eccentric bolts having P/N A5786451220800 at slat 2 track 4 and track 7, and slat 3 track 8, on both wings, with bolts having P/N A5784307920000, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–57–2098, dated July 22, 2011.

(i) Parts Installation

After modification of an airplane as required by this AD, do not install any slat extension eccentric bolt having P/N A5786451220800 on any airplane.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(k) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0187, dated September 27, 2011, and the following service information, for related information.

(1) Airbus Mandatory Service Bulletin A310–57–2043, Revision 05, dated September 29, 2010.

(2) Airbus Mandatory Service Bulletin A310–57–2098, dated July 22, 2011.

(3) Airbus Mandatory Service Bulletin A310–57–2099, dated July 22, 2011.

Issued in Renton, Washington, on April 25, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742 and 774

[Docket No. 120105018–2011–01]

RIN 0694–AF53

Revisions to the Export Administration Regulations (EAR): Control of Energetic Materials and Related Articles That the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

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

ACTION: Proposed rule.

SUMMARY: The Bureau of Industry and Security (BIS) publishes this proposed rule describing how energetic materials and related articles that the President determines no longer warrant control under Category V (Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents) of the United States Munitions List (USML) would be controlled under the Commerce Control List (CCL) in new Export Control Classification Numbers (ECCNs) 1B608, 1C608, 1D608, and 1E608. If implemented, this proposed rule would also control under ECCN 1C111 some of the aluminum powder and hydrazine and derivatives thereof that are now controlled under Category V of the USML. This proposed rule also would control equipment for the ''production'' of explosives and solid propellants, currently controlled under ECCN 1B018.a, and related ''software,'' currently controlled under ECCN 1D018, under new ECCNs 1B608 and 1D608, respectively. In addition, this proposed rule would control commercial charges and devices containing energetic materials, which are currently controlled under ECCN 1C018, under new ECCN 1C608. This is one of a planned series of proposed rules describing how various types of articles that the President determines, as part of the Administration's Export Control Reform Initiative, no longer warrant control on the USML, under the International Traffic in Arms Regulations (ITAR), would be controlled on the CCL in accordance with the requirements of the Export Administration Regulations (EAR). This proposed rule is being published in conjunction with a proposed rule from the Department of State, Directorate of Defense Trade Controls, which would amend the list of articles controlled by USML Category V.

DATES: Comments must be received by June 18, 2012.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2012–0008.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AF53 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AF53.

FOR FURTHER INFORMATION CONTACT: Michael Rithmire, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: (202) 482–6105, Email: *Michael.Rithmire@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2011, as part of the Administration's ongoing Export Control Reform Initiative, the Bureau of Industry and Security (BIS) published a proposed rule (76 FR 41958) (herein ''the July 15 proposed rule'') that set forth a framework for how articles, which the President determines in accordance with section 38(f) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(f)) would no longer warrant control on the United States Munitions List (USML), would be controlled on the Commerce Control List (CCL) in Supplement No. 1 to Part 774 of the Export Administration Regulations (EAR). On November 7, 2011 (76 FR 68675) (herein ''the November 7 proposed rule''), BIS published a rule proposing several changes to the framework initially proposed in the July 15 rule.

Following the structure of the July 15 and November 7 proposed rules, this proposed rule describes BIS's proposal for controlling some energetic materials and related articles, which currently are controlled by USML Category V under the International Traffic in Arms Regulations (ITAR), under the EAR and its CCL in new Export Control Classification Numbers (ECCNs) 1B608, 1C608, 1D608 and 1E608, and current ECCN 1C111. The changes described in this proposed rule and the State Department's proposed companion rule on Category V of the USML are based on a review of this USML Category by the Defense Department, which worked with the Departments of State and Commerce in preparing the proposed

rules. That review focused on identifying the types of articles that are now controlled by USML Category V that are either: (i) Inherently military and otherwise warrant control on the USML; or (ii) common to civil applications, possessing parameters or characteristics that provide a critical military or intelligence advantage to the United States, and almost exclusively available from the United States. If an article satisfies either or both of these criteria, the article remains on the USML. If an article does not satisfy either criterion, but is determined, nonetheless, to be a type of article that is now on the corresponding USML or the Munitions List of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement Munitions List or WAML), then it has been identified in one of the new ECCNs in this proposed rule. The license requirements, licensing policies, and other EAR-specific controls for such items, as described in this proposed rule, would, when considered in the context of the other proposed amendments to the USML and the CCL, enhance national security by: (i) Allowing for greater interoperability with NATO and other allies while maintaining and expanding robust controls that, in some instances, include prohibitions on exports or reexports destined for other countries or intended for proscribed end-users and end-uses; (ii) enhancing the U.S. defense industrial base by, for example, reducing the current incentives for foreign companies to design out or avoid U.S.-origin ITAR-controlled content, particularly with respect to generic, unspecified parts and components; and (iii) permitting the U.S. Government to focus its resources on controlling, monitoring, investigating, analyzing, and, if need be, prohibiting exports and reexports of more significant items to destinations, end users, and end uses of greater concern than NATO allies and other multi-regime partners.

Pursuant to section 38(f) of the AECA, the President shall review the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. The President must report the results of the review to Congress and wait 30 days before removing any such items from the USML. The report must ''describe the nature of any controls to be imposed on that item under any other provision of law.'' 22 U.S.C. 2778(f)(1).

In the July 15 proposed rule, BIS proposed creating a series of new ECCNs to control items that: (i) would be moved from the USML to the CCL or (ii) are listed on the Wassenaar Arrangement Munitions List and are already controlled elsewhere on the CCL. That proposed rule referred to this new series as the ''600 series'' because the third character in each of the new ECCNs would be a ''6.'' The first two characters of the 600 series ECCNs serve the same function as described for any other ECCN in § 738.2 of the EAR. The first character is a digit in the range 0 through 9 that identifies the Category on the CCL in which the ECCN is located. The second character is a letter in the range A through E that identifies the product group within a CCL Category. In the 600 series, the third character is the number 6. With few exceptions, the final two characters identify the WAML Category that covers items that are the same or similar to items in a particular 600 series ECCN.

This proposed rule describes how some energetic materials and related articles currently in USML Category V would be controlled by the EAR and identified on the CCL, if the President determines that the articles no longer warrant control on the USML. Specifically, this proposed rule would create four new 600 series ECCNs in CCL Category 1 (ECCNs 1B608, 1C608, 1D608, and 1E608). ECCN 1B608 would cover ''equipment,'' not elsewhere specified on the CCL or the USML, that is ''specially designed'' for commodities in ECCN 1C608 or articles in USML Category V. ECCN 1C608 would cover energetic materials and related commodities not listed elsewhere in USML Category V or the CCL. ECCN 1D608 would cover ''software'' ''specially designed'' for commodities controlled by 1B608 or 1C608; and ECCN 1E608 would cover ''technology'' ''required'' for ''equipment'' controlled in 1B608 or materials controlled by 1C608. Additionally, the rule would amend current ECCN 1C111 to describe the EAR controls that would apply to aluminum powder and hydrazine and derivatives thereof the President determines no longer warrant control under USML Category V.

BIS will publish additional **Federal Register** notices containing proposed amendments to the CCL that will describe proposed controls for additional categories of articles the President determines no longer warrant control under the USML. The State Department will publish, concurrently, proposed amendments to the USML that correspond to the BIS notices. BIS will also publish proposed rules to further align the CCL with the WAML and the Missile Technology Control Regime Equipment, Software and Technology Annex.

Detailed Description of Changes Proposed by This Rule

This proposed rule would create four new 600 series ECCNs in CCL Category 1 (ECCNs 1B608, 1C608, 1D608, and 1E608) and amend current ECCN 1C111 to describe the EAR controls that would apply to energetic materials and related items the President determines no longer warrant control under USML Category V. In addition, consistent with the regulatory construct identified in the July 15 proposed rule (i.e., to move items from 018 ECCNs to the appropriate 600 series ECCNs in order to consolidate the WAML and former USML items into one series of ECCNs), this rule would move ''equipment'' for the ''production'' of explosives and solid propellants, currently classified under ECCN 1B018.a, and related ''software,'' currently classified under ECCN 1D018, to new ECCNs 1B608 and 1D608, respectively. Similarly, this rule would move commercial charges and devices containing energetic materials, which are currently classified under ECCN 1C018, to new ECCN 1C608 (except for chlorine trifluoride, which is not on the WAML and would be controlled under ECCN 1C111.a.3.f). In a corresponding change, this rule would remove ECCN 1C238, which controls chlorine trifluoride, from the CCL as it would no longer be necessary.

These proposed changes are discussed in more detail, below.

New ECCN 1B608 (''Equipment'' ''Specially Designed'' for Commodities in ECCN 1C608 or USML Category V) and ECCN 1B018 Amended

Paragraph .a of ECCN 1B608 would control test, inspection, and production ''equipment'' not specified elsewhere on the CCL or the USML that is ''specially designed'' for the ''production'' of energetic materials and related commodities controlled by proposed new ECCN 1C608 or USML Category V. This ''equipment'' would include items currently controlled under ECCN 1B018.a.2 or .a.3. Paragraph .b of ECCN 1B608 would control complete installations not specified elsewhere on the CCL or the USML (including complete installations currently controlled under ECCN 1B018.a.1) that are ''specially designed'' for the ''production'' of energetic materials and related commodities controlled by proposed new ECCN 1C608 or USML Category V. Paragraph .c of ECCN 1B608 would control environmental test facilities that are ''specially designed'' for the certification, qualification, or

testing of items controlled by proposed new ECCN 1C608 or USML Category V. Paragraphs .d through .w would be reserved for possible future use. Paragraph .x would control ''parts,'' ''components,'' and ''accessories and attachments'' (including certain unfinished products that have reached a stage in manufacturing where they are clearly identifiable as commodities controlled by paragraph .x) that are ''specially designed'' for a commodity controlled under paragraph .a, .b, or .c of ECCN 1B608 and not specified elsewhere on the CCL or the USML. These ''parts,'' ''components,'' and ''accessories and attachments'' would include ''specially designed'' ''parts'' and ''components'' currently controlled under ECCN 1B018.a.4. Incorporating ECCN 1B018.a items into new ECCN 1B608 is consistent with the regulatory construct identified in the July 15 proposed rule, under which WAML items in 018 ECCNs will be consolidated with former USML items into 600 series ECCNs—ECCN 1B018, as amended, would cross reference ECCN 1B608, and ECCN 1B018.a would be removed and reserved. Paragraph .y of ECCN 1B608 would control specific test, inspection, and production ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 1B608 or a defense article in USML Category V, and ''parts,'' ''components,'' and ''accessories and attachments'' ''specially designed'' therefor. Because this proposed rule does not list specific equipment under paragraph .y, sub-paragraphs .y.1 through .y.98 would be reserved for possible future use.

New ECCN 1C608 (Energetic Materials and Related Commodities Not Listed Elsewhere in USML Category V or the CCL) and ECCN 1C018 Amended

ECCN 1C608.a would control single base, double base, and triple base propellants having nitrocellulose with a nitrogen content greater than 12.6 percent in the form of either: (i) Sheetstock or carpet rolls or (ii) grains with a diameter greater than 0.10 inches. Paragraphs .b through .m of ECCN 1C608 would control commercial charges and devices, containing energetic materials, that are now controlled under ECCN 1C018.b through .m—as is currently the case with ECCN 1C018.i, ECCN 1C608.i would be reserved. However, a Note following 1C608.m would indicate that chlorine trifluoride, which is currently controlled under ECCNs 1C018.m and 1C238, would be controlled under ECCN 1C111.a.3.f only, and not under new ECCN 1C608. Incorporating ECCN 1C018 items into new ECCN 1C608 is consistent with the regulatory construct identified in the July 15 proposed rule, under which WAML items in 018 ECCNs will be consolidated with former USML items into 600 series ECCNs. ECCN 1C018, as amended, would cross-reference ECCN 1C608 and current ECCNs that control commercial charges and devices containing energetic materials. ECCN 1C608.n would control any explosives, propellants, oxidizers, pyrotechnics, fuels, binders, or additives that are ''specially designed'' for military application and are not listed elsewhere in the CCL or the USML. Paragraphs .o through .y would be reserved for possible future use.

New ECCN 1D608 (''Software'' ''Specially Designed'' for Commodities Controlled by 1B608 or 1C608) and ECCN 1D018 Amended

ECCN 1D608.a would control ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by proposed new ECCN 1B608 or 1C608. This ''software'' would include ''software,'' currently controlled by ECCN 1D018, for ''equipment'' described in ECCN 1B018.a. Incorporating ECCN 1D018 ''software'' for ECCN 1B018.a items into new ECCN 1D608 is consistent with the regulatory construct identified in the July 15 proposed rule, under which WAML items in 018 ECCNs will be consolidated with former USML items into 600 series ECCNs—ECCN 1D018, as amended, would cross-reference ECCN 1D608. Paragraphs .b through .x of ECCN 1D608 would be reserved for possible future use. Paragraph .y of ECCN 1D608 would control ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by proposed ECCN 1B608.y. Because this proposed rule does not list specific ''software'' under paragraph .y, sub-paragraphs .y.1 through .y.98 would be reserved for possible future use.

New ECCN 1E608 (''Technology'' ''Required'' for ''Equipment'' Controlled in 1B608 or Materials Controlled by 1C608)

ECCN 1E608.a would control ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishment of items controlled by ECCN 1B608 or 1C608. This ''technology'' would include ''technology,'' currently controlled by ECCN 1E001, for ''equipment'' currently described in ECCN 1B018.a—accordingly, ECCN 1E001 would be amended to exclude both ''technology'' for current 1B018.a items that would be moved to ECCN 1B608 and ''technology'' for 1C608 items and to cross reference ECCN 1E608 (the proposed amendments to ECCN 1E001 are described in more detail, below). Paragraph .b of 1E608 would control ''technology'' for the ''development'' or ''production'' of nitrocellulose with a nitrogen content over 12.6 percent and at rates greater than 2000 pounds per hour. Paragraph .c of 1E608 would control ''technology'' for the ''development'' or ''production'' of nitrate esters (e.g., nitroglycerine) at rates greater than 2000 pounds per hour. Paragraph .y of 1E608 would control specific ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by ECCN 1B608.y or ''software'' controlled by ECCN 1D608.y. Because this proposed rule does not list specific ''technology'' under paragraph .y, sub-paragraphs .y.1 through .y.98 would be reserved for possible future use.

Inclusion of ''.y.99'' Paragraphs in 600 Series ECCNs

Proposed new ECCNs 1B608, 1D608, and 1E608 would also contain a paragraph ''.y.99'' that would control any item that meets all of following criteria: (i) The item is not listed on the CCL; (ii) the item was previously determined to be subject to the EAR in an applicable commodity jurisdiction determination issued by the U.S. Department of State; and (iii) the item would otherwise be controlled under one of these Category 1, 600 series, ECCNs because, for example, the item was ''specially designed'' for a military use. Items in these .y.99 paragraphs would be subject to antiterrorism (AT Column 1) controls only.

Applicable Controls for New 600 Series ECCNs

ECCN 1B608, 1C608, 1D608, and 1E608 items (except for items in ECCN 1B608.y, 1D608.y, or 1E608.y—1C608.y is reserved) would be subject to national security (NS Column 1), regional stability (RS Column 1), and antiterrorism (AT Column 1) controls.

In addition, missile technology (MT Column 1) controls would apply to: equipment controlled by ECCN 1B608 that is ''specially designed'' for the ''production'' of rocket propellants; oxidizers or mixtures controlled under ECCN 1C608.m; ''software'' in ECCN 1D608 that is ''specially designed'' for oxidizers or mixtures controlled under

ECCN 1C608.m; and ''technology'' in ECCN 1E608 that is ''required'' for oxidizers or mixtures controlled under ECCN 1C608.m.

Under ECCN 1B018.a, ''equipment'' for the ''production'' of military explosives and solid propellants is controlled for national security, regional stability, antiterrorism and United Nations reasons. In addition, such ''equipment'' that is for the ''production'' of rocket propellants, is controlled for missile technology reasons. Under ECCN 1C018, commercial charges and devices containing energetic materials are controlled for national security, antiterrorism and United Nations reasons, and items classified under ECCN 1C018.m are also controlled for missile technology reasons. Items moving to proposed ECCN 1B608 and to proposed 1C608 would no longer be controlled for United Nations reasons, although they would retain their other current reasons for control. Controlling these items for United Nations reasons is unnecessary in light of the November 7 proposed rule's amendment to the RS Column 1 licensing policy, which stated that there would be a general policy of denial for ''600 series'' items if the destination is subject to a United States arms embargo. A list of such destinations is identified in proposed section 740.2(a)(12), published in the November 7 proposed rule.

ECCN 1C111 Amended and ECCN 1C238 Removed

This proposed rule would amend ECCN 1C111 by adding under 1C111.a and 1C111.d, respectively, aluminum powder and hydrazine and derivatives thereof, which the President determines no longer warrant control under USML Category V. These items would be added to ECCN 1C111 because they possess characteristics that are more similar to the propellants, and constituent chemicals therefor, that are controlled under ECCN 1C111 than the energetic materials that would be controlled under proposed ECCN 1C608. Like the items currently controlled under ECCN 1C111, these additional items would be subject to missile technology (MT Column 1) controls and anti-terrorism (AT Column 1) controls. In addition, this proposed rule would amend the Related Controls paragraph in ECCN 1C111 to indicate that ECCN 1C608 controls oxidizers that are composed of fluorine (and also other halogens, oxygen, or nitrogen), except for chlorine trifluoride, which would be controlled under ECCN 1C111.a.3.f.

Chlorine trifluoride currently is controlled under both ECCNs 1C018.m and 1C238—ECCN 1C018.m controls chlorine trifluoride for missile technology (MT Column 1), regional stability (RS Column 1), and anti-terrorism (AT Column 1) reasons, while ECCN 1C238 controls chlorine trifluoride for nuclear nonproliferation (NP Column 1) and anti-terrorism (AT Column 1) reasons. This proposed rule would remove chlorine trifluoride from ECCNs 1C018.m and 1C238 and control it under ECCN 1C111.a.3.f only, rather than also controlling it under ECCN 1C608.m, because chlorine trifluoride is not on the WAML and, consequently, is not subject to national security (NS) controls. Accordingly, this proposed rule would amend ECCN 1C111 to control chlorine trifluoride under ECCN 1C111.a.3.f for nuclear nonproliferation (NP Column 1) reasons, in addition to the MT and AT reasons for control that currently apply under this ECCN. Regional stability (RS Column 1) controls would no longer apply to chlorine trifluoride, because such controls would be redundant in view of the fact that they apply to the same group of destinations as missile technology controls (i.e., both RS Column 1 and MT Column 1 apply to all destinations, except for Canada). Because ECCN 1C238 currently controls chlorine trifluoride only, this ECCN would be removed from the CCL.

ECCN 1E001 Amended

This proposed rule would amend ECCN 1E001 by revising the ECCN heading to exclude ''technology'' for items that, with this proposed rule, would be controlled under proposed new ECCN 1B608 or 1C608 and by amending the Related Controls paragraph in the List of Items Controlled to include a reference to proposed new ECCN 1E608. In addition, this rule proposes to amend the nuclear nonproliferation (NP) controls paragraph in the License Requirements section of ECCN 1E001 to include ''technology'' for ECCN 1C111 items controlled for NP reasons (i.e., chlorine trifluoride in ECCN 1C111.a.3.f). As a result of this change and the addition of chlorine trifluoride to ECCN 1C111, as described above, ''technology'' for the ''development'' or ''production'' of chlorine trifluoride (ClF_3) would be controlled under ECCN 1E001 for missile technology (MT Column 1), nuclear nonproliferation (NP Column 1), and anti-terrorism (AT Column 1) reasons.

In addition, this proposed rule would amend the reference to ECCN 1E002.g, in the Related Controls paragraph of ECCN 1E001, to address control libraries (parametric technical databases) specially designed or modified to enable equipment to perform the functions of equipment controlled under either 1A004.c (Nuclear, biological and chemical (NBC) detection systems) or 1A004.d (Equipment for detecting or identifying explosives residues)—currently, only 1A004.c equipment is referenced. Adding 1A004.d as a cross reference corrects an inadvertent but non-substantive omission in the EAR as ECCN 1E002.g refers to both 1A004.c and 1A004.d.

ECCN 1E101 Amended

This proposed rule would amend the License Requirements section of ECCN 1E101, consistent with the ''technology'' controls of the Nuclear Suppliers Group (NSG), to apply nuclear nonproliferation (NP Column 1) controls to ''use'' ''technology'' for ECCN 1C111 items controlled for NP reasons (i.e., chlorine trifluoride in ECCN 1C111.a.3.f). As a result of this change, ''use'' ''technology'' for chlorine trifluoride would be controlled for nuclear nonproliferation (NP Column 1), missile technology (MT Column 1), and anti-terrorism (AT Column 1) reasons under ECCN 1E101. This change is consistent with the proposal in this rule to remove chlorine trifluoride from ECCNs 1C018.m and 1C238 and control chlorine trifluoride exclusively under ECCN 1C111.a.3.f. Currently, ''use'' ''technology'' for chlorine trifluoride is controlled under ECCN 1E201 for nuclear nonproliferation (NP Column 1) and anti-terrorism (AT Column 1) reasons, only. As described below, this rule would amend ECCN 1E201 to remove ''use'' ''technology'' for chlorine trifluoride.

ECCN 1E201 Amended

ECCN 1E201 currently controls ''use'' ''technology'' for chlorine trifluoride for nuclear nonproliferation (NP Column 1) and anti-terrorism (AT Column 1) reasons. This proposed rule would amend ECCN 1E201 by revising the ECCN heading to remove ''technology'' for ECCN 1C238 items (i.e., chlorine trifluoride), consistent with the ECCN 1C111 and 1E101 changes described above, whereby chlorine trifluoride would be controlled under ECCN 1C111.a.3.f, only, and ECCN 1E101 would be amended to control ''use'' ''technology'' for chlorine trifluoride.

Corresponding Amendments

To implement the regional stability controls that apply to the four new 600 series ECCNs noted above, this proposed rule would revise § 742.6 of the EAR to apply the RS Column 1 licensing policy to commodities

classified under ECCN 1B608 (except 1B608.y) and 1C608 and to related ''software'' and ''technology'' classified under ECCNs 1D608 and 1E608 (except 1D608.y and 1E608.y), respectively.

Relationship to the July 15 and November 7 Proposed Rules

As referenced above, the purpose of the July 15 proposed rule was to set up the framework to support the transfer of items that the President determines no longer warrant control on the USML from the USML to the CCL. To facilitate that goal, the July 15 proposed rule contained definitions and concepts that were meant to be applied across categories. However, as BIS undertakes rulemakings to move specific categories of items from the USML to the CCL, there may be unforeseen issues or complications that may require BIS to reexamine those definitions and concepts. The comment period for the July 15 proposed rule closed on September 13, 2011. In the November 7 proposed rule, BIS proposed several changes to those definitions and concepts. The comment period for the November 7 proposed rule closed on December 22, 2011.

To the extent that this rule's proposals affect any provision in either of those proposed rules or any provision in either of those proposed rules affect this proposed rule, BIS will consider comments on those provisions so long as they are within the context of the changes proposed in this rule.

BIS believes that the following aspects of the July 15 proposed rule and the November 7 proposed rule are among those that could affect this proposed rule:

- *De minimis* provisions in § 734.4;
- Restrictions on use of license exceptions in §§ 740.2, 740.10, 740.11, and 740.20;
- Change to national security licensing policy in § 742.4;
- Addition of 600 series items to Supplement No. 2 to Part 744—List of Items Subject to the Military End-Use Requirement of § 744.21; and
- Definitions of terms in § 772.1.

BIS believes that the following provisions of this proposed rule are among those that could affect the provisions of the July 15 and November 7 proposed rules:

- Additional 600 series items identified in the RS Column licensing policy described in § 742.6.

Effects of This Proposed Rule

BIS believes that the principal effect of this rule, when considered in the context of the other similar proposed rules being published as part of the Export Control Reform Initiative, will be to provide greater flexibility for exports and reexports to NATO member countries and other multiple-regime-member countries of items the President determines no longer warrant control on the USML. This greater flexibility would be in the form of: application of the EAR's *de minimis* threshold principle for items constituting less than a *de minimis* amount of controlled U.S.-origin content in foreign made items; availability of license exceptions, particularly License Exceptions ''Servicing and Replacement of Parts and Equipment'' (RPL) and ''Strategic Trade Authorization'' (STA); elimination of the requirements for manufacturing license agreements and technical assistance agreements in connection with exports of technology; and a reduction in, or elimination of, exporter and manufacturer registration requirements and associated registration fees. Some of these specific effects are discussed in more detail below.

De Minimis

The July 15 proposed rule would impose certain unique *de minimis* requirements on items controlled under the new 600 series ECCNs. Section 734.3 of the EAR provides, *inter alia,* that, under certain conditions, items made outside the United States that incorporate items subject to the EAR are not subject to the EAR if they do not exceed a ''*de minimis''* percentage of controlled U.S. origin content. Depending on the destination, the *de minimis* percentage can be either 10 percent or 25 percent. If the July 15 proposed rule's amendments at § 734.4 of the EAR are adopted, the new ECCNs 1B608, 1C608, 1D608, and 1E608 proposed in this rule would be subject to the *de minimis* provisions set forth in the July 15 proposed rule. Foreign-made items incorporating items controlled under the new ECCNs would become eligible for *de minimis* treatment at the 10 percent level (i.e., a foreign-made item is not subject to the EAR, for *de minimis* purposes, if the value of its U.S.-origin controlled content does not exceed 10 percent of foreign-made item's value). In contrast, the AECA does not permit the ITAR to have a *de minimis* treatment for USML-listed items, regardless of the significance or insignificance of the U.S.-origin content or the percentage of U.S.-origin content in the foreign-made item (i.e., USML-listed items remain subject to the ITAR when they are incorporated abroad into a foreign-made item, regardless of either of these factors). In addition, foreign-made items that incorporate any items that are currently classified under an 018 ECCN (e.g., ECCNs 1B018.a, 1C018, and 1D018) and that are moved to a new 600 series ECCN (e.g., ECCNs 1B608, 1C608, and 1D608, respectively) would be subject to the EAR if those foreign-made items contained more than 10 percent U.S.-origin controlled content, regardless of the destination and regardless of the proportion of the U.S.-origin controlled content accounted for by the former 018 ECCN items.

Use of License Exceptions

The July 15 proposed rule would impose certain restrictions on the use of license exceptions for items that would be controlled under the new 600 series ECCNs on the CCL. For example, proposed § 740.2(a)(12) would make 600 series items that are destined for a country subject to a United States arms embargo ineligible for shipment under a license exception, except where authorized by License Exception GOV under § 740.11(b)(2)(ii) of the EAR. BIS believes that, even with the July 15 and November 7 proposed restrictions on the use of license exceptions for 600 series items, the restrictions on those items currently on the USML would be reduced, particularly with respect to exports to NATO members and multiple-regime member countries, if those items are moved from the USML to proposed ECCN 1B608 or 1C608. BIS also believes that, in practice, the movement of items from a 018 ECCN to a new 600 series ECCN (e.g., ''equipment'' for the ''production'' of military explosives and solid propellants from ECCN 1B018.a to new ECCN 1B608 and commercial charges and devices containing energetic materials from ECCN 1C018.b through .m to new ECCN 1C608.b through .m, respectively) would have little effect on license exception availability for those items. However, BIS is aware of two situations (the use of License Exceptions GOV and STA) in which movement of items from a 018 ECCN to a new 600 series ECCN could, in practice, impose greater limits on the use of license exceptions than currently is the case.

First, the July 15 proposed rule would limit the use of License Exception GOV for 600 series commodities to situations in which the United States Government is the consignee and end user or to situations in which the consignee or end user is the government of a country listed in § 740.20(c)(1). Currently, ''production'' and test ''equipment'' not subject to MT controls under ECCN 1B018.a and commercial charges and devices containing energetic materials classified under ECCN 1C018.b through .l may be exported under any provision of License Exception GOV to any

destination authorized by that provision if all of the conditions of that provision are met and nothing else in the EAR precludes such shipment.

Second, the July 15 proposed rule would: (i) limit the use of License Exception STA for ''end items'' in 600 series ECCNs to those end items for which a specific request for License Exception STA eligibility (filed in conjunction with a license application) has been approved; and (ii) require that the end item be for ultimate end use by a foreign government agency of a type specified in the July 15 proposed rule. The July 15 proposed rule also would limit exports of 600 series parts, components, accessories, and attachments under License Exception STA for ultimate end use by the same set of end users. Neither the end-item restriction nor the restriction applicable to parts, components, accessories, and attachments currently applies to the use of License Exception STA for ''production'' and test ''equipment'' not subject to MT controls under ECCN 1B018.a and for commodities classified under ECCN 1C018.b through .l, but the latter restriction would apply to these items under new ECCNs 1B608 and 1C608, respectively. In addition, the July 15 proposed rule would limit the shipment of 600 series items under License Exception STA to destinations listed in § 740.20(c)(1). Currently, ECCN 1B018.a ''production'' and test ''equipment'' (which would be moved to ECCN 1B608 by this proposed rule) that is not MT-controlled and commodities classified under ECCN 1C018.b through .l (which would be moved to ECCN 1C608.b through .l, respectively, by this proposed rule) may be shipped under License Exception STA to destinations listed in § 740.20(c)(1) or (c)(2).

In addition, this proposed rule provides that a license exception eligibility request would not have to be submitted for STA-eligible items controlled under new ECCN 1B608 or 1C608. As proposed in the July 15 rule, the use of License Exception STA for ''end items'' in 600 series ECCNs would be prohibited, unless a specific request for License Exception STA eligibility has been submitted to, and approved by, BIS.

Items controlled under new ECCN 1B608 or 1C608 (except those controlled for MT reasons) would be eligible for License Exception LVS (limited value shipments) up to a value of $1,500. Note that for items previously classified under ECCN 1B018 that would, under this proposal, be classified under ECCN 1B608, the threshold for LVS availability would drop from $3,000 to $1,500 with this proposed change (and increase from $0 to $1,500 for Rwanda). For items previously classified under ECCN 1C018 that would, under this proposal, be classified under ECCN 1C608, the threshold for LVS availability would drop from $3,000 to $1,500 (and LVS would become available for Rwanda). Items controlled under new ECCN 1B608 (except those controlled for MT reasons) also would be eligible for License Exceptions TMP (temporary exports), and RPL (servicing and replacement parts).

Making U.S. Export Controls More Consistent With the Wassenaar Arrangement Munitions List Controls

Since the beginning of the Export Control Reform Initiative, the Administration has stated that the reforms will be consistent with the United States' obligations to the multilateral export control regimes. Accordingly, the Administration will, in this and subsequent proposed rules, exercise its national discretion to implement, clarify, and, to the extent feasible, align its controls with those of the regimes. For example, proposed ECCNs 1B608, 1D608, and 1E608 implement, to the extent possible, the controls in WAML Category 18 for production equipment, the controls in WAML Category 21 for software, and the controls in WAML Category 22 for technology, while proposed ECCN 1C608 implements, to the extent possible and to the extent that such items would not be controlled on the USML, the controls in WAML Category 8.

Other Effects: National Security and Regional Stability Controls

Pursuant to the framework identified in the July 15 proposed rule, energetic materials and related commodities classified under ECCN 1C608 and related test, inspection and production equipment, software and technology classified under ECCN 1B608, 1D608 or 1E608, respectively (except items classified under the .y paragraphs of these ECCNs), would be subject to the licensing policies that apply to items controlled for national security (NS) reasons, as described in § 742.4(b)(1)—specifically, NS Column 1 controls. In addition, all commodities in ECCN 1C608, along with related test, inspection and production equipment, software and technology classified under ECCN 1B608, 1D608 or 1E608, respectively (except items classified under the .y paragraphs of these ECCNs), would be subject to the regional stability licensing policies set forth in § 742.6(a)(1)—specifically, RS Column 1. Consistent with this policy, this proposed rule would revise § 742.6 of the EAR to apply the RS Column 1 licensing policy to commodities classified under ECCN 1B608 (except 1B608.y) and 1C608 and to related ''software'' and ''technology'' classified under ECCNs 1D608 and 1E608 (except 1D608.y and 1E608.y).

The July 15 proposed rule would amend § 742.4 to apply a general policy of denial to 600 series items for destinations that are subject to a United States arms embargo. That policy would apply to all items controlled for national security (NS) reasons under this proposed rule. The November 7 proposed rule would expand that general policy of denial to include 600 series items subject to the licensing policies that apply to items controlled for regional stability reasons, as described in § 742.6(b)(1)—specifically, RS Column 1. While this change might seem redundant for the items affected by this proposed rule, it ensures that a general denial policy would apply to any 600 series items that are controlled for missile technology (MT) and regional stability (RS) reasons, but not for national security (NS) reasons (as would be the case for certain items affected by the aircraft rule).

Section-by-Section Description of the Proposed Changes

- Section 742.6—ECCNs 1B608, 1C608, 1D608, and 1E608 are added to § 742.6(a)(1) to impose an RS Column 1 license requirement and licensing policy, including a general policy of denial in Section 742.6(b)(1) for applications to export or reexport ''600 series'' items to destinations that are subject to a United States arms embargo.
- Supplement No. 1 to part 774—ECCNs 1B608, 1C608, 1D608, and 1E608 are added to Supplement No. 1 to part 774. ECCN 1B018 is amended to remove and reserve 1B018.a and to cross reference ''production'' and test ''equipment'' that would be moved from 1B018.a to proposed new ECCN 1B608. ECCN 1C018 is amended to remove all language except cross references to commercial charges and devices containing energetic materials that would be moved from ECCN 1C018 to proposed new ECCN 1C608 under paragraphs .b through .m, respectively. ECCN 1C111 is amended to add certain aluminum powder and hydrazine and derivatives thereof. ECCN 1D018 is amended to remove ''software'' for ECCN 1B018.a ''production'' and test ''equipment'' and to cross reference such equipment in proposed new ECCN 1D608. ECCN 1E001 is amended to remove ''technology'' for 1B018.a items that would be moved to proposed new

ECCN 1B608 and to cross reference such ''technology'' in proposed new ECCN 1E608.

Request for Comments

BIS seeks comments on this proposed rule. BIS will consider all comments received on or before June 18, 2012. All comments (including any personally identifying information or information for which a claim of confidentially is asserted either in those comments or their transmittal emails) will be made available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via Regulations.gov, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself.

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 12, 2011, 76 FR 50661 (August 16, 2011), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

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 proposed rule would affect two approved collections: Simplified Network Application Processing + System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

As stated in the July 15, 2011, proposed rule (76 FR 41958), BIS believes that the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the number of license applications to be submitted by approximately 16,000 annually, resulting in an increase in burden hours of 5,067 (16,000 transactions at 17 minutes each) under control number 0694–0088.

Some items formerly on the USML would become eligible for License Exception STA under this rule. As specified in the STA eligibility paragraphs for 1B608 and 1C608, such items would not need a determination of eligibility per § 740.20(g) of the EAR. As stated in the July 15 proposed rule, BIS believes that the increased use of License Exception STA resulting from the combined effect of all rules to be published adding items to EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 23,858 hours (20,450 transactions at 1 hour and 10 minutes each).

BIS expects that this increase in burden would be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. This proposed rule addresses controls on energetic materials and related parts, components, production equipment, software, and technology. The largest impact of the proposed rule would be with respect to exporters of parts and components because, under the proposed rule, most U.S. and foreign energetic materials and associated equipment would continue to be subject to the ITAR. Because, with few exceptions, the ITAR allows exemptions from license requirements only for exports to Canada, most exports to integrators for U.S Government equipment and most exports of routine maintenance parts and components for NATO and other close allies require State Department authorization. In addition, the exports necessary to produce parts and components for defense articles in the inventories of the United States and its NATO and other close allies require State Department authorizations. Under the EAR, as proposed, a small number of low-level parts would not require a license to most destinations. Most other parts, components, accessories, and attachments would become eligible for export to NATO and other close allies under License Exception STA. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. It is, however, the Administration's understanding that complying with the requirements of STA is likely to be less burdensome than applying for licenses. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship rather than applying repeatedly for licenses with every purchase order to supply allied and, in some cases, U.S. forces with routine replacement parts and components.

Even in situations in which a license would be required under the EAR, the burden likely will be reduced compared to the license requirement of the ITAR. In particular, license applications for exports of technology controlled by ECCN 1E608 are likely to be less complex and burdensome than the authorizations required to export ITAR-controlled technology, i.e., Manufacturing License Agreements and Technical Assistance Agreements.

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

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

certified to the Chief Counsel for Advocacy, Small Business Administration that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities.

Number of Small Entities

The Bureau of Industry and Security (BIS) does not collect data on the size of entities that apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be affected by this rule, it acknowledges that this rule would affect some unknown number.

Economic Impact

This proposed rule is part of the Administration's Export Control Reform Initiative. Under that initiative, the United States Munitions List (22 CFR part 121) (USML) will be revised to be a ''positive'' list, *i.e.,* a list that does not use generic, catch-all controls on any part, component, accessory, attachment, or end item that was in any way specifically modified for a defense article, regardless of the article's military or intelligence significance or non-military applications. At the same time, articles that are determined to no longer warrant control on the USML will become controlled on the Commerce Control List (CCL). Such items, along with certain military items that currently are on the CCL, will be identified in specific Export Control Classification Numbers (ECCNs) known as the ''600 series'' ECCNs. In addition, some items currently on the CCL will move from existing ECCNs to the new 600 series ECCNs.

This rule addresses certain energetic materials and related articles currently enumerated in USML Category V (Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents) and items currently controlled under ECCN 1B018.a (Equipment for the Production of Military Explosives and Solid Propellants), ECCN 1C018 (Commercial Charges and Devices Containing Energetic Materials on the Wassenaar Arrangement Munitions List), ECCN 1D018 (''Software'' for Equipment Controlled by ECCN 1B018.a), and ECCN 1E001 (''Technology'' for the ''Development'' or ''Production'' of Items Controlled by ECCN 1B018.a). Most energetic materials and associated equipment would remain on the USML. However, parts and components, which are more likely to be produced by small businesses than are energetic materials and related production equipment, would in many cases become subject to the EAR. In addition, officials of the Department of State have informed BIS that license applications for such parts and components are a high percentage of the license applications for USML articles reviewed by that department. Changing the jurisdictional status of certain Category V items would reduce the burden on small entities (and other entities as well) through: (i) elimination of some license requirements; (ii) greater availability of license exceptions; (iii) simpler license application procedures; and (iv) reduced or eliminated registration fees.

In addition, parts and components that are controlled under the ITAR remain under ITAR control when incorporated into foreign-made items, regardless of the significance or insignificance of the item. This discourages foreign buyers from incorporating such U.S. content. The availability of *de minimis* treatment under the EAR, for those items that would no longer be controlled under the ITAR, may reduce the disincentive for foreign manufacturers to purchase U.S.-origin parts and components.

Many exports and reexports of the Category V articles that would be placed on the CCL by this rule, particularly parts and components, would become eligible for license exceptions that apply to shipments to U.S. Government agencies, parts and components being exported for use as replacement parts, temporary exports, and License Exception Strategic Trade Authorization (STA), reducing the number of licenses that exporters of these items would need. License Exceptions under the EAR would allow suppliers to send routine replacement parts and low level parts to NATO and other close allies and export control regime partners for use by those governments and for use by contractors building equipment for those governments or for the U.S. Government without having to obtain export licenses. Under License Exception STA, the exporter would need to furnish information about the item being exported to the consignee and obtain a statement from the consignee that, among other things, would commit the consignee to comply with the EAR and other applicable U.S. laws. Because such statements and obligations can apply to an unlimited number of transactions and have no expiration date, they would create a net reduction in burden on transactions that the government routinely approves through the license application process that the License Exception STA statements would replace.

Even for exports and reexports for which a license would be required, the process would be simpler and less costly under the EAR. When a USML Category V article is moved to the CCL, the number of destinations for which a license is required would remain unchanged. However, the burden on the license applicant would decrease because the licensing procedure for CCL items is simpler and more flexible that the license procedure for USML articles.

Under the USML licensing procedure, an applicant must include a purchase order or contract with its application. There is no such requirement under the CCL licensing procedure. This difference gives the CCL applicant at least two advantages. First, the applicant has a way to determine whether the U.S. government will authorize the transaction before it enters into potentially lengthy, complex and expensive sales presentations or contract negotiations. Under the USML procedure, the applicant must caveat all sales presentations with a reference to the need for government approval, and is more likely to engage in substantial effort and expense only to find that the government will reject the application. Second, a CCL license applicant need not limit its application to the quantity or value of one purchase order or contract. It may apply for a license to cover all of its expected exports or reexports to a specified consignee over the life of a license (normally two years, but may be longer if circumstances warrant a longer period), thus reducing the total number of licenses for which the applicant must apply.

In addition, many applicants exporting or reexporting items that this rule proposes to transfer from the USML to the CCL would realize cost savings through the elimination of some or all registration fees currently assessed under the USML's licensing procedure. Currently, USML applicants must pay to use the USML licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,500 per year, increase to $2,750 for organizations applying for one to ten licenses per year and further increases to $2,750 plus $250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year. Conversely, there are no registration or application processing fees for applications to export items listed on the CCL. Once the Category V items that are the subject to this rulemaking are removed from the USML and added to the CCL, entities currently applying for licenses from the Department of State would find their registration fees reduced if the number

of USML licenses those entities need declines. If an entity's entire product line is moved to the CCL, its ITAR registration and registration fee requirement would be eliminated.

De minimis treatment under the EAR would become available for all items that this rule proposes to transfer from the USML to the CCL. Items subject to the ITAR will remain subject to the ITAR when they are incorporated abroad into a foreign-made product regardless of the percentage of U.S content in that foreign-made product. However, foreign-made products incorporating items that this rule would move to the CCL would be subject to the EAR only if their total controlled U.S.-origin content exceeds 10 percent. Because including small amounts of U.S.-origin content would not subject foreign-made products to the EAR, foreign manufacturers would have less incentive to refrain from purchasing such U.S.-origin parts and components, a development that potentially would mean greater sales for U.S. suppliers, including small entities.

For items currently on the CCL that would be moved from existing ECCNs to the new 600 series, license exception availability would be narrowed somewhat and the applicable *de minimis* threshold for foreign-made products containing those items would in some cases be reduced from 25 percent to 10 percent. However, BIS believes that any increased burden imposed by those actions would be offset substantially by the reduction in burden attributable to the moving of items from the USML to CCL and the compliance benefits associated with the consolidation of all WAML items subject to the EAR in one series of ECCNs. These changes also would reduce the burden on small entities by resolving actual and potential jurisdictional uncertainty with respect to items that are related to articles enumerated in USML Category V.

Conclusion

BIS is unable to determine the precise number of small entities that would be affected by this rule. Based on the facts and conclusions set forth above, BIS believes that any burdens imposed by this rule would be offset by a reduction in the number of items that would require a license, increased opportunities for use of license exceptions for exports to certain countries, simpler export license applications, reduced or eliminated registration fees, and application of a *de minimis* threshold for foreign-made items incorporating U.S.-origin parts and components, which would reduce the incentive for foreign buyers to design out or avoid U.S.-origin content. For these reasons, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, no IRFA is required, and none has been prepared.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 742 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are proposed to be amended as follows:

15 CFR PART 742—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 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 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011); Notice of November 9, 2011, 76 FR 70319 (November 10, 2011).

2. Section 742.6 is amended by revising paragraph (a)(1) to read as follows:

§ 742.6 Regional stability.

(a) * * *

(1) *RS Column 1 License Requirements in General.* As indicated in the CCL and in RS column 1 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 0A521; 0A601 (except 0A601.y); 0A602 (except 0A602.y); 0A606 (except 0A606.b and .y); 0B521; 0B601; 0B602; 0B606 (except 0B606.y); 0C521; 0C606 (except 0C606.y); 0D521; 0D602; 0D606 (except 0D606.y); 0E521; 0E601; 0E602; 0E606 (except 0E606.y); 1A607 (except 1A607.y); 1B607 (except 1B607.y); 1B608 (except 1B608.y); 1C607; 1C608; 1D607 (except 1D607.y); 1D608 (except 1D608.y); 1E607 (except 1E607.y); 1E608 (except 1E608.y); 6A002.a.1, a.2, a.3, .c, or .e; 6A003.b.3, and b.4.a; 6A008.j.1; 6A998.b; 6D001 (only ''software'' for the ''development'' or ''production'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D002 (only ''software'' for the ''use'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D003.c; 6D991 (only ''software'' for the ''development,'' ''production,'' or ''use'' of equipment classified under 6A002.e or 6A998.b); 6E001 (only ''technology'' for ''development'' of items in 6A002.a.1, a.2, a.3 (except 6A002.a.3.d.2.a and 6A002.a.3.e for lead selenide focal plane arrays), and .c or .e, 6A003.b.3 and b.4, or 6A008.j.1); 6E002 (only ''technology'' for ''production'' of items in 6A002.a.1, a.2, a.3, .c, or .e, 6A003.b.3 or b.4, or 6A008.j.1); 6E991 (only ''technology'' for the ''development,'' ''production,'' or ''use'' of equipment classified under 6A998.b); 6D994; 7A994 (only QRS11–00100–100/101 and QRS11–0050–443/569 Micromachined Angular Rate Sensors); 7D001 (only ''software'' for ''development'' or ''production'' of items in 7A001, 7A002, or 7A003); 7E001 (only ''technology'' for the ''development'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E002 (only ''technology'' for the ''production'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E101 (only ''technology'' for the ''use'' of inertial navigation systems, inertial equipment, and specially designed components for civil aircraft); 8A609 (except 8A609.y); 8A620 (except 8A620.y); 8B609 (except 8B609.y); 8B620 (except 8B620.y); 8C609 (except 8C609.y); 8D609 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 8A609.y, 8B609.y, or 8C609.y); 8D620 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 8A620.y or 8B620.y); 8E609 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishment of commodities controlled by 8A609.y, 8B609.y, or 8C609.y); 8E620 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishment of commodities controlled by 8A620.y or 8B620.y); 9A610 (except 9A610.y); 9A619 (except 9A619.y); 9B610 (except 9B610.y); 9B619 (except 9B619.y);

9C610 (except 9C610.y); 9C619 (except 9C619.y); 9D610 (except software for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by 9A610.y, 9B610.y, or 9C610.y); 9D619 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 9A619.y, 9B619.y, or 9C619.y); 9E610 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishment of commodities controlled by ECCN 9A610.y, 9B610.y, or 9C610.y); and 9E619 (except ''technology'' for the ''development,'' ''production'' operation, installation, maintenance, repair, overhaul, or refurbishment of commodities controlled by ECCN 9A619.y, 9B619.y, or 9C619.y).

* * * * *

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 12, 2011, 76 FR 50661 (August 16, 2011).

4. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1B018 is amended in the List of Items Controlled by revising the ''Related Controls'' paragraph and by removing and reserving paragraph .a to read as follows:

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

* * * * *

1B018 Equipment on the Wassenaar Arrangement Munitions List.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: See ECCN 1B608.a, .b, and .x for items that, immediately prior to [effective date of final rule], were classified under 1B018.a.

Related Definitions: * * *

Items:

a. [RESERVED]

b. * * *

5. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add a new ECCN 1B608 between ECCNs 1B233 and 1B999 to read as follows:

1B608 Test, Inspection, and Production ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities Enumerated in ECCN 1C608 or USML Category V.

License Requirements

Reason for Control: NS, RS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry, except 1B608.y.	NS Column 1
RS applies to entire entry, except 1B608.y.	RS Column 1
MT applies to equipment ''specially designed'' for the ''production'' of rocket propellants.	MT Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: $1500

GBS: N/A

CIV: N/A

STA: (1) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1B608. (2) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 1B608 without the need for a determination described in § 740.20(g). (3) STA is not available for ''equipment'' for the ''production'' of MT-controlled rocket propellants.

List of Items Controlled

Unit: End items in number; parts, component, accessories and attachments in $ value.

Related Controls: Defense articles that are enumerated in USML Category V, and technical data (including software) directly related thereto, are subject to the ITAR.

Related Definitions: N/A

Items:

a. ''Equipment'' not elsewhere specified in the CCL or the USML ''specially designed'' for the ''production'' of items controlled by ECCN 1C608 or USML Category V.

Note: ECCN 1C608.a. includes: (1) Continuous nitrators; (2) dehydration presses; (3) cutting machines for the sizing of extruded propellants; (4) sweetie barrels (tumblers) 6 feet or more in diameter and having over 500 pounds product capacity; (5) convection current converters for the conversion of materials listed in USML Category V(c)(2); and (6) extrusion presses for the extrusion of small arms, cannon and rocket propellants.

b. Complete installations not elsewhere specified in the CCL or the USML ''specially designed'' for the ''production'' of items controlled by ECCN 1C608 or USML Category V.

c. Environmental test facilities ''specially designed'' for the certification, qualification, or testing of items controlled by ECCN 1C608 or USML Category V.

d. through w. [RESERVED]

x. ''Parts,'' ''components,'' ''accessories and attachments'' that are ''specially designed'' for a commodity subject to control in this ECCN or a defense article in USML Category V and not elsewhere specified on the USML or the CCL.

Note 1: Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by material composition, geometry, or function as commodities controlled by ECCN 1B608.x are controlled by ECCN 1B608.x.

y. Specific test, inspection, and production ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities controlled by this ECCN 1B608 or a defense article in USML Category V, and ''parts,'' ''components,'' ''accessories and attachments'' ''specially designed'' therefor, as follows:

y.1 through y. 98. [RESERVED]

y.99. Commodities not identified on the CCL that (i) have been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 1B608.

6. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C018 is amended to read as follows:

1C018 Commercial Charges and Devices Containing Energetic Materials on the Wassenaar Arrangement Munitions List and Certain Chemicals.

No items currently are in this ECCN. (1) See ECCN 1C608.b. through .m for items that, immediately prior to [effective date of final rule], were classified under 1C018.b through .m. (2) See ECCNs 1C011, 1C111, and 1C239 for additional controlled energetic materials, including chlorine trifluoride (ClF_3), which is controlled under ECCN 1C111.a.3.f. (3) See ECCN 1A008 for shaped charges, detonating cord, and cutters and severing tools.

7. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' revise ECCN 1C111 to read as follows:

1C111 Propellants and constituent chemicals for propellants, other than those specified in 1C011, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country chart*
MT applies to entire entry.	MT Column 1
NP applies to 1C111.a.3.f only.	NP Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Kilograms
Related Controls: (1) See USML Category V(e)(7) for controls on HTPB (hydroxyl terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS # 69102–90–5). (2) See USML Category V(f)(3) for controls on ferrocene derivatives, including butacene. (3) See ECCN 1C608 for controls on oxidizers that are composed of fluorine and also other halogens, oxygen, or nitrogen, except for chlorine trifluoride, which is controlled under this ECCN 1C111.a.3.f. (4) See ECCN 1C011.b for controls on boron and boron alloys.
Related Definitions: Particle size is the mean particle diameter on a weight basis. Particle size must be determined through the use of best industrial practices and the controls may not be undermined by the addition of larger or smaller sized material to shift the mean diameter.
Items:
a. Propulsive substances:
a.1. Aluminum powder as follows:
a.1.a. Spherical aluminium powder not controlled by 1C111.a.1.b. with particles of uniform diameter of less than 200 micrometer and an aluminum content of 97% by weight or more, if at least 10 percent of the total weight is made up of particles of less than 63 micrometer, according to ISO 2591:1988 or national equivalents such as JIS Z8820.
a.1.b. Aluminum powder with all of the following:
a.1.b.1. Greater than 99% purity;
a.1.b.2. Greater than 50% of the particles being spheroidal, or produced by a gas atomization process using an inert gas such as nitrogen; and
a.1.b.3. Particle size less than 60 microns.

Technical Note: A particle size of 63 micrometer (ISO R–565) corresponds to 250 mesh (Tyler) or 230 mesh (ASTM standard E–11).

a.2. Metal fuels, other than that controlled by the U.S. Munitions List, in particle sizes of less than 60×10^{-6} 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.
a.2.b. [RESERVED]

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

a.3. Oxidizer substances usable in liquid propellant rocket engines, as follows:
a.3.a. Dinitrogen trioxide;
a.3.b. Nitrogendioxide/dinitrogen tetroxide;
a.3.c. Dinitrogen pentoxide;
a.3.d. Mixed oxides of nitrogen (MON);
a.3.e. Inhibited red fuming nitric acid (IRFNA);
a.3.f. Chlorine trifluoride (ClF_3).

Technical Note: Mixed oxides of nitrogen (MON) are solutions of nitric oxide (NO) in dinitrogen tetroxide/nitrogen dioxide (N_2O_4/NO_2) that can be used in missile systems. There are a range of compositions that can be denoted as MONi or MONij, where i and j are integers representing the percentage of nitric oxide in the mixture (e.g., MON3 contains 3% nitric oxide, MON25 25% nitric oxide. An upper limit is MON40, 40% by weight).

b. Polymeric substances:
b.1. Carboxy—terminated polybutadiene (including carboxyl—terminated polybutadiene) (CTPB);
b.2. Hydroxy—terminated polybutadiene (including hydroxyl—terminated polybutadiene) (HTPB);
b.3. Polybutadiene acrylic acid (PBAA);
b.4. Polybutadiene acrylic acid acrylonitrile (PBAN);
b.5. Polytetrahydrofuran polyethylene glycol (TPEG).

Technical Note: Polytetrahydrofuran polyethylene glycol (TPEG) is a block copolymer of poly 1,4 Butanediol and polyethylene glycol (PEG).

c. Other propellant energetic materials, additives, or agents:
c.1. [RESERVED]
c.2. Triethylene glycol dinitrate (TEGDN);
c.3. 2 Nitrodiphenylamine (2–NDPA);
c.4. Trimethylolethane trinitrate (TMETN);
c.5. Diethylene glycol dinitrate (DEGDN).
d. Hydrazine and derivatives as follows:
d.1. Hydrazine (C.A.S. # 302–01–2) in concentrations of 70% or more;
d.2. Monomethyl hydrazine (MMH) (C.A.S. # 60–34–4);
d.3. Symmetrical dimethyl hydrazine (SDMH) (C.A.S. # 540–73–8);
d.4. Unsymmetrical dimethyl hydrazine (UDMH) (C.A.S. # 57–14–7);
d.5. Trimethylhydrazine (C.A.S. # 1741–01–1);
d.6. Tetramethylhydrazine (C.A.S. # 6415–12–9);
d.7. N,N diallylhydrazine;
d.8. Allylhydrazine (C.A.S. # 7422–78–8);
d.9. Ethylene dihydrazine;
d.10. Monomethylhydrazine dinitrate;
d.11. Unsymmetrical dimethylhydrazine nitrate;
d.12. Dimethylhydrazinium azide;
d.13. Hydrazinium azide (C.A.S. # 14546–44–2);
d.14. Hydrazinium dinitrate;
d.15. Diimido oxalic acid dihydrazine (C.A.S. # 3457–37–2);
d.16. 2-hydroxyethylhydrazine nitrate (HEHN);
d.17. Hydrazinium diperchlorate (C.A.S. #13812–39–0);
d.18. Methylhydrazine nitrate (MHN);
d.19. Diethylhydrazine nitrate (DEHN);
d.20. 3,6-dihydrazino tetrazine nitrate (DHTN), also referred to as 1,4-dihydrazine nitrate.

Supplement No. 1 to part 774 [Amended]

8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1C238 is removed.

9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add a new ECCN 1C608 between ECCNs 1C395 and 1C980 to read as follows:

1C608 Energetic materials and related commodities.

License Requirements

Reason for Control: NS, RS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
MT applies to 1C608.m.	MT Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: $1500
GBS: N/A
CIV: N/A
STA: (1) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1C608. (2) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 1C608 without the need for a determination described in § 740.20(g).

List of Items Controlled

Unit: End items in number; parts, component, accessories and attachments in $ value.
Related Controls: (1) The EAR does not control devices or charges containing materials controlled by USML subparagraphs V(c)(6), V(h), or V(i). The USML controls devices containing such materials. (2) The USML in Categories III, IV, or V controls devices and charges in this entry if they contain materials controlled by Category V (other than slurries) and such materials can be easily extracted without destroying the device or charge. (3) See also explosives and other items enumerated in ECCNs 1A006, 1A007, 1A008, 1C011, 1C111, 1C239, and 1C992.
Related Definitions: For purposes of this entry, the term ''controlled materials'' means controlled energetic materials enumerated in ECCNs 1C011, 1C111, 1C239, 1C608, or USML Category V.

Items:

a. Single base, double base, and triple base propellants having nitrocellulose with nitrogen content greater than 12.6% in the form of either:

a.1. Sheetstock or carpet rolls; or

a.2. Grains with diameter greater than 0.10 inches.

Note: This entry does not control propellant grains used in shotgun shells, small arms cartridges, or rifle cartridges.

Note: Sheetstock is propellant that has been manufactured in the form of a sheet suitable for further processing. A carpet roll is propellant that has been manufactured as a sheet, often cut to a desired width, and subsequently rolled up (like a carpet).

Note: Single base is propellant which consists mostly of nitrocellulose. Double base propellants consist mostly of nitrocellulose and nitroglycerine. Triple base consists mostly of nitrocellulose, nitroglycerine, and nitroguanidine. Such propellants contain other materials, such as resins or stabilizers, that could include carbon, salts, burn rate modifiers, nitrodiphenylamine, wax, polyethylene glycol (PEG), polyglycol adipate (PGA).

b. Shock tubes containing greater than 0.064 kg per meter (300 grains per foot), but not more than 0.1 kg per meter (470 grains per foot) of controlled materials.

c. Cartridge power devices containing greater than 0.70 kg, but not more than 1.0 kg of controlled materials.

d. Detonators (electric or nonelectric) and ''specially designed'' assemblies therefor containing greater than 0.01 kg, but not more than 0.1 kg of controlled materials.

e. Igniters not controlled by USML Categories III or IV that contain greater than 0.01 kg, but not more than 0.1 kg of controlled materials.

f. Oil well cartridges containing greater than 0.015 kg, but not more than 0.1 kg of controlled materials.

g. Commercial cast or pressed boosters containing greater than 1.0 kg, but not more than 5.0 kg of controlled materials.

h. Commercial prefabricated slurries and emulsions containing greater than 10 kg and less than or equal to thirty-five percent by weight of USML controlled materials.

i. [RESERVED]

j. Pyrotechnic devices ''specially designed'' for commercial purposes (e.g., theatrical stages, motion picture special effects, and fireworks displays), and containing greater than 3.0 kg, but not more than 5.0 kg of controlled materials.

k. Other commercial explosive devices or charges ''specially designed'' for commercial applications, not controlled by 1C608.c through .g above, containing greater than 1.0 kg, but not more than 5.0 kg of controlled materials.

l. Propyleneimine (2 methylaziridine) (C.A.S. # 75–55–8).

m. Any oxidizer or mixture thereof that is a compound composed of fluorine and one or more of the following: Other halogens, oxygen, or nitrogen.

Note 1 to 1C111.m: Nitrogen trifluoride (NF_3) in a gaseous state is controlled by ECCN 1C992 and not by 1C608.

Note 2 to 1C111.m: Chlorine trifluoride (ClF_3) is controlled under ECCN 1C111.a.3.f and not under ECCN 1C608.

Note 3 to 1C111.m: Oxygen difluoride (OF_2) is controlled under USML Category V.d.10 (see 22 CFR 121.1) and not under ECCN 1C608.

Note to 1C111.l and .m: If a chemical in paragraphs .l or .m of 1C608 is incorporated into a commercial charge or device described in paragraphs .c through .k of ECCN 1C608 or in 1C992, the classification of the commercial charge or device applies to the item.

n. Any explosive, propellants, oxidizers, pyrotechnics, fuels, binders, or additives, ''specially designed'' for military application not listed elsewhere in USML Category V or the CCL.

o. through y. [RESERVED]

10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1D018 is amended by revising the ECCN heading and by revising the ''Related Controls'' paragraph in the List of Items Controlled to read as follows:

1D018 ''Software'' specially designed or modified for the ''development,'' ''production,'' or ''use'' of items controlled by 1B018.b.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) See § 746.8(b)(1) for additional BIS licensing requirements for Rwanda concerning this entry. (2) See ECCN 1D608 for ''software'' for items classified under ECCN 1B608 that, immediately prior to [Insert effective date of final rule], were classified under 1B018.a.

Related Definitions: * * *

Items: * * *

11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add a new ECCN 1D608 between ECCNs 1D390 and 1D993 to read as follows:

1D608 ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 1B608 or 1C608.

License Requirements

Reason for Control: NS, RS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry, except 1D608.y.	NS Column 1
RS applies to entire entry, except 1D608.y.	RS Column 1
MT applies to software ''specially designed'' for 1C608.m.	MT Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

CIV: N/A

TSR: N/A

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1D608.

List of Items Controlled

Unit: N/A

Related Controls: (1) Software directly related to articles enumerated in USML Categories III, IV or V are subject to the controls of those USML Categories, respectively. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than 10% U.S.-origin ''600 series'' items.

Related Definitions: N/A

Items:

a. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCN 1B608 or 1C608.

b. through x. [RESERVED]

y. Specific ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCN 1B608.y, as follows:

y.1 through y.98. [RESERVED]

y.99. ''Software'' not identified on the CCL that (i) has been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 1D608.

12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1E001 is amended by revising the ECCN heading, by revising the NP controls paragraph in the License Requirements section, and by revising the ''Related Controls'' paragraph in the List of Items Controlled to read as follows:

1E001 ''Technology'' According to the General Technology Note for the ''Development'' or ''Production'' of Items Controlled by 1A001.b, 1A001.c, 1A002, 1A003, 1A004, 1A005, 1A006.b, 1A007, 1A008, 1A101, 1B (except 1B608 or 1B999), or 1C (except 1C355, 1C608, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C995 to 1C999).

License Requirements

Reason for Control: * * *

Control(s)	*Country chart*

Control(s)	*Country chart*
* * * * *	
NP applies to ''technology'' for items controlled by 1A002, 1A007, 1B001, 1B101, 1B201, 1B225 to 1B233, 1C002, 1C010, 1C111, 1C116, 1C202, 1C210, 1C216, 1C225 to 1C237, 1C239, or 1C240 for NP reasons.	NP Column 1
* * * * *	

License Requirements Note: * * *

License Exceptions

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) Also see ECCNs 1E101, 1E201, and 1E202. (2) See ECCN 1E608 for ''technology'' for items classified under ECCN 1B608 or 1C608 that, immediately prior to [effective date of final rule], were classified under 1B018.a or 1C018.b through .m (note that ECCN 1E001 controls ''development'' and ''production'' ''technology'' for chlorine trifluoride controlled by ECCN 1C111.a.3.f—see ECCN 1E101 for controls on ''use'' ''technology'' for chlorine trifluoride). (3) See ECCN 1E002.g for control libraries (parametric technical databases) specially designed or modified to enable equipment to perform the functions of equipment controlled under 1A004.c (Nuclear, biological and chemical (NBC) detection systems) or 1A004.d (Equipment for detecting or identifying explosives residues). (4) ''Technology'' for lithium isotope separation (see related ECCN 1B233) and ''technology'' for items described in ECCN 1C012 are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (5) ''Technology'' for items described in ECCN 1A102 is subject to the export licensing authority of the U.S. Department of State, Directorate of Defense Trade Controls (see 22 CFR part 121).

Related Definitions: * * *

Items: * * *

13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1E101 is amended by revising the ECCN heading and by revising the License Requirements section to read as follows:

1E101 ''Technology'', in accordance with the General Technology Note, for the ''use'' of commodities and software controlled by 1A101, 1A102, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C107, 1C111, 1C116, 1C117, 1C118, 1D001, 1D101, or 1D103.

License Requirements

Reason for Control: MT, NP, AT

Control(s)	*Country chart*
MT applies to entire entry.	MT Column 1
NP applies to ''technology'' for items controlled by 1B001, 1B101, 1C111, 1C116, 1D001, or 1D101 for NP reasons.	NP Column 1
AT applies to entire entry.	AT Column 1

* * * * *

14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' ECCN 1E201 is amended by revising the ECCN heading to read as follows:

1E201 ''Technology'' according to the General Technology Note for the ''use'' of items controlled by 1A002, 1A007, 1A202, 1A225 to 1A227, 1B201, 1B225 to 1B232, 1B233.b, 1C002.b.3 and b.4, 1C010.a, 1C010.b, 1C010.e.1, 1C202, 1C210, 1C216, 1C225 to 1C237, 1C239, 1C240 or 1D201.

* * * * *

15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins,'' add a new ECCN 1E608 between ECCNs 1E355 and 1E994 to read as follows:

1E608 ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of equipment controlled in 1B608 or materials controlled by 1C608.

License Requirements

Reason for Control: NS, RS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry, except 1E608.y.	NS Column 1
RS applies to entire entry, except 1E608.y.	RS Column 1
MT applies to technology ''required'' for 1C608.m.	MT Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

CIV: N/A

TSR: N/A

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 1E608.

List of Items Controlled

Unit: $ value

Related Controls: (1) Technical data directly related to articles enumerated in USML Categories III, IV, or V are subject to the controls of those USML Categories, respectively. (2) ''Technology'' for chlorine trifluoride is controlled under ECCNs 1E001 (''development'' and ''production'') and 1E101 (''use'').

Related Definitions: N/A

Items:

a. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of material controlled by ECCN 1B608 or 1C608.

b. ''Technology'' for the ''development'' or ''production'' of nitrocellulose with nitrogen content over 12.6% and at rates greater than 2000 pounds per hour.

c. ''Technology'' for the ''development'' or ''production'' of nitrate esters (e.g., nitroglycerine) at rates greater than 2000 pounds per hour.

d. through x. [RESERVED]

y. Specific ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by ECCN 1B608.y or ''software'' controlled by ECCN 1D608.y, as follows:

y.1 through y.98. [RESERVED]

y.99. ''Technology'' not identified on the CCL that (i) has been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 1E608.

Dated: April 13, 2012.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

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DEPARTMENT OF STATE

22 CFR Part 121

RIN 1400–AD02

[Public Notice 7861]

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category V.

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: As part of the President's Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Category V (explosives and energetic materials, propellants, incendiary agents, and their constituents) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control on the USML.