; and

C. (i)(2)(vii), last sentence; and

iii. Revising the notice at the end of paragraph (l) to read as follows:

§ 773.9 Special Chemical License.

(a) * * *

(1) Precursor and intermediate chemicals controlled under ECCN 1C60C; and

* * * * *

(l) * * *

These commodities were authorized for export from the United States under a Special Chemical License procedure on the condition that they may not be reexported without prior approval from the United States authorities. This prior approval is not required for reexports to Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

* * * * *

PART 778—[AMENDED]

4. Section 778.8 is amended by revising:

i. paragraph (a)(1) introductory text;

ii. paragraph (a)(1)(i);

iii. paragraph (a)(5)(i);

iv. paragraph (a)(5)(iv)(B);

v. paragraph (a)(5)(v), to read as follows:

§ 778.8 Chemical precursors and biological agents, and associated equipment, software, and technology.

(a) * * *

(1) Chemicals identified in ECCN 1C60 require a validated license for export from the United States to all destinations except Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

(i) A validated license is required for chemical mixtures containing any

chemicals identified in ECCN 1C60. See Note 2 of ECCN 1C60 and ECCN 1C95 on the Commerce Control List (§ 799.1 of this subchapter) for further details on the concentrations of chemicals that require a validated license.

* * * * *

(5) * * *

(i) General License GTDU, as authorized in ECCN 1E60C, is not available for technical data for the production of chemical precursors described in paragraph (a)(1) of this section, except to Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom;

* * * * *

(iv) * * *

(B) This prohibition on use of General License GTDU, as authorized in ECCN 1E60C, does not apply to exports to Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

(v) General License GTDU, as authorized in ECCN 1D60C, is available only for process control software that is specifically configured to control or initiate the production of chemical weapons precursors controlled by ECCN 1C60 and only to Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

* * * * *

5. Section 778.9 is amended by revising paragraph (c) to read as follows:

§ 778.9 Activities of U.S. persons.

* * * * *

(c) No U.S. person shall, without a validated license or other authorization by BXA, participate in the design, construction, or export of a whole plant to make chemical weapons precursors identified in ECCN 1C60, in countries other than Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

* * * * *

6. Supplement No. 3 to Part 778 (formally reserved) is added to read as follows:

Supplement No. 3 to Part 778—Chemical Mixtures: De Minimis Exceptions Examples

This supplement contains examples on applying the *de minimis* exceptions for chemical mixtures containing precursor and intermediate chemicals controlled under ECCN 1C60.

In ECCN 1C60, Note 2, paragraphs (c) and (d) within the Mixtures Exemptions state that a validated license is required when at least one of the listed chemicals constitutes more than 10% or 25%, respectively, of the weight of the mixture on a solvent free basis.

Example One

A mixture contains the following components:

90% polymer polyol (a liquid raw material used to make polyurethane polymers)
10% Australia Group (AG)-controlled chemical eligible for 25% *de minimis* exemption

Note: The polymer does not dissolve the AG-controlled chemical.

In this example, the polymer polyol does not dissolve the AG-controlled chemical (the only other component of the mixture). Therefore, the polyol is NOT considered a solvent, and the concentration of the polymer polyol is included in the concentration calculation. As a result, the AG-controlled chemical's concentration is 10% when calculated on a solvent-free basis (.10/1.00). Accordingly, this concentration is below the threshold concentration of 25% applicable to specific AG-controlled chemicals under the chemical mixtures rule and can be exported under the provisions of general license G–DEST to all destinations except Iran, Syria, and Country Groups S and Z.

To determine the classification of this mixture, it is necessary to determine whether the polymer is capable of functioning as a solvent for the other components of the mixture. If the polymer polyol is capable of functioning as a solvent for the controlled AG chemical, then the polymer component is omitted from the concentration calculation. If the polymer polyol is not capable of functioning as a solvent for the AG chemical, then the polymer component is included in the concentration calculation.

Example Two

An automotive coolant (antifreeze) is a mixture of the following components:

75% ethylene glycol
10% additive package
15% water

Note: The ''additive package'' contains an AG-controlled chemical that is eligible for the 10% *de minimis* exemption. This chemical is added as a stabilizer and represents 9% of the total mixture. The remaining components of the additive package are various dyes and stabilizers that represent 1% of the total mixture. Ethylene glycol serves as the basic functional ingredient that prevents the engine block from freezing, and does not dissolve the other components of the mixture. The water is added to keep the mixture in solution.

To determine if this mixture requires an individual validated license (IVL) it is necessary to calculate the concentration of the AG-controlled chemical on a solvent-free basis. Since the water dissolves all of the other components of the mixture, water is considered a ''solvent'' and the quantity of water present is not included in the calculation of the AG-chemical concentration. Consequently, the concentration of the AG chemical is approximately 11% (.09/.85), and the mixture is classified under ECCN 1C60C. Accordingly, since this concentration is above the threshold concentration of 10% applicable to this category of AG-controlled chemical under the chemical mixtures rule, an IVL is required to all destinations except AG member countries.

Example Three

A pesticide formulation consists of an AG-controlled chemical that is eligible for the 25% *de minimis* exemption, and an active ingredient that is not AG-controlled. The formulation is diluted with water to allow safe, effective, and economic application. The resulting mixture is 15% AG chemical, 40% active ingredient and 45% water. Although the water is added as a diluent, it dissolves the other components of the mixture.

Since the water dissolves all components in the mixture, it is considered a solvent even though it was added as a diluent. The percent concentration of the AG-controlled chemical calculated on a solvent free basis is .15/.55 = 27%, and the mixture is therefore classified under ECCN 1C60C. Accordingly, since this concentration is above the threshold concentration of 25% applicable to this category of AG-controlled chemicals under the chemical mixtures rule, an IVL is required to all destinations except AG member countries.

Example Four

A mixture contains the following components:

10% water
22% Chemical A
21% Chemical B
20% Chemical C
19% Chemical D
8% Chemical E

Note: The water is added to dissolve the other components of the mixture. Chemicals A, B, C, and D are AG-controlled chemicals each eligible for 25% *de minimis* exemption. Chemical E is an AG-controlled chemical eligible for 10% *de minimis* exemption.

In this example, water is considered a solvent since it dissolves all components in the mixture. Therefore, the quantity of water present in the mixture is not included in calculating the concentrations of the controlled chemicals on a solvent-free basis. The concentrations of the controlled

chemicals are as follows: Chemical A 24%; Chemical B 23%; Chemical C 22%; Chemical D 21%; Chemical E 9%. It is important to note that in this example, even though the cumulative amount of the mixture (90%) consists of controlled chemicals, each one of the controlled chemicals is below the *de minimis* level for its category. Consequently, this mixture can be exported under the provisions of general license G–DEST to all destinations except Iran, Syria, and Country Groups S and Z.

7. Supplement No. 5 to Part 778 (Dual-Use Chemical and Biological Equipment; Regions, Countries, and Other Destinations), is amended by removing ''Romania'' from the list of countries.

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

8. In Category 1 (Materials), ECCN 1C60C, 1D60C and 1E60C are amended by revising the Requirements section, and a new ECCN 1C95F is added after 1C94F, respectively, as follows:

1C60C Precursor and Intermediate Chemicals Used in the Production of Chemical Warfare Agents and Certain Mixtures Containing Such Chemicals

Requirements

Validated License Required: QSTVWYZ, *except* Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom. (see *Note 4*)

Unit: Liters or kilograms as appropriate
Reason for Control: CB
GLV: $0
GCT: No
GFW: No

Notes: 1. *Sample Shipments:* Certain sample shipments of chemicals controlled under ECCN 1C60 may be made without a validated license, as provided by the following rules:

a. The following chemicals are not eligible for sample shipments: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856–11–8), Ethylphosphonyl difluoride (C.A.S. #753–98–0), and Methylphosphonyl difluoride (C.A.S. #676–99–3).

b. The following countries are not eligible to receive sample shipments: Iran, Syria, and Country Groups S and Z.

c. Sample Shipments: a validated license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments, in any quantity, not exceeding the totals indicated in this paragraph may be made under General License G-DEST, subject to the stipulations of this Note 1.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery identifying the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report should be sent to the Bureau of Export Administration, Room 2705, Washington, DC 20230, clearly marked ''Report of Sample Shipments of Chemical Precursors'' at the top of the first page and on the envelope.

2. *Mixtures:* Mixtures that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements under this ECCN:

a. A Validated License is required, regardless of the concentrations in the mixture, for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S.#57856–11–8), Ethylphosphonyl difluoride (C.A.S.#753–98–0) and Methylphosphonyl difluoride (C.A.S.#676–99–3);

b. A Validated License is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture on a solvent free basis: Arsenic trichloride (C.A.S.#7784–34–1), Benzilic acid (C.A.S.#76–93–7), Diethyl ethylphosphonate (C.A.S.#78–38–6), Diethyl methylphosphonite (C.A.S.#15715–41–0), Diethyl-N,N-dimethylphosphoroamidate (C.A.S.#2404–03–7), N,N-Diisopropyl-beta-aminoethane thiol (C.A.S.#5842–07–9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S.#4261–68–1), N,N-Diisopropyl-beta-aminoethanol (C.A.S.#96–80–0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S.#96–79–7), Dimethyl ethylphosphonate (C.A.S.#6163–75–3), Dimethyl methylphosphonate (C.A.S.#756–79–6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S.#1498–40–4), Ethylphosphonus difluoride [Ethylphosphinyl difluoride] (C.A.S.#430–78–4), Ethylphosphonyl dichloride (C.A.S.#1066–50–8), Methylphosphonous dichloride [Methylphosphinyl dicloride] (C.A.S.#676–83–5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S.#753–59–3), Methylphosphonyl dichloride (C.A.S.#676–97–1), Pinacolyl alcohol (C.A.S.#464–07–3), 3–Quinuclidinol (C.A.S.#1619–34–7), and Thiodiglycol (C.A.S.#111–48–8); (Related ECCN: 1C95F)

c. A Validated License is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture on a solvent free basis (related ECCN: 1C95F); and

d. A Validated License is not required under this entry for mixtures when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN 1C96G.

e. *Calculation of concentrations of AG-controlled chemicals.*

1. Usual Commercial Purposes. In calculating the percentage of an AG controlled chemical in a mixture (solution), any other chemical must be excluded if it was not added for usual commercial purposes, but was added for the sole purpose of circumventing the Export Administration Regulations.

2. ''Solvent Free Basis Requirement.'' When calculating the percentage, by weight, of components in a chemical mixture, you must exclude from the calculation any component of the mixture that acts as a solvent.

3. Solvent—For purposes of this ECCN ''A substance capable of dissolving another substance to form a uniformly dispersed mixture (solution)''.

- Solvents are liquids at standard temperature and pressure (STP).
- In no instance is an AG controlled chemical considered a ''solvent''.
- All ingredients of mixtures are expressed in terms of weight.
- The solvent component of the mixture converts it into a solution.

3. *Compounds*: A validated license is not required under this entry for chemical compounds created with any chemicals identified in this ECCN 1C60, unless those compounds are also identified in this entry.

4. *Special Chemical License Available*: See § 773.9 of this subchapter.

Technical Notes: 1. For purposes of this ECCN 1C60, a ''mixture'' is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

3. All *de minimis* exclusions of this entry extend to all mixtures including those that contain no solvents.

4. A Solvent is defined as a substance capable of dissolving another substance to form a uniformly dispersed mixture (solution). For examples and clarification of the term ''solvent free'' basis, see Supplement No. 3 to Part 778.

* * * * *

1C95F Mixtures Containing Precursor and Intermediate Chemicals Used in the Production of Chemical Warfare Agents That Are Not Controlled by ECCN 1C60

Requirements

Validated License Required: SZ, Iran
Unit: Liters or kilograms as appropriate
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

Note: For calculation of *de minimis* quantities of AG-controlled chemicals in mixtures, see ECCN 1C60 and Supplement 3 to Part 773.

* * * * *

1D60C Software for Process Control That is Specifically Configured To Control or Initiate Production of the Chemical Precursors Controlled by ECCN 1C60

Requirements

Validated License Required: QSTVWYZ, *except* Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic,

Spain, Sweden, Switzerland, and the United Kingdom.

Unit: $ value

Reason for Control: CB

GTDR: No

GTDU: Only to countries listed above as not subject to validated license

* * * * *

1E60C Technology for the Production and/or Disposal of Chemical Precursors Described in ECCN 1C60C, and Technology as Described in the List Below for Facilities Designed or Intended to Produce Chemicals Described in ECCN 1C60

Requirements

Validated License Required: QSTVWYZ, *except* Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

Reason for Control: CB

GTDR: No

GTDU: Only to countries listed above as not subject to validated license

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9. In Supplement No. 1 to § 799.2, the introductory text to Interpretation 23 is revised to read as follows:

Supplement No. 1 to § 799.2—Interpretations

* * * * *

Interpretation 23: Precursor Chemicals

Following is a list of chemicals controlled by ECCN 1C60C that includes their Chemical Abstract Service Registry (C.A.S.) number and synonyms (i.e., alternative names). These chemicals require a validated license to all countries except Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

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Dated: October 13, 1995.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 95–25900 Filed 10–18–95; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 94F–0415]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Polypropylene Glycol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polypropylene glycol with a molecular weight range of 1,200–3,000 grams per mole (g/mol) as a defoaming agent in processing beet sugar and yeast. This action is in response to a petition filed by Ashland Chemical Co.

DATES: Effective October 19, 1995; written objections and requests for a hearing by November 20, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 12, 1995 (60 FR 2975), FDA announced that a food additive petition (FAP 5A4436) had been filed by Ashland Chemical Co., One Drew Plaza, Boonton, NJ 07005, proposing that § 173.340 *Defoaming agents* (21 CFR 173.340) be amended to provide for the safe use of polypropylene glycol with a molecular weight range of 1,200–3,000 g/mol as a defoaming agent in processing beet sugar and yeast.

The additive polypropylene glycol with a molecular weight range of 1,200–2,500 g/mol is currently listed in § 173.340 for use as a defoaming agent in processing beet sugar and yeast. FDA has evaluated the data in the petition and other relevant material and concludes that the extension of the allowable molecular weight range for polypropylene glycol to a maximum of 3,000 from the current 2,500 g/mol would not result in a greater exposure to the additive or to residual oligomers and monomers. The longer polymer of propylene glycol is a more effective defoamer and can be used at lower levels than the currently regulated polymer. Therefore, FDA concludes that the proposed food additive use of polypropylene glycol with a molecular weight range of 1,200–3,000 g/mol requested by the petitioner is safe and that § 173.340 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule and announced its conclusion in the notice of filing for FAP 5A4436 (60 FR 2975, January 12, 1995). No new information or comments have been received that would affect the agency's conclusion that there is no significant impact on the human environment and that an environmental impact statement is not required.

Any person who will be adversely affected by this regulation may at any time on or before November 20, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.