Robert Monjay

From: Murphy Marie-France <marie-france.murphy@cnes.fr>
Sent: Thursday, July 04, 2013 2:26 PM
To: PublicComments
Subject: TR: RIN 0694–AF87

Dear Sirs

The French Space Agency, Centre national d'Etudes Spatiales (CNES) acts as a public procurement organization for the purpose of realizing its public (non-commercial) Space projects on a national or intergovernmental framework basis. CNES is also affected by EAR/ITAR rules in its governmental mission of assessing the technical compliance of Space systems under its national Space legislation (The Technical Regulation of 31st march 2011 under the Space Operating Act of 3rd June, 2008).

CNES appreciates the opportunity to provide comments on the proposed revisions to 15 CFR Parts 734, 736, 740, 742, 748,758, 772, and 774 related to Spacecrafts Systems and Related Items.

After reviewing the proposed rule, we would be grateful for clarification on the following sections.

* cf. p.31440 of the EAR proposed rules:

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

''Space-qualified'' (Cat 3, 6, and 9)
Designed, manufactured, or qualified through successful testing, for operation at altitudes greater than 100 km above the surface of the Earth.

Note: A determination that a specific item is ''space qualified'' by virtue of testing does not mean that other items in the same production run or model series are ''space qualified'' if not individually tested."

Comments

* Why do the proposed rules only refer to categories 3, 6 and 9? What does this mean regarding the other categories of EAR?

* Could you, please, confirm that the "Space qualified" criterion applies only to items that have been designed, manufactured or qualified through successful testing performed at US premises or using US technologies?

* Regarding the note, does it mean that each component has to be tested separately to be "space qualified"?

For example, if only one of four identical components is successfully tested and thus qualified, would the four identical components be then all “space qualified” or will only the one successfully tested be “space qualified”?

* cf. p.31433 of the EAR proposed rules:

‘‘New 9X515 Series of ECCNs

This proposed rule would create four new ‘‘500 series’’ ECCNs in CCL Category 9 (ECCNs 9A515, 9B515, 9D 515 and 9E515 to describe the EAR controls over the items the President determines no longer warrant control under the USML Category XV and that are not otherwise within the scope of an existing ECCN”.

Comments

The “500 series” are created for items moving from USML to CCL. However it is also mentioned in the proposed rules that:
“…it is appropriate to delete 9A004 b. and bring these “spacecraft” related items into the orbit of 9A515”.

Does this mean that the new “500 series” might cover:

* not only items transferred from the USML to the CCL,
* but also items previously covered by other ECCNs (such as for example 9A004 b.),
* or even EAR 99 items?

* General comments

* In the future, when the “final rules” are in force, will they apply to “all” items including as well those already exported by US manufacturers under the previous rules?

* If so, we understand that the foreign importers/re-exporters will be responsible for:

* re-classifying all their stocks previously received under the previous ITAR or EAR rules,
* obtaining a re-export license from BIS.

Could you please confirm?

Thank you for your consideration.
Sincerely,

Marie-France Murphy
Export Control Senior Counsel - Legal Sub-directorate

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