

**Authority:** 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cirrus Design Corporation model SF50 airplanes.

#### 1. Electronic Engine Control

The installation of the electronic engine control system must comply with the requirements of 14 CFR 23.1309(a) through (e) at Amendment 23–49. The intent of this requirement is not to reevaluate the inherent hardware reliability of the control itself, but rather determine the effects, including environmental effects addressed in 14 CFR 23.1309(e), on the airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement; however, the effects of the installation on this data must be addressed.

For these evaluations, the loss of FADEC control will be analyzed utilizing the threat levels associated with a catastrophic failure.

Issued in Kansas City, Missouri, on April 12, 2010.

**Steve Thompson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2010–9027 Filed 4–19–10; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 772 and 774

[Docket No. 0912031426–0047–01]

RIN 0694–AE79

### Revisions to the Export Administration Regulations Based on the 2009 Missile Technology Control Regime Plenary Agreements

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to reflect changes to the Missile Technology Control Regime (MTCR) Annex that were agreed to by MTCR member countries at the November 2009 Plenary in Rio de Janeiro, Brazil. In

addition, this rule corrects an error published in a final rule on December 10, 2009 (74 FR 65662).

**DATES:** *Effective Date:* This rule is effective: April 20, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

**ADDRESSES:** You may submit comments, identified by RIN 0694–AE79, by any of the following methods:

*E-mail:* [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov) Include “RIN 0694–AE79” in the subject line of the message.

*Fax:* (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

*Mail or Hand Delivery/Courier:* Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, Attn: RIN 0694–AE79.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to [Jasmeet.K.Seehra@omb.eop.gov](mailto:Jasmeet.K.Seehra@omb.eop.gov), or by fax to (202) 395–7285; and to the U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e. RIN 0694–AE79)—all comments on the latter should be submitted by one of the three methods outlined above.

**FOR FURTHER INFORMATION CONTACT:** Dennis L. Krepp, Nuclear and Missile Technology Controls Division, Bureau of Industry and Security, Telephone: (202) 482–1309.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Missile Technology Control Regime (MTCR) is an export control arrangement among 34 nations, including most of the world’s advanced suppliers of ballistic missiles and missile-related materials and equipment. The regime establishes a common export control policy based on a list of controlled items (the Annex) and on guidelines (the Guidelines) that member countries implement in accordance with their national export controls. The goal of maintaining the Annex and the Guidelines is to stem the flow into the global marketplace of

missile systems capable of delivering weapons of mass destruction.

While the MTCR was originally created to prevent the spread of missiles capable of carrying a nuclear warhead, it was expanded in January 1992 to also address threats associated with delivery systems for chemical and biological weapons. MTCR members voluntarily pledge to adopt the regime’s export Guidelines and to restrict the export of items contained in the regime’s Annex. The implementation of the regime’s Guidelines is effectuated through the national export control laws and policies of the regime members.

### Amendments to the Export Administration Regulations

This final rule revises the Export Administration Regulations (EAR) to reflect changes to the MTCR Annex agreed to at the November 2009 Plenary in Rio de Janeiro, Brazil. Corresponding MTCR Annex references are provided below for the MTCR Annex changes agreed to at the November 2009 Plenary.

MTCR member countries agreed to clarify the meaning of “production facilities”, the export of which is prohibited by the MTCR Guidelines for Category I. This clarification is reflected in the changes set forth in section 772.1 (Definitions of Terms as Used in the Export Administration Regulations), which amend the definition of the term “production facilities” to add the word “production” before the word “equipment”. The definition will therefore state that “production facilities” means “production equipment” and specially designed “software” therefor integrated into installations for “development” or for one or more phases of “production” (MTCR Annex Change Definitions: “Production Facilities”). This clarification more specifically describes the type of equipment that is included under the definition of “production facilities”. BIS expects this change to have no impact on license applications.

In addition, this rule amends the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) to reflect changes to the MTCR Annex. Specifically, the following Export Control Classification Numbers (ECCNs) are affected:

ECCN 1C117 is amended by revising the heading and the “items” paragraph in the List of Items Controlled section (MTCR Annex Change Category II: Item 6.C.7). A significant agreement was reached by MTCR member countries on the control of tungsten and molybdenum on the MTCR Annex. New controls were added for copper infiltrated tungsten, silver infiltrated tungsten, and tungsten alloys in solid

form (including dimensional aspects). These controls are applied when these materials are used for fabrication of missile components for rockets or missiles capable of achieving a “range” equal to or greater than 300 km. This change addresses the issue of a proliferation concern identified by MTCR member countries related to refractory metals used for missile components. Specifically, the control text for tungsten and molybdenum on the MTCR Annex was modified to include new controls for solid tungsten and tungsten alloy billets for the fabrication of missile components. This revision to ECCN 1C117 implements this expansion of controls.

The heading of ECCN 9A101 is amended by removing the phrase “(including turbocompound engines)” because agreement was reached by MTCR member countries on the deletion of this term. This term is deleted from this ECCN heading because the international community does not refer to turbojet or turbofan engines as turbo-compound engines. Accordingly, turbo-compound engines are not meant to be included within the scope of this ECCN entry. The missile proliferation concern for these types of engines is on turbojet and turbofan engines, so it is appropriate to remove engines that are not those types of engines from this ECCN, especially in this case where this term is not used by the international community to describe these engines. Additionally, turbo-compound engines are not a missile proliferation concern. This change is expected to have a minimal impact on license applications.

#### Correction and Clarification to EAR Final Rule

The 2008 MTCR Plenary implementation rule published on November 9, 2009 (74 FR 57581) clarified ECCN 1C011 by revising the License Requirements and “items” paragraph of ECCN 1C011 by deleting the reference to boron carbide and replacing it with boron alloys in the MT control section of this ECCN, and by making conforming changes to the MT and NS License Requirements for this ECCN. To effect this change, reference to boron alloys was included in the November 2009 final rule in a new “items” paragraph in ECCN 1C011.e, but reference to boron carbide was retained in the NS controlled section of this ECCN because boron carbide is listed on the Wassenaar control list and therefore is still controlled under this ECCN. Subsequently, an EAR final rule published on December 10, 2009 (74 FR 65662) inadvertently removed the new

paragraph 1C011.e that was added in the November 2009 MTCR Plenary rule.

When drafting this rule, BIS considered reinserting paragraph 1C011.e into the ECCN entry. Upon consideration, BIS determined that rather than replacing the removed paragraph 1C011.e, it would be better to add boron alloys to ECCN 1C111. This addition is an improved means of controlling boron alloys as metal fuels on the CCL because grouping the boron alloys with other propellants and constituent chemicals for propellants will assist the regulated community in classifying these items on the CCL. This rule effects this change by revising ECCNs 1C011 and 1C111. Specifically, ECCN 1C111 is amended by creating two sub-sets of metal fuels with a particle size of less than 60  $\mu\text{m}$  controlled under “items” paragraph a.2 of this ECCN entry: metal fuels consisting 97% by weight or more of any of the following: Zirconium, Beryllium, Magnesium or Alloys of the these three metals (controlled under paragraphs a.2.a.1, a.2.a.2, a.2.a.3 or a.2.a.4); and metal fuels consisting of boron alloys with a purity of 85% by weight or more (controlled under paragraph a.2.b). The boron alloys that are being added to a.2.b are the boron alloys that were controlled under 1C011.e prior to their inadvertent removal in the December 10, 2009 final rule. Lastly, ECCN 1C011 is amended by revising the NS and MT control sections of this ECCN to remove the references to paragraph 1C011.e. This is a conforming change associated with the shift of boron alloys from 1C011.e to 1C111.a.2.b. These changes to ECCN 1C011 and 1C111 are expected to have no impact on license applications.

#### Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on April 20, 2010, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before *May 20, 2010*. Any such items not actually exported or reexported before midnight, on *May 20, 2010*, require a license in accordance with this rule.

Although the Export Administration Act expired on August 20, 2001, the

President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 13, 2009 (74 FR 41325 (August 14, 2009)), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

#### Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 58 minutes for a manual or electronic submission.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form.

#### List of Subjects

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, parts 772 and 774 of the Export Administration Regulations (15

CFR parts 730–774) are amended as follows:

**PART 772—[AMENDED]**

■ 1. The authority citation for 15 CFR part 772 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 13, 2009, 74 FR 41325 (August 14, 2009).

■ 2. Section 772.1 is amended by revising the definition of “production facilities”, as set forth below:

**§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).**

*Production Facilities.* (MTCR Context only). (Cat 7 and 9)—Means “production equipment” and specially designed “software” therefor integrated into installations for “development” or for one or more phases of “production”.

**PART 774—[AMENDED]**

■ 3. 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 13, 2009, 74 FR 41325 (August 14, 2009).

■ 4. In Supplement No. 1 to part 774, under Category 1, Export Control Classification Number (ECCN) 1C011 is amended by revising the first two entries in the table under the “Reason for Control” heading in the License Requirements section, to read as follows:

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

\* \* \* \* \*

**1C011 Metals and Compounds, as Follows (see List of Items Controlled)**

**License Requirements**

Reason for Control: \* \* \*

| Control(s)  | Country chart              |
|---|----------------------------|
| NS applies to entire entry ..<br>MT applies to 1C011.a and<br>.b (for boron). | NS Column 1<br>MT Column 1 |

\* \* \* \* \*

■ 5. In Supplement No. 1 to part 774, under Category 1, ECCN 1C111 is amended by revising paragraph a.2 of the “items” paragraph in the List of

Items Controlled section, to read as follows:

**1C111 Propellants and Constituent Chemicals for Propellants, Other Than Those Specified in 1C011, as Follows (see List of Items Controlled)**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*

Items:

\* \* \* \* \*

a.2. Metal fuels, other than that controlled by the U.S. Munitions List, in particle sizes of less than 60 × 10<sup>-6</sup> m (60 micrometers), whether spherical, atomized, spheroidal, flaked or ground, as follows:

a.2.a. Consisting of 97% by weight or more of any of the following:

- a.2.a.1. Zirconium;
- a.2.a.2. Beryllium;
- a.2.a.3. Magnesium; or
- a.2.a.4. Alloys of the metals specified by a.2.a.1 to a.2.a.3 above.

Technical Note: The natural content of hafnium in the zirconium (typically 2% to 7%) is counted with the zirconium.

a.2.b. Boron alloys with a purity of 85% by weight or more.

\* \* \* \* \*

■ 6. In Supplement No. 1 to part 774, under Category 1, ECCN 1C117 is amended:

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

**1C117 Materials for the Fabrication of Missile Components for Rockets or Missiles Capable of Achieving a “Range” Equal to or Greater Than 300 km, as Follows (See List of Items Controlled)**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*

Items:

a. Tungsten and alloys in particulate form with a tungsten content of 97% by weight or more and a particle size of 50 × 10<sup>-6</sup> m (50 μm) or less;

b. Molybdenum and alloys in particulate form with a molybdenum content of 97% by weight or more and a particle size of 50 × 10<sup>-6</sup> m (50 μm) or less;

c. Tungsten materials in the solid form having all of the following:

- c.1. Any of the following material compositions:
  - c.1.a. Tungsten and alloys containing 97% by weight or more of tungsten;
  - c.1.b. Copper infiltrated tungsten containing 80% by weight or more of tungsten; or
  - c.1.c. Silver infiltrated tungsten containing 80% by weight or more of tungsten; and
- c.2. Able to be machined to any of the following products:

c.2.a. Cylinders having a diameter of 120 mm or greater and a length of 50 mm or greater;

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

c.2.c. Blocks having a size of 120 mm × 120 mm × 50 mm or greater.

■ 7. In Supplement No. 1 to part 774, under Category 9, ECCN 9A101 is amended by revising the heading, to read as follows:

**9A101 Turbojet and Turbofan Engines, Other Than Those Controlled by 9A001, as Follows (See List of Items Controlled)**

\* \* \* \* \*

Dated: April 9, 2010.

**Kevin J. Wolf,**  
*Assistant Secretary for Export Administration.*

[FR Doc. 2010–8919 Filed 4–19–10; 8:45 am]

**BILLING CODE 3510–33–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 510**

[Docket No. FDA–2010–N–0002]

**New Animal Drugs; Change of Sponsor’s Name and Address**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor’s name from Minrad, Inc. to Piramal Critical Care, Inc. The sponsor’s mailing address will also be changed.

**DATES:** This rule is effective April 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8307, e-mail: [david.newkirk@fda.hhs.gov](mailto:david.newkirk@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Minrad, Inc., 836 Main St., 2d floor, Buffalo, NY 14202 has informed FDA that it has changed its name and address to Piramal Critical Care, Inc., 3950 Schelden Circle, Bethlehem, PA 18017. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c) to reflect this change.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because