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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, 750, and 774

[Docket No. 150325297-6180-02]

RIN 0694-AG59

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)

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

ACTION: Final rule.

SUMMARY: This final rule addresses issues raised in, and public comments on, the interim final rule that was published on May 13, 2014, as well as additional clarifications and corrections. 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.

This is the third final rule BIS has published related to the May 13 rule and completes the regulatory action for the interim final rule. These changes were also informed by comments received in response to the May 13 rule that included a request for comments, as well as interagency discussions on how best to address the comments. The changes made in this final rule are grouped into four types of changes: changes to address the movement of additional spacecraft and related items from the USML to the Commerce Control List (CCL), as a result of changes in aperture size for spacecraft that warrant ITAR control, in response to public comments and further U.S. Government review; changes to address the movement of the James Webb Space Telescope (JWST) from the USML to the CCL; other corrections and clarifications to the spacecraft interim final rule; and addition of .y items to Export Control Classification Number 9A515.

This final rule is being published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls (DDTC) final rule, which makes changes, including corrections and clarifications, to the provisions adopted in the State Department's own May 13, 2014 rule. The State May 13 rule revised USML Category XV (22 CFR 121.1) to control those articles the President has determined warrant control on the USML. Both May 13 rules and the subsequent related rules are part of the President's Export Control Reform Initiative. This rule is also part of Commerce's retrospective regulatory review plan under Executive Order (EO) 13563 (see the SUPPLEMENTARY INFORMATION section of this rule for information on the availability of the plan).

DATES: This rule is effective on January 15, 2017.

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 addresses issues raised in, and public comments on, 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 rule), and makes corrections and clarifications. 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. The vast majority of the changes included in the May 13 rule have been implemented as published in the interim final rule and 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. BIS also published corrections and clarifications to the May 13 rule in a final rule published on November 12, 2014 (79 FR 67055) and in a final rule published on July 13, 2015 (80 FR 39950).

This final rule is being published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls (DDTC) final rule, which makes changes, including corrections and clarifications, to the provisions adopted in the May 13 State rule (79 FR 27180). The State May 13 rule revised USML Category XV (22 CFR 121.1) to control those articles the President has determined warrant control on the USML. Both May 13 rules and the subsequent related rules are part of the President's Export Control Reform Initiative.

The changes included in this Commerce final rule complete the regulatory action begun by the May 13 rule and are also informed by comments received in response to that rule. The changes made in this Commerce final rule are grouped into four types of changes: (1) changes to address the movement of additional spacecraft and related items from the USML to the CCL, as a result of changes in aperture size for spacecraft that warrant ITAR control, in response to public comments and further U.S. Government review; (2) changes to address the movement of the James Webb Space Telescope (JWST) from the USML to the CCL; (3) other corrections and clarifications to the spacecraft interim final rule; and (4) addition of .y items to Export Control Classification Number (ECCN) 9A515. Note that certain ECCNs may be referenced in more than one of the (1) through (4) sections, but for ease of reference the description of those changes to those ECCNs, such as ECCN 9E515, are grouped with the related changes under sections (1) through (4), as applicable.

(1) Changes to address the movement of additional spacecraft and related items from the USML to the CCL, as a result of changes in aperture size for spacecraft that warrant ITAR control, in response to public comments and further U.S. Government review

This final rule makes several changes to the EAR to address the movement of additional spacecraft and related items from the USML to the CCL, as a result of the Department of State's responding to comments on its interim final rule, which specifically asked for additional public comments on this issue. The Department of State in its May 13 interim final rule noted:

Commenting parties recommended the aperture threshold for civil and commercial remote sensing satellites in paragraph (a)(7)(i) be increased from 0.35 meters to a threshold more appropriate for current world capabilities and market conditions. The Department [of State] did not accept this recommendation at this time. However, it, along with other agencies, understands that the technology and civil and commercial applications in this area are evolving. Thus, the Department has committed to reviewing during the six months after the publication of this rule whether further amendments to the USML controls on civil and commercial remote sensing satellites are warranted, and seeks additional public comment on this matter.

For a discussion of the changes made to the ITAR in response to the related public comments, see the corresponding Department of State rule published today.

The changes described below are the EAR changes needed to address the movement of these additional spacecraft (under ECCNs 9A515.a.1 to .a.4 and 9A004.u) and related items (under 9A515.g) from the USML to the CCL. Adopting a more permissive aperture size (meaning more spacecraft items would no longer warrant ITAR control) was strongly advocated by commenters in response to the Commerce interim final rule. The public believed additional changes were needed to appropriately control spacecraft and related items that warranted ITAR control, with

respect to aperture size, while moving those that did not warrant ITAR control to the CCL, consistent with the stated objectives in the May 13 final rules. State and the other agencies reviewing the comments agreed that some additional spacecraft and related items did not warrant ITAR control. This Commerce rule makes conforming changes to the EAR to ensure that appropriate controls are in place for such additional spacecraft and related items that did not warrant ITAR control, based on the review of the public comments and additional U.S. Government review. BIS anticipates an increase of approximately 10 to 20 license applications per year as a result of these changes to the EAR.

Because of the more sensitive nature of these additional spacecraft and related items that are being moved to the CCL, additional changes are needed to the EAR to effectively control these items. In certain cases, this means imposing more restrictive requirements compared to other 9x515 items. These additional requirements are described below, including a description of the parameters for the items moved to the CCL.

In § 740.20, paragraph (g) (License Exception STA eligibility requests for 9x515 and “600 series” end items), this final rule revises paragraph (g)(1) as a conforming change to the changes made to ECCN 9A515.a, described below. To maintain the same scope of paragraph (g)(1), this final rule removes the text that referred to ECCN 9A515.a and adds in its place text referencing “spacecraft” in 9A515.a.1, .a.2, .a.3, or .a.4, or items in 9A515.g. The spacecraft in ECCN 9A515.a.5 are eligible for License Exception STA without a § 740.20(g) request. As a conforming change, this final rule adds ECCN 9E515.b, .d, .e, or .f as eligible for § 740.20(g) License Exception STA eligibility requests. Because the scope of revised paragraph (g) includes

items other than end items, this final rule also revises the heading of paragraph (g) to remove the term “end items” and add in its place the term “items.” However, the items eligible to be submitted under the § 740.20(g) process are still limited to those specific ECCNs and “items” paragraphs identified in paragraph (g).

The spacecraft transferred to the CCL in this final rule are subject to special regional stability license requirements. Therefore, in § 742.6 (Regional stability), this final rule makes revisions to five paragraphs. The final rule revises paragraph (a)(1), adds a new paragraph (a)(8), revises paragraph (b)(1)(i), and adds paragraphs (b)(5) and (b)(6). These changes are described below.

In § 742.6, paragraph (a)(1) (RS Column 1 license requirements in general), this final rule adds a reference to new paragraph (a)(8). New paragraph (a)(8) (Special RS Column 1 license requirement applicable to certain spacecraft and related items) is an RS Column 1 license requirement, which is specific to certain spacecraft and related items. This paragraph specifies that a license is required for all destinations, including Canada, for spacecraft and related items classified under ECCN 9A515.a.1, .a.2., .a.3., .a.4., .g, and ECCN 9E515.f. Although the license requirement for these specified ECCN 9x515 items is more restrictive than for those 9x515 items on the CCL prior to publication of this rule, the license review policy is the same as those for other 9x515 items. As a conforming change, this final rule revises the fourth sentence of paragraph (b)(1)(i) to add a reference to paragraph (a)(8), because that sentence references the ECCN 9x515 license requirements, which now include those special RS license requirements in paragraph (a)(8).

This final rule adds two new paragraphs, paragraph (b)(5) (Spacecraft for launch) and paragraph (b)(6) (Remote sensing spacecraft) to specify the requirements that apply for license applications involving spacecraft and remote sensing spacecraft. Consistent with the requirements in paragraph (y) in Supplement No. 2 to part 748 Unique Application and Submission Requirements, this final rule adds paragraphs (b)(5)(i) and (b)(5)(ii) to specify when applications to export or reexport a “spacecraft” controlled under ECCN 9A515.a for launch in or by a country will or may require a technology transfer control plan (TCP) approved by the Department of Defense (DoD), an encryption technology control plan approved by the National Security Agency (NSA), and DoD monitoring of all launch activities. Paragraph (b)(5)(i) specifies that this is a requirement for all such applications for countries that are not a member of the North Atlantic Treaty Organization (NATO) or a major non-NATO ally of the United States. This final rule adds a similar requirement under paragraph (b)(5)(ii), but with the key distinction that it may be required for countries that are a member of NATO or a major non-NATO ally of the United States.

Also in § 742.6, this final rule adds a new paragraph (b)(6) (Remote sensing spacecraft) to make applicants aware that any application for “spacecraft” described in ECCN 9A515.a.1, .a.2, .a.3, or .a.4, for sensitive remote sensing components described in 9A515.g, or for “technology” described in ECCN 9E515.f, may require a government-to-government agreement at the discretion of the U.S. Government. A government-to-government agreement may be required for any destination at the sole discretion of the U.S. Government.

In § 750.4 (Procedures for processing license applications), as conforming changes to the changes described above to § 742.6, this final rule makes the following two changes: adds a new

paragraph (b)(8), and adds a new paragraph (d)(2)(iv). These changes are described in the next two paragraphs.

In § 750.4, consistent with the requirements in paragraph (y) in Supplement No. 2 to part 748 Unique Application and Submission Requirements, this final rule adds a new paragraph (b)(8) (Satellites for launch) to include a requirement for license applications involving a satellite for launch. Applicants must obtain approval by the DoD of a technology transfer control plan and the approval of the NSA of an encryption technology control plan. In addition, the applicant will also be required to make arrangements with the DoD for monitoring of all launch activities. These existing DoD and NSA requirements in regards to satellites for launch are in addition to the EAR licensing requirements, but any license authorized under the EAR for satellites for launch must also be done in accordance with those DoD and NSA requirements to be authorized under an EAR license. Therefore, this final rule adds this requirement to § 750.4(b)(8), which will eliminate the need to add this requirement as a license condition for any license for satellites for launch. These DoD and NSA TCP approval requirements existed under the ITAR and are added to the EAR to preserve the status quo. Therefore, although this paragraph adds three new requirements to the EAR for license applications for spacecraft for launch, the requirements are the same as when these spacecraft were formerly under the ITAR, so there will be no increased burden on exporters, reexporters or transferors.

In § 750.4, this final rule adds a new paragraph (d)(2)(iv) (Remote Sensing Interagency Working Group (RSIWG)) to make applicants aware that the RSIWG, chaired by the State Department, will review license applications involving remote sensing spacecraft. These will be

any items described in ECCN 9A515.a.1, .a.2, .a.3, or .a.4, sensitive remote sensing components described in 9A515.g, or “technology” described in 9E515.f.

ECCN 9A515. This final rule adds a new License Requirement Note, revises the Special Conditions for STA section, revises “items” paragraph (a), and adds paragraph (g) in the List of “items” controlled section of ECCN 9E515. These changes are described in the next five paragraphs.

Addition of License Requirement Note to 9A515. As a conforming change to the addition of § 742.6(a)(8), described above, this final rule adds a License Requirement Note to the end of the License Requirements section of ECCN 9A515 to specify that the Commerce Country Chart is not used for determining license requirements for commodities classified as 9A515.a.1, .a.2., .a.3., .a.4, and .g. The new License Requirement also includes a cross reference to § 742.6(a)(8) and alerts exporters and reexporters that these commodities are subject to a worldwide license requirement.

In ECCN 9A515, Special Conditions for STA section, this final rule revises paragraph (1). This final rule adds references to the new “items” paragraphs of ECCN 9A515.a (9A515.a.1, .a.2, .a.3 and .a.4) and 9A515.g, which would not be eligible for License Exception STA, unless determined by BIS to be eligible for License Exception STA in accordance with §740.20(g) (License Exception STA eligibility requests for certain 9x515 and “600 series” end items). Because these items are commodities that are more sensitive, additional U.S. Government review of the specific commodity is warranted prior to allowing exporters, reexporters or transferors to

use License Exception STA. The imposition of this requirement is consistent with the use of the paragraph (g) process for other sensitive items in the 9x515 ECCNs and the “600 series” that have been moved to the CCL. Also in the Special Conditions for STA section, this final rule redesignates paragraph (2) as paragraph (3) and adds a new paragraph (2). This final rule adds new paragraph (2) in the Special Conditions for STA section to exclude the use of License Exception if the “spacecraft” controlled in ECCN 9A515.a.1, .a.2, .a.3, or .a.4 contains a separable or removable propulsion system enumerated in USML Category IV(d)(2) or USML Category XV(e)(12) and designated MT. This exclusion is being added because the MTCR Category I components identified in this paragraph are separable or removable and therefore for consistency with the intent to exclude MT items from License Exception STA eligibility, this final rule adds this as an additional restriction on the use of License Exception STA.

In ECCN 9A515.a, this final rule revises “items” paragraph (a) to add control parameters for the additional spacecraft being moved from the USML to the CCL. Spacecraft moved from the USML to the CCL and classified under ECCN 9A515.a prior to publication of this rule are being moved to new “items” paragraph (a)(5). This final rule adds “items” paragraphs (a)(1), (a)(2), (a)(3) and (a)(4) to ECCN 9A515 to control the additional spacecraft items being moved to the CCL. The identification of these more sensitive spacecraft items in their own “items” level paragraph in ECCN 9A515 (9A515.a.1, .a.2, .a.3., .a.4) will allow for the imposition of more restrictive controls that are needed, while not impacting other spacecraft and related items that do not warrant the more restrictive controls (e.g., 9A515.a.5). These more restrictively controlled items consist of the following: “spacecraft,” including satellites, and space vehicles, whether designated developmental, experimental, research or scientific, not enumerated in

USML Category XV or described in ECCN 9A004 that have electro-optical remote sensing capabilities and having a clear aperture greater than 0.35 meters, but less than or equal to 0.50 meters (under ECCN 9A515.a.1). It includes those having remote sensing capabilities beyond NIR (under ECCN 9A515.a.2), those having radar remote sensing capabilities (*e.g.*, AESA, SAR, or ISAR) having a center frequency equal to or greater than 1.0 GHz, but less than 10.0 GHz and having a bandwidth equal to or greater than 100 MHz, but less than 300 MHz (under 9A515.a.3). These more sensitive items being moved from the USML to the CCL also include those providing space-based logistics, assembly, or servicing of another “spacecraft” (under ECCN 9A515.a.4).

In ECCN 9A515.g, this final rule also adds “items” paragraph (g) to 9A515, as related to the changes described above to 9A515.a. Paragraph (g) is added to control remote sensing components that are “specially designed” for “spacecraft” described in ECCN 9A515.a.1 through 9A515.a.4, which were described above. Similar to the reason for identifying the items in ECCN 9A515.a.1 through .a.4., specifying that these remote sensing components are the “items” paragraphs (g)(1) through (g)(3) will allow the imposition of more restrictive controls on these components, without needing to impose the same level of restrictions on 9A515.x items, which is the paragraph under which these components would have been controlled if this new 9A515.g paragraph were not being added. Paragraph (g) controls remote sensing components for space-qualified optics with the largest lateral clear aperture dimension equal to or less than 0.35 meters; or with the largest clear aperture dimension greater than 0.35 meters but less than or equal to 0.50 meters (under ECCN 9A515.g.1). In addition, paragraph (g) controls optical bench assemblies “specially designed” for the spacecraft added to ECCN 9A515.a.1 through .a.4 (under

ECCN 9A515.g.2), and primary, secondary, or hosted payloads that perform a function of spacecraft added to 9A515.a.1. through .a.4. (under 9A515.g.3).

ECCN 9E515. This final rule adds a new License Requirement Note, revises the Special Conditions for STA section and “items” paragraph (a), and adds “items” paragraph (f) in the List of “items” controlled section of ECCN 9E515. These changes are described in the next five paragraphs:

Addition of License Requirement Note to 9E515. As a conforming change to the addition of § 742.6(a)(8), described above, this final rule adds a License Requirement Note to the end of the License Requirements section of ECCN 9E515 to specify that the Commerce Country Chart is not used for determining license requirements for “technology” classified 9E515.f. The new License Requirement also includes a cross reference to § 742.6(a)(8) and alerts exporters and reexporters that this “technology” is subject to a worldwide license requirement.

In ECCN 9E515, Special Conditions for STA section, this final rule revises paragraph (1) to add a reference to 9E515.f. This final rule specifies that such technology is not eligible for STA, unless the specific technology has been approved under the § 740.20(g) process by the U.S. Government. This change is made to conform to the addition described below of “technology” under ECCN 9E515.f for the additional spacecraft and related components added to 9A515.a and .g described above. In addition, this final rule also specifies that the “technology” controlled under ECCN 9E515.b, .d and .e are not eligible for License Exception STA, unless the specific “technology” has been approved under the §740.20(g) process by the

U.S. Government. Prior to publication of this final rule, ECCN 9E515.b, .d and .e “technology” was excluded from License Exception STA in all cases, which based on public comments and interagency discussions was a more restrictive policy than was needed to protect U.S. national security and foreign policy interests for this “technology” classified under ECCN 9E515. Therefore, this final rule makes the other “technology” (9E515.b, .d and .e) also eligible for the requests under § 740.20(g), as described above in the changes this final rule makes to paragraph (g) of License Exception STA.

In ECCN 9E515.a, this final rule revises “items” paragraph (a) to exclude the “technology” for the new commodities added to 9A515.a (.a.1 through .a.4) and .g. “Required” “technology” for these new commodities added to ECCN 9A515.a and .g will be controlled under ECCN 9E515, but in order to impose more restrictive controls on those “technologies” without impacting other 9E515 “technology,” this final rule adds this “technology” being moved to the CCL to a new “items” paragraph (f) to 9E515, as described below.

In ECCN 9E515.f, this final rule adds a new “items” paragraph (f) in the List of Items Controlled section to control “technology” “required” for the “development,” “production,” installation, repair, overhaul, or refurbishing of commodities that this final rule adds to ECCN 9A515 under “items” paragraphs .a.1 through .a.4, or .g. As described above, this final rule is identifying these “technologies” in their own “items” paragraph in order to allow more restrictive controls to be placed on these items without impacting other ECCN 9E515 “technology.”

(2) Changes to address the movement of the James Webb Space Telescope (JWST) from the USML to the CCL

ECCN 9A004. This final rule revises ECCN 9A004 to add a specific telescope, which was “subject to the ITAR” prior to the effective date of this final rule. A determination was made based on the public comments received by the Department of State and the space interagency working group (a group of U.S. Government agencies involved in the export control system and that deal with space related issues) that this specific telescope was within the scope of spacecraft and related items that did not warrant being subject to the ITAR. Therefore, consistent with the stated purpose of the May 13 rule, as well as section 38(f) of the Arms Export Control Act (AECA), the Department of State has moved this telescope, the James Webb Space Telescope (JWST), which is being developed, launched, and operated under the supervision of the U.S. National Aeronautics and Space Administration (NASA), to the CCL. The “parts,” “components,” “accessories,” and “attachments” that are “specially designed” for use in or with the JWST are also being moved from the ITAR and will be subject to the EAR, as of the effective date of the State and Commerce final rules.

To control the JWST and the “specially designed” “parts,” “components,” “accessories,” and “attachments” for the JWST, this final rule adds two new “items” paragraph to ECCN 9A004. First, this final rule adds a new “items” paragraph (u) to 9A004 to control the JWST (the specific telescope) that is being moved to the CCL from the USML. Second, this final rule adds a new “items” paragraph (v) to control the “specially designed” “parts,” “components,”

“accessories,” or “attachments” for use in or with the JWST. The commodities this final rule adds to ECCN 9A004.v include the primary and secondary payloads of the JWST.

This final rule also specifies in the control parameters in the new paragraph (v)(1) to (v)(4) that the “parts,” “components,” “accessories,” and “attachments” specified in paragraph (v) do not include items that are “subject to the ITAR,” microelectronic circuits, items in ECCNs 7A004 and 7A104, or in any ECCN containing “space qualified” as a control criterion (*See* ECCN 9A515.x.4). As a conforming change, this final rule revises the phrase “ECCN 9A004.x” in paragraph (y) to add a reference to the “parts,” “components,” “accessories,” and “attachments” in paragraph (v) that this final rule adds. This final rule revises the phrase, so it now specifies “ECCN 9A004.v or .x,” which is being done to account for the fact that paragraphs (v) and (x) will contain certain “specially designed” “parts,” “components,” “accessories,” and “attachments” for items enumerated in ECCN 9A004 and that the new items being added to paragraph (v) and (x) could be reclassified under 9A004.y, if subsequently the specific item is identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A004.y. BIS anticipates an increase of approximately 20 license applications per year as a result of these changes to the EAR.

In addition to the change to ECCN 9A004, this final rule makes changes to three 9x515 ECCNs to reflect that the JWST and the “specially designed” “parts,” “components,” “accessories,” and “attachments” for the JWST are being added to 9A004. This final rule makes these conforming changes to ECCNs 9A515, 9B515 and 9E515. These are not substantive changes. These changes are described in the next three paragraphs.

ECCN 9A515. This final rule revises the third sentence of the Related Controls paragraph in the List of Items Controlled section of ECCN 9A515 to add a reference to the JWST. This final rule also revises the Note to ECCN 9A515.a to specify items in ECCN 9A004 are not within the scope of 9A515.a. A reference to ECCN 9A004 needs to be added because the description of this Note to ECCN 9A515.a would otherwise include the JWST. This final rule revises “items” paragraph (b) in ECCN 9A515, to add a reference to ECCN 9A004.u for the JWST. This conforming change is needed to specify that ground control systems and training simulators “specially designed” for telemetry, tracking and control of the JWST are also within the scope of ECCN 9A515.b. For similar reasons, this final rule revises “items” paragraph (e) to add a reference to ECCN 9A004.u. This conforming change is made to specify that the microelectronic circuits and discrete electronic components described in ECCN 9A515.e include those “specially designed” for the JWST. This final rule also makes some changes to the .y paragraph in ECCN 9A515, which are discussed further below.

ECCN 9B515. This final rule revises “items” paragraph (a) in the List of Items Controlled section to add a reference to ECCN 9A004.u. This conforming change is needed to specify that the test, inspection, and production “equipment” “specially designed” for the “production” or “development” of the JWST are also classified under ECCN 9B515.a. For similar reasons, this final rule revises the Note to ECCN 9B515.a to add a reference to ECCN 9A004.u. This conforming change is intended to specify that ECCN 9B515.a includes equipment, cells, and stands “specially designed” for the analysis or isolation of faults in the JWST, in addition to the other commodities enumerated in the Note to ECCN 9A515.a.

ECCN 9E515. This final rule also revises the third sentence in the “Related Controls” paragraph in the List of Items Controlled section in ECCN 9E515 to add a reference to the JWST. This sentence will alert persons classifying technology for the JWST to see ECCNs 9E001 and 9E002.

(3) Other corrections and clarifications to interim spacecraft final rule

ECCN 9A515. This final rule adds two sentences at the end of the introductory text in the “items” paragraph in the List of Items Controlled section of ECCN 9A515, consistent with the notes to USML Category XV. The introductory paragraph clarifies when “spacecraft” and other items described in ECCN 9A515 remain subject to the EAR even if exported, reexported, or transferred (in-country) with defense articles “subject to the ITAR” integrated into and included therein as integral parts of the item. This introductory paragraph includes some application examples and some qualifiers for when the ITAR jurisdiction would reapply to such defense articles. This final rule adds two new sentences to clarify two additional instances where the jurisdiction of the ITAR would be applicable in such scenarios. The first new sentence is being added to clarify that the removal of a defense article subject to the ITAR from the spacecraft is a retransfer under the ITAR - meaning the removal of a defense article would require an ITAR authorization. The ITAR authorization requirement would apply regardless of which CCL authorization the spacecraft is exported under the EAR. The second sentence clarifies that transfer of technical data regarding the defense article subject to the ITAR integrated into the spacecraft would require an ITAR authorization.

ECCN 9B515. This final rule revises the License Requirements section of ECCN 9B515 to add a missile technology (MT) control. The MT control is being added to impose a license requirement on equipment in ECCN 9B515.a that is for the “development” or “production” of commodities in USML Category XV(e)(12) and XV(e)(19) that are MT controlled. This change is made to conform to the Missile Technology Control Regime (MTCR) Annex and the corresponding MT controls in USML Category XV (MTCR Annex, Category I: Item 2.B.2.). BIS anticipates an increase of approximately 10 license applications per year as a result of this change to the EAR, along with the conforming MT change made to ECCN 9E515 described in the next paragraph.

ECCN 9E515. This final rule, as a conforming change to the change to ECCN 9B515, revises the MT Control paragraph in the License Requirements section on ECCN 9E515. This final rule revises the MT Control paragraph in ECCN 9E515 to add technology for items in 9B515.a that are controlled for MT reasons. This change is made to conform to the MTCR Annex and the corresponding MT controls in USML Category XV (MTCR Annex, Category I: Item 2.E.1.).

(4) Addition of .y items to ECCN 9A515

This final rule adds five .y paragraphs (ECCN 9A515.y.2, .y.3., .y.4, .y.5, and .y.6) as additional commodities specified under paragraph (y) in this ECCN. As noted in the introductory text of paragraph (y), the U.S. Government through the § 748.3(e) process will identify the items that warrant being classified under 9x515.y, such as the commodities being specified under ECCN 9A515.y.2 to .y.6 in this final rule. Specifically, the following space grade or for spacecraft applications commodities: thermistors (ECCN 9A515.y.2); RF microwave bandpass ceramic

filters (dielectric resonator bandpass filters) (9A515.y.3); space grade or for spacecraft applications hall effect sensors (9A515.y.4); subminiature (SMA and SMP) plugs and connectors, TNC plugs and cable and connector assemblies with SMA plugs and connectors (9A515.y.5); and flight cable assemblies (9A515.y.6) have been identified in interagency-cleared commodity classifications (CCATS) pursuant to § 748.3(e) as warranting control in 9A515.y.2 to .y.6. The additions described above for ECCN 9A515.y.2 to y.6 are the second set of approved populations of .y controls being added to 9A515. As stated in the May 13 rule, as well as the July 13 rule (which added ECCN 9A515.y.1), BIS (along with State and Defense) will continue to populate the 9A515.y with additional entries as additional classification determinations are made in response to requests from the public under § 748.3(e).

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. Some of the changes described above are limited to corrections or clarifications of what was included in the May 13 rule. BIS estimates that the substantive changes described above will result in an increase of 30-40 license applications per year, which is within the previous estimate made for the number of license

applications that BIS anticipated receiving as a result of the movement of these spacecraft and related items to the CCL under the May 13 rule.

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 4, 2016, 81 FR 52587 (August 8, 2016), 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 as amended by Executive Order 13637.

Rulemaking requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, 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 designated a “significant regulatory action,” although not economically significant, under section 3(f) 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 OMB under control number 0694-0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694-0088 are expected to increase slightly as a result of this rule. The expected increase in total burden hours is expected to be minimal and to not exceed the existing estimates for burden hours associated with the PRA and OMB control number 0694-0088. 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)(B) to waive the provisions of the Administrative Procedure Act (APA) requiring prior notice and the opportunity for public comment because they are either unnecessary or contrary to the public interest. The following revisions are non-substantive or are limited to ensure consistency with the intent of the

May 13, 2014 interim final rule, and thus prior notice and the opportunity for public comment is unnecessary. ECCNs 9A004, 9A515, 9B515, and 9E515 are revised to make clarifications to the EAR to ensure consistency with the intent of the May 13, 2014 interim final rule for purposes of what spacecraft and related items warranted ITAR control and what spacecraft items were intended to be moved to the EAR, as well as for consistency with the MTCR Annex for certain changes made to ECCNs 9B515 and 9E515. This includes the changes made to §§ 740.20(g), 742.6(a)(1), (a)(8), (b)(1)(i), (b)(5) and (b)(6), and 750.4(b)(4), (b)(8) and (d)(2)(iv) to ensure appropriate controls are in place under the EAR for the additional spacecraft and related items that are moved to the CCL in this final rule in response to public comments and additional U.S. Government review of those comments. Finally, as contemplated in the May 13 rule, BIS has added five entries to the .y paragraph of ECCN 9A515, which were added as a result of the § 748.3(e) process. For purposes of the APA, there is good cause, and it is in the public interest to incorporate this change so the public can benefit from understanding the classification of the items. These revisions are important to implement as soon as possible so the public will be aware of the correct text and meaning of current EAR provisions.

BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). As mentioned previously, the revisions made by this rule are non-substantive or are limited to ensure consistency with the intent of the May 13, 2014 interim final rule and are important to implement as soon as possible so the public will be aware of the correct text and meaning of current EAR provisions.

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for these amendments by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

List of Subjects

15 CFR Parts 740 and 750

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

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

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

PART 740 - [AMENDED]

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

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

2. Section 740.20 is amended by revising the heading of paragraph (g) and paragraph (g)(1) to read as follows:

§ 740.20 License exception strategic trade authorization (STA).

(g) *License Exception STA eligibility requests for 9x515 and “600 series” items—(1) Applicability.* Any person may request License Exception STA eligibility for end items described in ECCN 0A606.a, ECCN 8A609.a, ECCN 8A620.a or .b, “spacecraft” in ECCN 9A515.a.1, .a.2, .a.3, .a.4, or .g, that provide space-based logistics, assembly or servicing of any spacecraft (*e.g.*, refueling), ECCN 9A610.a, or ECCN 9E515.b, .d, .e, or .f.

PART 742 - [AMENDED]

3. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

4. Section 742.6 is amended:
 - a. By revising paragraph (a)(1);
 - b. By adding paragraph (a)(8);
 - c. By revising the fourth sentence of paragraph (b)(1)(i); and
 - d. By adding paragraphs (b)(5) and (6), to read as follows:

§ 742.6 Regional stability.

(a) ***

(1) *RS Column 1 license requirements in general.* A license is required for exports and reexports to all destinations, except Canada, for all items in ECCNs on the CCL that include RS Column 1 in the Country Chart column of the “License Requirements” section. Transactions described in paragraphs (a)(2), (a)(3), or (a)(8) of this section are subject to the RS Column 1 license requirements set forth in those paragraphs rather than the license requirements set forth in this paragraph (a)(1).

(8) *Special RS Column 1 license requirement applicable to certain spacecraft and related items.* A license is required for all destinations, including Canada, for spacecraft and related items classified under ECCN 9A515.a.1, .a.2., .a.3., .a.4., .g, and ECCN 9E515.f.

(b) *** (1) ***

(i) *** Applications for export or reexport of items classified under any 9x515 or “600 series” ECCN requiring a license in accordance with paragraph (a)(1) or (a)(8) of this section will also be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR (22

CFR 126.1) if destined to a country set forth in Country Group D:5 in Supplement No. 1 to part 740 of the EAR. ***

(5) *Spacecraft for launch.* (i) Applications to export or reexport a “spacecraft” controlled under 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), will require a technology transfer control plan approved by the Department of Defense, an encryption technology control plan approved by the National Security Agency, and Department of Defense monitoring of all launch activities.

(ii) Applications to export or reexport a “spacecraft” controlled under ECCN 9A515.a for launch in or by a country that is 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), may require a technology transfer control plan approved by the Department of Defense, an encryption technology control plan approved by the National Security Agency, or Department of Defense monitoring of launch activities.

(6) *Remote sensing spacecraft.* Applications to export or reexport a “spacecraft” described in ECCN 9A515.a.1,.a.2, a.3, or .a.4, sensitive remote sensing components described in 9A515.g, or “technology” described in ECCN 9E515.f may require a government-to-government agreement at the discretion of the U.S. Government.

PART 750 - [AMENDED]

5. The authority citation for 15 CFR part 750 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 1503, Pub. L. 108-11, 117 Stat. 559; 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, 78 FR 16129, 3 CFR, 2013 Comp., p. 223; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

6. Section 750.4 is amended:

- a. By adding paragraph (b)(8); and
- b. By adding paragraph (d)(2)(iv) to read as follows:

§ 750.4 Procedures for processing license applications.

(b) ***

(8) *Satellites for launch.* Applicant must obtain approval by the Department of Defense of a technology transfer control plan and the National Security Agency of an encryption technology transfer control plan and must make arrangements with the Department of Defense for monitoring of all launch activities.

(d) ***

(2) ***

(iv) *Remote Sensing Interagency Working Group (RSIWG).* The RSIWG, chaired by the State Department, reviews license applications involving remote sensing spacecraft described in

ECCN 9A515.a.1, .a.2, .a.3, or .a.4, sensitive remote sensing components described in 9A515.g, or “technology” described in ECCN 9E515.f.

PART 774 - [AMENDED]

7. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

8. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, ECCN 9A004 is amended:

- a. By revising the License Requirements table;
- b. By adding “items” paragraph u. and v. to the List of Items Controlled section; and
- c. By revising “items” paragraph y. in the List of Items Controlled section to read as

follows:

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

9A004 Space launch vehicles and “spacecraft,” “spacecraft buses,” “spacecraft payloads,” “spacecraft” on-board systems or equipment, and terrestrial equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS and AT

Control(s)	Country Chart (see Supp. No. 1 to part 738).
NS applies to 9A004.u, .v, .w and .x	NS Column 1
AT applies to 9A004.u, .v, .w, .x and .y	AT Column 1

List of Items Controlled

u. The James Webb Space Telescope (JWST) being developed, launched, and operated under the supervision of the U.S. National Aeronautics and Space Administration (NASA).

v. “Parts,” “components,” “accessories” and “attachments” that are “specially designed” for the James Webb Space Telescope and that are *not*:

- v.1. Enumerated or controlled in the USML;
- v.2. Microelectronic circuits;
- v.3. Described in ECCNs 7A004 or 7A104; *or*

v.4. Described in an ECCN containing “space-qualified” as a control criterion (*See* ECCN 9A515.x.4).

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

9. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, ECCN 9A515 is amended:

- a. By adding a License Requirement Note at the end of the License Requirements section;
- b. By revising the Special Conditions for STA section;
- c. By revising the Related Controls paragraph in the List of Items Controlled section;
- d. By revising the introductory text to the “items” paragraph in the List of items Controlled section;
- e. By revising “items” paragraphs a. and b. in the List of Items Controlled section;
- f. By revising the introductory text of paragraphs d. and e. in the List of Items Controlled section;
- g. By adding “items” paragraph g. in the list of Items Controlled section; and
- h. By adding “items” paragraphs y.2., y.3., y.4., y.5. and y.6. to read as follows:

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

License Requirements

License Requirement Note: *The Commerce Country Chart is not used for determining license requirements for commodities classified in ECCN 9A515.a.1, .a.2., .a.3., .a.4, and .g. See § 742.6(a)(8), which specifies that such commodities are subject to a worldwide license requirement.*

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for “spacecraft” in ECCN 9A515.a.1, .a.2, .a.3, or .a.4, or items in 9A515.g, unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for certain 9x515 and “600 series” items). (2) License Exception STA may not be used if the “spacecraft” controlled in ECCN 9A515.a.1, .a.2, .a.3, or .a.4 contains a separable or removable propulsion system enumerated in USML Category IV(d)(2) or USML Category XV(e)(12) and designated MT. (3) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9A515.

List of Items Controlled

Related Controls: Spacecraft, launch vehicles and related articles that are enumerated in the USML, and technical data (including “software”) directly related thereto, and all services (including training) directly related to the integration of any satellite or spacecraft to a launch vehicle, including both planning and onsite support, or furnishing any assistance (including training) in the launch failure analysis or investigation for items in ECCN 9A515.a, are “subject

to the ITAR.” All other “spacecraft,” as enumerated below and defined in § 772.1, are subject to the controls of this ECCN. See also ECCNs 3A001, 3A002, 3A991, 3A992, 6A002, 6A004, 6A008, and 6A998 for specific “space-qualified” items, 7A004 and 7A104 for star trackers, and 9A004 for the International Space Station (ISS), James Webb Space Telescope (JWST), and “specially designed” “parts” and “components” therefor. See USML Category XI(c) for controls on microwave monolithic integrated circuits (MMICs) that are “specially designed” for defense articles. See ECCN 9A610.g for pressure suits used for high altitude aircraft.

Items: “Spacecraft” and other items described in ECCN 9A515 remain subject to the EAR even if exported, reexported, or transferred (in-country) with defense articles “subject to the ITAR” integrated into and included therein as integral parts of the item. In all other cases, such defense articles are subject to the ITAR. For example, a 9A515.a “spacecraft” remains “subject to the EAR” even when it is exported, reexported, or transferred (in-country) with a “hosted payload” described in USML Category XV(e)(17) incorporated therein. In all other cases, a “hosted payload” performing a function described in USML Category XV(a) always remains a USML item. The removal of the defense article subject to the ITAR from the spacecraft is a retransfer under the ITAR and would require an ITAR authorization, regardless of the CCL authorization the spacecraft is exported under. Additionally, transfer of technical data regarding the defense article subject to the ITAR integrated into the spacecraft would require an ITAR authorization.

a. “Spacecraft,” including satellites, and space vehicles, whether designated developmental, experimental, research or scientific, not enumerated in USML Category XV or described in ECCN 9A004, that:

- a.1. Have electro-optical remote sensing capabilities and having a clear aperture greater than 0.35 meters, but less than or equal to 0.50 meters;
- a.2. Have remote sensing capabilities beyond NIR (*i.e.*, SWIR, MWIR, or LWIR);
- a.3. Have radar remote sensing capabilities (*e.g.*, AESA, SAR, or ISAR) having a center frequency equal to or greater than 1.0 GHz, but less than 10.0 GHz and having a bandwidth equal to or greater than 100 MHz, but less than 300 MHz;
- a.4. Provide space-based logistics, assembly, or servicing of another “spacecraft”; or
- a.5. Are not described in ECCN 9A515.a.1, .a.2, .a.3 or .a.4.

Note: ECCN 9A515.a includes commercial communications satellites, remote sensing satellites, planetary rovers, planetary and interplanetary probes, and in-space habitats, not identified in ECCN 9A004 or USML Category XV(a).

b. Ground control systems and training simulators “specially designed” for telemetry, tracking, and control of the “spacecraft” controlled in paragraphs 9A004.u or 9A515.a.

d. Microelectronic circuits (*e.g.*, integrated circuits, microcircuits, or MOSFETs) and discrete electronic components rated, certified, or otherwise specified or described as meeting or

exceeding all the following characteristics and that are “specially designed” for defense articles, “600 series” items, or items controlled by ECCNs 9A004.v or 9A515:

e. Microelectronic circuits (*e.g.*, integrated circuits, microcircuits, or MOSFETs) and discrete electronic components that are rated, certified, or otherwise specified or described as meeting or exceeding the characteristics in either paragraph e.1 or e.2, AND “specially designed” for defense articles controlled by USML Category XV or items controlled by ECCNs 9A004.u or 9A515:

g. Remote sensing components “specially designed” for “spacecraft” described in ECCNs 9A515.a.1 through 9A515.a.4 as follows:

g.1. Space-qualified optics (*i.e.*, lens, mirror, membrane having active properties (*e.g.*, adaptive, deformable)) with the largest lateral clear aperture dimension equal to or less than 0.35 meters; or with the largest clear aperture dimension greater than 0.35 meters but less than or equal to 0.50 meters;

g.2. Optical bench assemblies “specially designed” for ECCN 9A515.a.1, 9A515.a.2, 9A515.a.3, or 9A515.a.4 “spacecraft;” *or*

g.3. Primary, secondary, or hosted payloads that perform a function of ECCN 9A515.a.1, 9A515.a.2, 9A515.a.3, or 9A515.a.4 “spacecraft.”

y. ***

y.2. Space grade or for spacecraft applications thermistors;

y.3. Space grade or for spacecraft applications RF microwave bandpass ceramic filters (Dielectric Resonator Bandpass Filters);

y.4. Space grade or for spacecraft applications hall effect sensors;

y.5. Space grade or for spacecraft applications subminiature (SMA and SMP) plugs and connectors, TNC plugs and cable and connector assemblies with SMA plugs and connectors; and

y.6. Space grade or for spacecraft applications flight cable assemblies.

10. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, ECCN 9B515 is amended:

a. By revising the License Requirements section; and

b. By revising “items” paragraph a. in the List of Items Controlled section to read as follows:

9B515 Test, inspection, and production “equipment” “specially designed” for “spacecraft” and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	Country Chart (see Supp. No. 1 to part 738).
NS applies to entire entry	NS Column 1
MT applies to equipment in 9B515.a for the “development” or “production” of commodities in USML Category XV(e)(12) and XV(e)(19) that are MT controlled	MT Column 1
RS applies to entire entry	RS Column 1
AT applies to entire entry	AT Column 1

Items:

- a. Test, inspection, and production “equipment” “specially designed” for the “production” or “development” of commodities enumerated in ECCNs 9A004.u, 9A515.a, or USML Category XV(a) or XV(e).

Note: ECCN 9B515.a includes equipment, cells, and stands “specially designed” for the analysis or isolation of faults in commodities enumerated in ECCNs 9A004.u or 9A515.a, or USML Category XV(a) or XV(e).

11. In Supplement No. 1 to Part 774, Category 9—Aerospace and Propulsion, ECCN 9E515 is amended:

- a. By revising the License Requirements table;
- b. By adding a License Requirement Note at the end of the License Requirements section;
- c. By revising paragraph (1) in the Special Conditions for STA section;
- d. By revising the Related Controls paragraph in the List of Items Controlled section;
- e. By revising “items” paragraph a. in the List of Items Controlled section; and
- f. By adding “items” paragraph f. in the list of Items Controlled section to read as follows:

9E515 “Technology” “required” for the “development,” “production,” operation, installation, repair, overhaul, or refurbishing of “spacecraft” and related commodities, as follows (see List of Items Controlled).

License Requirements

Control(s)	Country Chart (see Supp. No. 1 to part 738).
NS applies to entire entry except 9E515.y	NS Column 1
MT applies to technology for items in 9A515.d, 9A515.e.2 and 9B515.a controlled for MT reasons	MT Column 1

RS applies to entire entry except 9E515.y	RS Column 1
AT applies to entire entry	AT Column 1

License Requirement Note: The Commerce Country Chart is not used for determining license requirements for “technology” classified ECCN 9E515.f. See § 742.6(a)(8), which specifies that such “technology” is subject to a worldwide license requirement.

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for ECCN 9E515.b, .d, .e, or .f unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for certain 9x515 and “600 series” items). ***

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated in USML Category XV are subject to the control of USML paragraph XV(f). See also ECCNs 3E001, 3E003, 6E001, and 6E002 for specific “space-qualified” items. See ECCNs 9E001 and 9E002 for technology for the International Space Station, the James Webb Space Telescope (JWST) and “parts,” “components,” “accessories,” and “attachments” “specially designed” therefor. See USML category XV(f) for controls on technical data and defense services related to launch vehicle integration.

Items:

a. “Technology” “required” for the “development,” “production,” installation, repair (including on-orbit anomaly resolution and analysis beyond established procedures), overhaul, or refurbishing of commodities controlled by ECCN 9A515 (except 9A515.a.1, .a.2, .a.3, .a.4, .b, .d, .e, or .g), ECCN 9B515, or “software” controlled by ECCN 9D515.a.

f. “Technology” “required” for the “development,” “production,” installation, repair (including on-orbit anomaly resolution and analysis beyond established procedures), overhaul, or refurbishing of commodities controlled by ECCN 9A515.a.1, .a.2, .a.3, .a.4, or .g.

Dated: December 27, 2016

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

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