



This document is scheduled to be published in the Federal Register on 11/12/2014 and available online at <http://federalregister.gov/a/2014-26664>, and on FDsys.gov

Billing Code 3510–33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 740, 748, 758, and 774

[Docket No. 130110030-4928-03]

RIN 0694-AF87

Clarifications and Corrections to the Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

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

ACTION: Final rule.

SUMMARY: This final rule makes clarifications and corrections to an interim final rule that was published on May 13, 2014. The May 13 rule added controls to the Export Administration Regulations (EAR) for spacecraft and related items that the President has determined no longer warrant control under United States Munitions List (USML) Category XV – spacecraft and

related items. New Export Control Classification Numbers (ECCNs) 9A515, 9B515, 9D515, and 9E515 created by the May 13 rule and existing ECCNs on the Commerce Control List (CCL) will control such items. The May 13 rule also revised various sections of the EAR to provide the proper level of control for the new ECCNs. The vast majority of the changes included in the May 13 rule have been implemented as published in the interim final rule, so those changes are not republished in this final rule. A full description of those changes can be found in the Background section and the regulatory text of the May 13 rule. The changes included in this final rule are limited to corrections and clarifications to what was included in the interim final rule. These corrections and clarifications were also informed by comments received in response to the May 13 rule that included a request for comments.

DATES: *Effective Date:* This rule is effective November 10, 2014.

FOR FURTHER INFORMATION CONTACT: For questions about the ECCNs included in this rule, contact Dennis Krepp, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: 202-482-1309, e-mail: Dennis.Krepp@bis.doc.gov. For general questions about the regulatory changes pertaining to satellites, spacecraft, and related items, contact the Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, at 202-482-2440 or email: rpd2@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

This final rule makes corrections and clarifications to the interim final rule, *Revisions to the Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)*, that was published on May 13, 2014 (79 FR 27417) (May 13 interim final rule). The May 13 rule added controls to the Export Administration Regulations (EAR) for spacecraft and related items that the President has determined no longer warrant control under United States Munitions List (USML) Category XV – spacecraft and related items. New Export Control Classification Numbers (ECCNs) 9A515, 9B515, 9D515, and 9E515 created by the May 13 rule and preexisting ECCNs on the Commerce Control List (CCL) will control such items. The May 13 rule also revised various sections of the EAR to provide the proper level of control for the new ECCNs.

The vast majority of the changes included in the May 13 rule have been implemented as published in the interim final rule, so those changes are not republished in this final rule. A full description of those changes can be found in the Background section and the regulatory text of the May 13 rule. The changes included in this final rule are limited to corrections and clarifications to what was included in the interim final rule. These corrections and clarifications were also informed by comments received in response to the May 13 rule that included a request for comments. This rule also adds a clarification to § 758.6 of the EAR stating that compliance with 22 CFR 123.9(b)(1) is sufficient to satisfy the Destination Control Statement requirement

for the EAR of shipments that include both items subject to the EAR and items subject to the International Traffic in Arms Regulations (ITAR).

The May 13 rule was published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls rule revising USML Category XV to control those articles the President has determined warrant control on the USML. Both rules, including the final rules published May 13 by the Departments of Commerce and State and the rules making corrections to the May 13 rules, are part of the President's Export Control Reform Initiative. The corrections and clarifications to the May 13 rule are also part of Commerce's retrospective regulatory review plan under Executive Order (EO) 13563.

In § 734.4 (De minimis U.S. content) under the introductory text of paragraph (a)(6), this final rule adds a reference to 9x515 to conform to the scope of paragraph (a)(6)(i) and (ii). The May 13 interim final rule added 9x515 to paragraph (a)(6)(i) and (ii), but did not add a reference to the introductory text of paragraph (a)(6). In order to provide greater clarity regarding the scope of paragraph (a)(6) and to conform with the existing text of paragraphs (a)(6)(i) and (ii), this final rule adds the reference to 9x515 to the introductory text of this paragraph.

In § 740.2 (Restrictions on all license exceptions) under paragraph (a)(5)(i), this final rule revises the cross reference to § 740.15(b) (License Exception AVS) to reference the correct name of the license exception. The May 13 final rule revised the heading of License Exception AVS, but inadvertently omitted the phrase "or spacecraft" when referencing the scope of License Exception AVS in paragraph (a)(5)(i) of this section.

In Supplement No. 2 to part 748 (Unique Application and Submission Requirements), this final rule revises the introductory text in paragraph (y)(1) and the introductory text in paragraph (y)(2) to make the same clarification. This final rule removes the phrase “to a country” and replaces that phrase with the more specific phrase “for launch in or by a country”. The intent of both of these paragraphs is to require unique application and submission requirements for exports of satellites under ECCN 9A515.a for launch in or by one of the countries identified under (y)(1) or (y)(2). The new text will make it clearer for when applications will be subject to these unique application and submission requirements.

In the Commerce Control List in Supplement No. 1 to part 774, this final rule makes clarifications to three Export Control Classification Numbers (ECCNs): 9A004, 9A515 and 9E515, and adds a new Note to Category 9.

In Category 9 under Product Group E: “Technology,” this final rule redesignates the Note to Product Group E as Note 1 and adds a new Note 2 to Product Group E. This final rule adds Note 2 to provide guidance on the classification of telemetry data specific to commodities classified under ECCNs 9A004 and 9A515. This is the same type of note that was included in ECCN 9E515 under Note 3 in the interim final rule, but because the note also has applicability to ECCNs 9E001 and 9E002, as they relate to 9A004, BIS decided to remove Note 3 to 9E515 and add in its place a Note 2 that covers the concept for purposes of Category 9 Product Group E. This note clarifies that for purposes of Category 9, Product Group E that ECCNs 9E001, 9E002 and 9E515 do not control the data transmitted to or from a satellite or “spacecraft,” whether real or simulated, when limited to information about the health, operational status, or measurements or function of, or raw sensor output from, the “spacecraft,”

“spacecraft” payload(s), or its associated subsystems or components. This note clarifies that such information is not within the scope of information captured within the definition of “technology” in the EAR for purposes of ECCNs 9E001, 9E002 or 9E515.

ECCN 9A004. In ECCN 9A004, this final rule adds an items paragraph .y to the List of Items Controlled section. This new items paragraph .y will control items that would otherwise be within the scope of 9A004.x but that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A004.y. The § 748.3(e) CCATS process is an established process under the EAR. This clarification to 9A004 specifies where certain spacecraft related items determined to not warrant being classified as “specially designed” under a 9x515 ECCN may be designated on the CCL that would otherwise have been classified under 9A00.x and controlled for national security NS 1 reasons. Items determined to be classified under 9A004.y will be controlled for anti-terrorism AT 1 reasons to fewer destinations compared to items classified under 9A004.x.

ECCN 9A515. This final rule makes three clarifications to ECCN 9A515.

The final rule adds a Related Controls paragraph in the List of Items Controlled section to inform people to see ECCN 9A610.g for pressure suits used for high altitude aircraft. This new Related Controls paragraph is a conforming change for the additions of new “items” paragraph f in 9A515, described below.

This final rule also revises the Note to items paragraph .a in the List of Items Controlled section. The revision to the note consists of removing the phrase “not identified in USML Category XV(a)” from the middle of the note and adding it to the end of this note. The phrase

“not identified in USML Category XV(a)” is intended to modify all the items referenced earlier in the note. Therefore, the placement of the phrase in the context of the larger note was not correct. This final rule corrects the placement of this phrase by adding it to the end of the Note to paragraph .a in the List of Items Controlled section.

Lastly, for ECCN 9A515, this final rule also adds a new items paragraph .f in the List of Items Controlled section of 9A515 to clarify that pressure suits (i.e., space suits) capable of operating at altitudes 55,000 feet above sea level are controlled under this ECCN. These space suits were removed from USML Category XV and were intended to be classified under 9A515, but because of an oversight an items paragraph was not included in 9A515 to control these suits, although the intent as stated in the May 13 interim final rule was that such commodities would be controlled along with the other “spacecraft” and related commodities in 9A515.

ECCN 9E515. This final rule removes Note 3 to 9E515 at the end of the “items” paragraph in the List of Items Controlled section to conform to the addition of the same type of note to Category 9 Product Group E: Technology, which was described above. The substance of the note is the same, only the location has been changed in Category 9 because of the note’s applicability to other Category 9 technology ECCNs, specifically 9E001, 9E002 and 9E515.

Other clarifications to the EAR

This rule also add a clarification to § 758.6 of the EAR stating that compliance with 22 CFR 123.9(b)(1) is sufficient to satisfy the Destination Control Statement requirement for the EAR for shipments that include both items subject to the EAR and to the International Traffic in Arms Regulations (ITAR).

Addressing public comments that may be received

The May 13 interim final rule requested public comment through November 10, 2014. BIS will review all comments received at that time and address them through a subsequent rulemaking.

As required by Executive Order (EO) 13563, BIS intends to review this rule's impact on the licensing burden on exporters. Commerce's full plan is available at:

<http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules>. Data are routinely collected on an ongoing basis, including through the comments to be submitted and as a result of new information and results from AES data. These results and data have been, and will continue to form, the basis for ongoing reviews of the rule and assessments of various aspects of the rule. As part of its plan for retrospective analysis under EO 13563, BIS intends to conduct periodic reviews of this rule and to modify, or repeal, aspects of this rule, as appropriate, and after public notice and comment. With regard to a number of aspects of this rule, assessments and refinements will be made on an ongoing basis. This is particularly the case with regard to possible modifications that will be considered based on public comments described above.

Export Administration Act

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 amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the

Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. 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.

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, distribute 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 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 is 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 OMB control number. This regulation involves collections previously approved by the OMB under control numbers 0694-0088, “Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes for a manual or electronic submission. This rule does not alter any information collection requirements; therefore, total burden hours associated with the PRA and OMB control number 0694-0088 are not expected to

increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Department finds that there is good cause under [5 U.S.C. 553\(b\)\(3\)\(B\)](#) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. The changes included in this final rule are limited to corrections and clarifications to what was included in the interim final rule. These revisions are non-substantive, or are limited to only clarifying the regulations to ensure consistency with the intent of the May 13, 2014 interim final rule; therefore, providing an additional opportunity for public comment on these corrections is unnecessary. In addition, for the revision to § 758.6, the Department finds that there is good cause under [5 U.S.C. 553\(b\)\(3\)\(B\)](#) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are contrary to the public interest. BIS implements a revision to § 758.6 of the EAR to clarify that compliance with § 123.9(b)(1) of the ITAR is sufficient for compliance with the Destination Control Statement requirement in § 758.6(1). Based on questions received by the U.S. Government since the publication in April 16, 2013 initial implementation of Export Control Reform rules by Commerce (78 FR 22661) and State (78 FR 22740), confusion exists in industry as to whether § 758.6 requires exporters to

include the Destination Control Statement provided in the EAR in addition to the statement provided in § 123.9(b)(1) of the ITAR for shipments including both items subject to the EAR and defense articles subject to the ITAR. The intent of the April 16, 2013 Commerce rule was not to require an additional Commerce Destination Control Statement for transactions authorized by State because it would be redundant with the State Destination Control Statement. The clarification to § 758.6 will address this perceived confusion and clarify that an EAR Destination Control Statement is not required in such cases.

In addition, BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because it will allow the corrections and clarifications to go into effect at the same time as the related provisions from the May 13, 2014 rule. This will reduce the potential for confusion among the public.

5. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration,

certifying that this rule will not have a significant impact on a substantial number of small entities. A summary of the factual basis for the certification was provided in the May 13 interim final rule and is not repeated here. BIS did not receive any comments in response to the proposed rule regarding the economic impact of this rule or to the certification made by the Chief Counsel. As a result, a final regulatory flexibility analysis is not required and one was not prepared.

List of Subjects

15 CFR Parts 734, 740, 748 and 758

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

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR Parts 730-774) are amended as follows:

PART 734 - [AMENDED]

1. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of

November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

2. Section 734.4 is amended by revising the introductory text of paragraph (a)(6) to read as follows:

§ 734.4 *De minimis* U.S. content.

(a) * * *

(6) 9x515 and “600 series.”

* * * * *

PART 740 - [AMENDED]

3. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *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 7, 2014, 79 FR 46959 (August 11, 2014).

4. Section 740.2 is amended by revising paragraph (a)(5)(i) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(5) * * *

(i) The item is controlled for missile technology (MT) reasons, except that the items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7A105,

7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, 7E101 or 9A515, may be exported as part of a spacecraft, manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(4) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(b) (License Exception AVS for equipment and spare parts for permanent use on a vessel, aircraft or spacecraft).

* * * * *

PART 748 - [AMENDED]

5. The authority citation for 15 CFR part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *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 7, 2014, 79 FR 46959 (August 11, 2014).

6. Supplement No. 2 to part 748 (Unique Application and Submission Requirements) is amended by revising introductory text of paragraph (y)(1) and the introductory text of paragraph (y)(2) to read as follows:

SUPPLEMENT NO. 2 TO PART 748 – UNIQUE APPLICATION AND SUBMISSION REQUIREMENTS

* * * * *

(y) * * *

(1) A license application to export a satellite controlled by ECCN 9A515.a for launch in or by a country that is not a member of the North Atlantic Treaty Organization (NATO) or a major non-NATO ally of the United States (as defined in 22 CFR 120.31 and 120.32), must include:

* * * * *

(2) A license application to export a satellite controlled by ECCN 9A515.a for launch in or by a country that is a member of the North Atlantic Treaty Organization (NATO) or that is a major non-NATO ally of the United States (as defined in 22 CFR 120.31 and 120.32), must include:

* * * * *

PART 758 - [AMENDED]

7. The authority citation for 15 CFR part 758 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 7, 2014, 79 FR 46959 (August 11, 2014).

8. Section 758.6 is amended by adding one sentence at the end of paragraph (a) to read as follows:

§ 758.6 Destination control statement and other information furnished to consignees.

(a) * * * * * Compliance with the requirements described in § 123.9(b) of the ITAR constitutes compliance with the requirements of this paragraph (a) for shipments containing both items subject to the EAR and defense articles subject to the ITAR.

* * * * *

PART 774 - [AMENDED]

9. 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); 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 7, 2014, 79 FR 46959 (August 11, 2014).

Supplement No. 1 to Part 774 – [Amended]

10. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9A004 is amended by:

a. Revising the License Requirements table; and

b. Revising the Items paragraph in the List of Items Controlled section as added May 13, 2014, at 79 FR 27439, effective November 10, 2014, by adding an items paragraph .y to read as follows:

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

* * * * *

9A004 Space launch vehicles and “spacecraft,” as follows (see List of Items Controlled).

License Requirements

Reason for Control: ***

Control(s)	Country Chart (see Supp. No. 1 to part 738).
NS applies to entire entry except .y	NS Column 1

AT applies to entire entry	AT Column 1
----------------------------	-------------

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

y. Items that would otherwise be within the scope of ECCN 9A004.x but that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A004.y.

* * * * *

11. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9A515 is amended by:

a. Revising the Related Controls paragraph in the List of Items Controlled section as added May 13, 2014, at 79 FR 27440, effective November 10, 2014;

b. Revising the note to paragraph .a in the List of Items Controlled section as added May 13, 2014, at 79 FR 27440, effective November 10, 2014; and

c. Adding paragraph .f in the Items paragraph in the List of Items Controlled section as added May 13, 2014, at 79 FR 27440, effective November 10, 2014, to read as follows:

9A515 “Spacecraft” and related commodities, as follows (see List of Items Controlled).

License Requirements

* * * * *

List of Items Controlled

Related Controls: See ECCN 9A610.g for pressure suits used for high altitude aircraft.

* * * * *

Items:

* * * * *

a. * * *

Note: ECCN 9A515.a includes commercial communications satellites, remote sensing satellites, planetary rovers, planetary and interplanetary probes, and in-space habitats, not identified in USML Category XV(a).

* * * * *

f. Pressure suits (i.e., space suits) capable of operating at altitudes 55,000 feet above sea level.

* * * * *

12. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, Product Group E. “Technology” is amended by:

a. Redesignating the Note to Product Group E: “Technology” as Note 1 and revising newly redesignated Note 1; and

b. Adding a Note 2 to Product Group E: “Technology” to read as follows:

CATEGORY 9 - AEROSPACE AND PROPULSION

* * * * *

E. “TECHNOLOGY”

Note 1: “Development” or “production” “technology” controlled by 9E001 to 9E003 for gas turbine engines remains controlled when used for repair or overhaul. Excluded from 9E001 to 9E003 control are: technical data, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units, including replacement of whole engines or engine modules.

Note 2: USML Category XV(f) and ECCNs 9E001, 9E002 and 9E515 do not control the data transmitted to or from a satellite or “spacecraft,” whether real or simulated, when limited to information about the health, operational status, or measurements or function of, or raw sensor output from, the “spacecraft,” “spacecraft” payload(s), or its associated subsystems or components. Such information is not within the scope of information captured within the definition of “technology” in the EAR for purposes of Category 9 Product Group E. Examples of such information, which are commonly referred to as “housekeeping data,” include (i) system, hardware, component configuration, and operation status information pertaining to temperatures, pressures, power, currents, voltages, and battery charges; (ii) “spacecraft” or payload orientation or position information, such as state vector or ephemeris information; (iii) payload raw mission or science output, such as images, spectra, particle measurements, or field measurements; (iv) command responses; (v) accurate timing information; and (vi) link budget data. The act of processing such telemetry data – i.e., converting raw data into engineering units or readable products – or encrypting it does not, in and of itself, cause the telemetry data to become subject to the ITAR or to ECCN 9E515 for purposes of 9A515, or to ECCNs 9E001 or 9E002 for purposes of 9A004. All classified technical data directly related to items controlled in USML Category XV or ECCNs 9A515, and defense services using the classified technical data remains subject to the ITAR. This note does not affect controls in USML XV(f), ECCN 9D515, or ECCN 9E515 on software source code or commands that control a “spacecraft,” payload, or associated subsystems for purposes of 9A515. This note also does not affect controls in ECCNs 9D001, 9D002, 9E001, or 9E002 on software source

code or commands that control a “spacecraft,” payload, or associated subsystems for purposes of 9A004.

* * * * *

13. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9E515 is amended by removing Note 3 to 9E515 at the end of the Items paragraph in the List of Items Controlled section as added May 13, 2014, at 79 FR 27442, effective November 10, 2014.

Dated: November 5, 2014.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2014-26664 Filed 11/10/2014 at 8:45 am; Publication Date: 11/12/2014]