

PART 121--THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp, p. 79; 22 U.S.C. 2658; Pub L. 105-261, 112 Stat.1920.

2. Section 121.1, paragraph (c) Category VIII is amended by revising Category VIII paragraphs (b) and (h) to read as follows:

Sec. 121.1 General. The United States Munitions List.

Category VIII--Aircraft and Associated Equipment

(b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category.

(h) Except as noted below, components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (d) of this category, excluding aircraft tires and propellers used with reciprocating engines.

Note: The Export Administration Regulations (EAR) administered by the Department of Commerce control any components, parts, accessories, attachments, and associated equipment (including propellers) designed for civil, non-military aircraft (see Sec. 121.3 for the definition of military aircraft) and civil, non-military aircraft engines. Also, a non-SME component or part (as defined in Sec. 121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, that:

- (a) Is standard equipment;
- (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) recognized by the Federal Aviation Administration for a civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft); and
- (c) is an integral part of such civil aircraft,

is subject to the control of the EAR.

In the case of any part or component designated as SME in this or any other USML category, a determination that such item may be excluded from USML coverage based on the three criteria above always requires a commodity jurisdiction determination by the Department of State under Sec. 120.4 of this subchapter. All specifically designed military hot section components (i.e., combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles) and digital

**Comment [DD1]:** Deleted section which was added to this federal register notice regarding Engine Hot Section parts and FADEC technology. The preamble to this Federal Register notice made it clear that this was not a rewrite to the ITAR, but rather a clarification of State's long time position. As this is not an ITAR rewrite, but rather the inclusion of a note, the USML category should not be amended at this time. If the intent is to ensure that Engine Hot Section components not automatically fall into the criteria in the note, then the note should be clarified to reflect that intent. We have modified the note accordingly.

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**Deleted:** and all specifically designed military hot section components (i.e., combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles) and digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)).

**Comment [DD2]:** Revision made to help clarify that there are exceptions below whereby an item would not fall into Category h.

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**Comment [DD3]:** Modified language to reflect the exact words used in paragraph h to help ensure consistency.

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**Comment [DD4]:** Recognized certifications should include any certification treated in a bilateral manner with the FAA such as EASA or CAA certification.

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engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)) will also require a commodity jurisdiction by the Department of State for any determination that such items may be excluded from the USML. The only exception to this requirement is where such components, parts, accessories, attachments, and associated equipment was integral to civil aircraft prior to [effective date of the final rule]. For such part or component, U.S. exporters are not required to seek a commodity jurisdiction determination from State, unless doubt exists as to whether the item meets the three criteria above (See Sec. 120.3 and Sec. 120.4 of this subchapter).

**Comment [DD5]:** This section is entered (moved from the Fed Reg notice para (b)) to confirm that Engine Hot Section parts and FADEC and DEEC will require CJs in some cases and are not automatically covered by the note.

**Comment [DD6]:** Inserted for consistency

**Deleted:** a part or component designated as SME in this category

Also, U.S. exporters are not required to seek a commodity jurisdiction determination from State regarding any non-SME component or part (as defined in Sec. 121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, unless doubt exists as to whether the item meets the three criteria above (See Sec. 120.3 and Sec. 120.4 of this subchapter). These commodity jurisdiction determinations will ensure compliance with this section and the criteria of Section 17(c) of the Export Administration Act of 1979.

In determining whether the three criteria above have been met, consider whether the same item is common to both civil and military applications without modification. Some examples of parts or components that are not common to both civil and military applications are tail hooks, radomes, and low observable rotor blades.

"Standard equipment" is defined as a part or component manufactured in compliance with an established and published industry specification or an established and published government specification (e.g., AN, MS, NAS, SAE or TSO). Parts and components that are manufactured and tested to established but unpublished (e.g., proprietary) civil aviation industry or manufacturer specifications or standards are also "standard equipment," e.g., pumps, actuators, and generators. A part or component is not standard equipment if there are any performance, manufacturing or testing requirements beyond such specifications and standards.

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**Comment [DD7]:** Technical Standard Orders (TSOs) are clearly government published specifications and should be included in this list of specifications.

**Comment [DD8]:** Inserted to address fact that often times the standard may be an individual company's standard

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**Deleted:** unless the item was designed or modified to meet that specification or standard

Simply testing a part or component to meet a military specification or standard does not in and of itself change the jurisdiction of such part or component. Integral is defined as a part or component that is installed in the aircraft. In determining whether a part or component may be considered as standard equipment and integral to a civil aircraft (e.g., latches, fasteners, wheels, brakes, seats, lights, grommets, and switches) it is important to carefully review all of the criteria noted above. For example, a part approved solely on a non-interference/provisions basis under a type certificate issued by the Federal Aviation Administration would not qualify. Similarly, unique application parts or components not integral to the aircraft would also not qualify.

**Comment [DD9]:** Inserted to provide clarification of additional items that are clearly integral to a civil aircraft.