Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify controlled airspace at Fort Morgan Municipal Airport, Fort Morgan, CO.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Fort Morgan, CO [New]

Fort Morgan Municipal Airport, CO

(Lat. 40°20′02″ N., Long. 103°48′15″ W.)

That airspace extending upward from 700 feet above the surface within 7.5-mile radius of the Fort Morgan Municipal Airport.

Issued in Seattle, Washington, on May 30, 2012.

John Warner,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–13842 Filed 6–6–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, and 774

[Docket No. 120201082–2132–01]

RIN 0694–AF58

Revisions to the Export Administration Regulations (EAR): Control of Personal Protective Equipment, Shelters, and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

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

ACTION: Proposed rule.

SUMMARY: This proposed rule describes how articles the President determines no longer warrant export control under Category X (Protective Personnel Equipment and Shelters) of the United States Munitions List (USML), would be controlled under the Commerce Control List (CCL) in new Export Control Classification Numbers (ECCNs) 1A613, 1B613, 1D613, and 1E613. In conjunction with establishing these new ECCNs, this proposed rule would control military helmets (currently controlled under ECCNs 0A018 and 0A988) under new ECCN 1A613 and amend ECCN 1A005 for body armor. This proposed rule also would remove machetes from ECCN 0A988. This is one in a planned series of proposed rules describing how various types of articles the President determines, as part of the Administration's Export Control Reform Initiative, no longer warrant USML control, would be controlled on the CCL and by the EAR. This proposed rule is being published in conjunction with a proposed rule of the Department of State, Directorate of Defense Trade Controls (DDTC), which would amend the list of articles controlled by USML Category X in the International Traffic In Arms Regulations (ITAR).

DATES: Comments must be received by July 23, 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–2012–0019.
- By email directly to *publiccomments@bis.doc.gov*. Include RIN 0694–AF58 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–AF58.

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 export control on the United States Munitions List (USML) of the ITAR, 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 proposed rule, this proposed rule describes BIS's proposal for controlling under the EAR and its CCL personal protective equipment, shelters, and related articles now controlled by the ITAR's USML Category X. The proposed changes described in this proposed rule and the State Department's proposed amendment to Category X of the USML are based on a review of Category X by the Defense Department, which worked with the Departments of State and Commerce in preparing the proposed amendments. The review was focused on identifying the types of articles that are now controlled by USML Category X in the ITAR that are either (i) inherently military and otherwise warrant export control on the USML or (ii) if it is a type common to non-military protective equipment, possessing parameters or characteristics that provide a critical military or intelligence advantage to the United States, and that are almost exclusively available from the United States. If an article satisfied one or both of those criteria, the article remained on the USML in the ITAR. If an article did not satisfy either standard but was nonetheless a type of article that is, as a result of differences in form and fit, ''specially designed'' for military

applications, it was identified in the new ECCNs proposed in this notice. The licensing requirements and other EAR-specific controls for such items also described in this notice would enhance national security, 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 uses, and end users of greater concern than our 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). This proposed rule describes how certain protective equipment and related articles in USML Category X would be controlled by the EAR and its CCL if the President determines that the articles no longer warrant export control on the USML.

In the July 15 proposed rule, BIS proposed creating a series of new ECCNs to control items that would be removed from the USML, or that are items from the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies Munitions List (Wassenaar Arrangement Munitions List or WAML) that are already controlled elsewhere on the CCL. The proposed rule referred to this 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 any other ECCN as described 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 would create four such ECCNs—1A613, to control armored and protective ''equipment,'' constructions, and ''components;'' 1B613, to control test, inspection, and ''production'' equipment, and related commodities ''specially designed'' for the ''development'' or ''production'' of commodities controlled by ECCN 1A613 or USML Category X and not identified in USML Category X; 1D613, to control ''software'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of items controlled by ECCNs 1A613 or 1B613; and 1E613, to control ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of items controlled by ECCNs 1A613, 1B613, or 1D613.

This proposed rule also would revise three existing ECCNs—0A018, certain items on the Wassenaar Arrangement Munitions List; 0A988, conventional military steel helmets and machetes; and 1A005, body armor and specially designed components not manufactured to military standards or specifications. Further, this rule would revise License Exceptions Baggage (BAG) and Temporary Imports, Exports, and Reexports (TMP) to authorize exports of certain body armor classified under new ECCN 1A613.

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 export 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

Proposed ECCN 1A613: Armored and Protective ''Equipment,'' Constructions, and Components

Proposed ECCN 1A613 would impose national security (NS Column 1), regional stability (RS Column 1), and antiterrorism (AT Column 1) controls on commodities described herein. Paragraph .a of ECCN 1A613 would control armored plate ''specially designed'' for military use and not controlled by the USML. Paragraph .b would control shelters ''specially designed'' to provide ballistic protection or protect against nuclear, biological, or chemical contamination. Paragraph .c would control military helmets providing protection less than NIJ level IV (currently classified under ECCN 0A018.d) and helmet shells providing protection less than NIJ level IV. Paragraph .d would control soft body armor and protective garments manufactured to military standards or specifications that provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008) as well as hard body armor plate that provides NIJ level III protection. Body armor currently classified under ECCN 1A005 would not be reclassified under this ECCN, as discussed below. Paragraph .e would control other personal protective equipment, such as handheld ballistic shields, ''specially designed'' for military applications not specified in the USML or CCL. Paragraphs .f through .w would be reserved for future use. Paragraph .x would control ''parts,'' ''components,'' ''accessories and attachments'' that are ''specially designed'' for a commodity controlled by proposed ECCN 1A613 and not specified elsewhere in the CCL or USML. Paragraph .y would control specific ''parts,'' ''components,'' ''accessories and attachments'' ''specially designed'' for a commodity controlled under proposed ECCN 1A613 and not elsewhere specified in the CCL. This proposed rule would control conventional military steel helmets, currently classified under ECCN 0A988, under paragraph .y.1. Paragraphs .y.2 through .y.98 would be reserved for future classification of specific equipment.

BIS proposed to move anti-gravity suits, pressure suits, and atmosphere diving suits, currently controlled in the USML under Category X(a)(3), (a)(4), and (a)(5), respectively, to ECCN 9A610 in the November 7 proposed rule.

Proposed ECCN 1B613: Test, Inspection, and ''Production'' ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities Controlled by ECCN 1A613 or USML Category X

Proposed ECCN 1B613 would impose national security (NS Column 1), regional stability (RS Column 1), and antiterrorism (AT Column 1) controls on commodities described herein. Paragraph .a of ECCN 1B613 would control test, inspection, and ''production'' ''equipment'' that is not specified in USML Category X(c) and is ''specially designed'' for the ''production'' or ''development'' of commodities specified in proposed ECCN 1A613 or USML Category X. Paragraph .b would control plasma pressure compaction (P2C) equipment ''specially designed'' for the ''production'' of ceramic or composite body armor plates controlled by ECCN 1A613 or USML Category X. Paragraphs .c through .x would be reserved for

future use. Paragraph .y would control specific test, inspection, and ''production'' ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 1A613 or USML Category X. Paragraphs .y.1 through .y.98 would be reserved for future use.

Proposed ECCN 1D613: ''Software'' ''Specially Designed'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul or Refurbishing of Commodities Controlled by ECCNs 1A613 or 1B613

Proposed ECCN 1D613 would impose national security (NS Column 1), regional stability (RS Column 1), and antiterrorism (AT Column 1) controls on ''software'' described herein. Paragraph .a would control ''software'' (other than ''software'' controlled in paragraph .y of ECCN 1D613) ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of commodities controlled by ECCNs 1A613 (except 1A613.y) or 1B613 (except 1B613.y). Paragraphs .b through .x would be reserved for future use. Paragraph .y would control specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities listed in proposed ECCNs 1A613 or 1B613. While paragraphs .y.2 through .y.98 would be reserved, paragraph .y.1 would control specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities listed in proposed ECCNs 1A613.y or 1B613.y.

Proposed ECCN 1E613: ''Technology'' ''Required'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul or Refurbishing of Commodities Controlled by ECCNs 1A613 or 1B613, or ''Software'' Controlled by ECCN 1D613

Proposed ECCN 1E613 would impose national security (NS Column 1), regional stability (RS Column 1), and antiterrorism (AT Column 1) controls on the ''technology'' described herein. Paragraph .a would control ''technology'' (other than ''technology'' controlled under paragraph .y) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCNs 1A613 (except 1A613.y) or 1B613 (except 1B613.y), or software controlled by ECCN 1D613 (except 1D613.y). Paragraphs .b through .x would be reserved for future use. Paragraph .y would control specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, or overhaul of commodities or software listed in ECCNs 1A613, 1B613, or 1D613. While paragraphs .y.2 through .y.98 would be reserved, paragraph .y.1 would control specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, or overhaul of commodities or software listed in ECCNs 1A613.y, 1B613.y, or 1D613.y.

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

Proposed new ECCNs 1A613, 1B613, 1D613 and 1E613 also would contain a paragraph ''.y.99'' that would control any item that meets all of the 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 0x613 ECCNs because, for example, the item was ''specially designed'' for a military use.

ECCNs 0A018 and 0A988 Amended

This proposed rule would remove the references to military helmets in ECCN 0A018.d. Conventional steel helmets described in paragraph .d.1, which are currently controlled under ECCN 0A988, would be moved to proposed ECCN 1A613.y.1. Military helmets described in paragraph .d.2 are currently subject to the ITAR, and that jurisdiction would not change under this proposed rule. Military helmets classified under ECCN 0A018.d (i.e., that are not described in paragraphs .d.1 or .d.2) would be moved to proposed ECCN 1A613.c under this proposed rule. Consequently, this proposed rule would amend the Related Controls paragraph to provide references to ECCNs 1A613.c and 1A613.y.1 and the USML for military helmets currently described in paragraph .d, and would remove the Note referencing paragraph .d.

In addition, this proposed rule would remove references to conventional military steel helmets from the heading and the control paragraph of ECCN 0A988. As a result of this move, these helmets would be subject to the *de minimis* limits applicable to ''600 series'' items that were proposed in the July 15 and November 7 proposed rules, as well as the restrictions on License Exception availability for ''600 series'' items. ECCN 0A988 would be amended to cross reference ECCN 1A613.y.1.

Under ECCN 0A018.d, military helmets are currently controlled for national security, antiterrorism, and United Nations (UN) reasons. Under proposed ECCN 1A613.c, they would be controlled for national security, regional stability, and antiterrorism reasons and no longer controlled for UN reasons. Controlling these items for UN 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 or a United Nations Security Council arms embargo. A list of such destinations is identified in proposed section 740.2(a)(12), published in the November 7 proposed rule (and amended with this proposed rule, as discussed below).

Under ECCN 0A988, conventional steel military steel helmets are controlled for UN reasons only; under ECCN 1A613.y.1, they would be controlled for antiterrorism reasons only. This change would remove the CCL-based license requirement for exports or reexports of the helmets to Rwanda and Iraq since Rwanda is no longer subject to a UN arms embargo and since ECCN 0A988 helmets do not fit the scope of the arms and related materiel that are subject to the current UN arms embargo on Iraq. This change would also impose a new CCL-based license requirement for exports or reexports of 0A988 helmets to Cuba, Iran, Sudan, and Syria for foreign policy reasons.

Removing conventional military steel helmets from ECCN 0A988 would leave machetes as the only items controlled under that ECCN. Machetes do not meet the criteria of any proposed 600 series ECCN. Consequently, BIS reviewed machetes to determine whether such items should remain in ECCN 0A988, move to a different ECCN, or be removed from the CCL. Currently, ECCN 0A988 imposes a CCL-based license requirement for exports and reexports of machetes to Iraq, North Korea, and Rwanda due to UN arms embargoes. However, machetes do not fit the scope of arms and related materiel that are subject to UN arms embargoes. Further, machetes do not fit the scope of any ECCNs currently controlling items for anti-terrorism reasons. Therefore, this proposed rule would remove machetes from the CCL and designate them as EAR99 items. This proposal would help streamline the CCL and remove an item for which BIS believes no national security or foreign policy concern exists to merit control under the CCL. As EAR99 items, machetes would continue

to require licenses for certain countries subject to comprehensive embargoes and sanctions under part 746 and certain end uses and end users described in part 744 of the EAR.

ECCN 1A005 Amended

This proposed rule would revise the List of Items Controlled section in ECCN 1A005 to more positively identify soft body armor and hard body armor plates that are controlled under this ECCN. In addition, this proposed rule would amend the Related Controls paragraph of ECCN 1A005 to reference body armor controlled under ECCN 1A613 and police helmets and shields controlled under ECCN 0A979.

License Exception BAG Amended for Body Armor Controlled Under ECCN 1A613.d

In the July 15 proposed rule, BIS proposed adding new section 740.2(a)(13) to the EAR to identify when items classified under the ''600 series'' would be eligible for license exceptions. This proposed rule would amend proposed § 740.2(a)(13)(i) and current § 740.14 to authorize, under License Exception BAG, exports of body armor classified under newly proposed ECCN 1A613.d. License Exception BAG, in § 740.14, would be amended by adding a new paragraph (h), which generally is modeled on the exemptions in §§ 123.17(f) and (g) of the ITAR. In addition, to parallel § 123.17(g) of the ITAR, which authorizes exports without a license under certain circumstances to Afghanistan and Iraq, both of which are subject to arms embargoes under § 126.1 of the ITAR, this proposed rule would revise the July 15 rule's proposed restrictions on all license exceptions set forth in § 740.2(a)(12) to authorize exports of ECCN 1A613.d body armor to those two countries, as long as the specified conditions of license condition availability are met. Under this proposal for License Exception BAG, only exports, and not reexports, would be authorized for body armor controlled under ECCN 1A613.d. BIS encourages public comments on whether BAG should also authorize reexports of such body armor and, if so, whether conditions should apply to such reexports.

Concurrently, this proposed rule would revise the July 15 rule's proposed amendment to § 740.2(a)(12) by updating the list of countries currently subject to a United States or UN arms embargo by including Fiji and removing Sierra Leone.

License Exception TMP Amended for Body Armor Controlled Under ECCN 1A613.d

As with License Exception BAG, this proposed rule would amend License Exception TMP to authorize the export of ECCN 1A613.d body armor as a tool of trade. Specifically, this proposed rule would add new paragraph (a)(3)(v) to § 740.9, which generally would be modelled on the exemptions in §§ 123.17(f) and (g) of the ITAR. In order to authorize exports of ECCN 1A613.d body armor through TMP to countries that are in Country Group D:1 but not subject to a United States arms embargo, this proposed rule would add an exception in paragraph (a)(3)(i)(B)(*6*) of § 740.9 to the restriction on the use of TMP for destinations in Country Group D:1. To enable exports of ECCN 1A613.d body armor under TMP to Iraq, which is in Country Group D:1 and currently subject to a United States arms embargo, this proposed rule would add paragraph (a)(3)(i)(B)(*7*), which would authorize exports of ECCN 1A613.d body armor to Iraq under proposed paragraph (a)(3)(v)(B).

To ensure that body armor controlled under ECCN 1A005 may be exported to the same destinations as more sensitive body armor controlled under ECCN 1A613.d, this proposed rule would also add paragraph (a)(3)(i)(B)(*5*) to § 740.9 to authorize the export of ECCN 1A005 body armor to countries in Country Group D:1. In addition, to parallel existing License Exception TMP provisions for ECCN 1A005 body armor, reexports of such items would be permitted in addition to exports.

Because the proposed changes to License Exception TMP for body armor controlled under ECCN 1A613.d are modelled on the exemptions in §§ 123.17(f) and (g) of the ITAR, they would authorize only exports, and not reexports. BIS encourages comments on whether TMP should also authorize reexports of such body armor and, if so, what conditions should apply to such reexports.

Proposed New ECCNs and License Exception STA

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 instance, proposed § 740.20(g) describes the process for requesting License Exception STA eligibility for ''600 series'' end items classified in an ECCN ''xA6zz'' entry. This proposed rule differs from the July 15 proposed rule in that items described in proposed ECCN 1A613 would be eligible for § 740.20(c)(1) of License Exception STA without need for a determination described in § 740.2(g). Likewise, items described in ECCN 1B613 would also be eligible for § 740.20(c)(1) of License Exception STA without need for a determination. No items described in ECCNs 1A613, 1B613, 1D613, or 1E613 would be eligible for § 740.20(c)(2) of License Exception STA.

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 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 in the context of the changes proposed in this rule.

BIS believes that the following aspects of the July 15 and November 7 proposed rules 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 (including restrictions proposed by the November 7, 2011, proposed rule that would apply to items outside the scope of that rule);
- Change to national security licensing policy in § 742.4;
- Licensing policy in § 742.4(b)(1)(ii);
- 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;
- Addition of U.S. arms embargo policy regarding 600 series items set forth in § 742.4(b)(1)(ii) (national security) of the July 15 proposed rule to § 742.6(b)(1) (regional stability) of the November 7 proposed rule; and
- Definitions of terms in § 772.1.

Effects of This Proposed Rule

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. The personal protective equipment, shelters, and related items that would be subject to the EAR as a result of this proposed rule would become eligible for *de minimis* treatment.

Use of License Exceptions

Personal protective equipment, shelters, and related items currently on the USML that would be classified under proposed ECCNs 1A613 and 1B613 would become eligible for several license exceptions, including STA, which would be available for exports to certain government agencies of NATO and other multi-regime close allies. The exchange of information and statements required under STA is substantially less burdensome than the license application requirements currently required under the ITAR, as discussed in more detail in the ''Regulatory Requirements'' section of this proposed rule. None of the personal protective equipment, shelters, or related items that would be controlled by ECCNs 1A613 or 1B613 would be subject to the provision in the July 15 proposed rule that proposes to preclude the use of License Exception STA for ''600 series'' end items unless approval for such use is sought from and granted by BIS. The items covered by this rule also would be eligible for the following license exceptions: LVS (limited value shipments), up to $1500 and RPL (servicing and parts replacement). In addition, body armor classified under ECCN 1A613.d would be eligible for License Exceptions BAG (baggage) and TMP (temporary imports, exports, and reexports).

Alignment With the Wassenaar Arrangement Munitions List

The Administration has stated since the beginning of the Export Control Reform Initiative that the reforms will be consistent with U.S. 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. This proposed rule would align controls on the items that it adds to the CCL by placing them in new 600 series ECCNs ending in ''13'' to parallel Category ML13 on the Wassenaar Arrangement Munitions List (''[Armored] or protective equipment, constructions and components''). Items in proposed ECCN 1A613 are covered by WAML Category ML 13.

Request for Comments

BIS seeks comments on this proposed rule. BIS will consider all comments received on or before July 23, 2012. All comments must be in writing and submitted via one or more of the methods listed under the **ADDRESSES** caption to this notice. All comments (including any personal identifiable information or information for which a claim of confidentially is asserted either in those comments or their transmittal emails) will be available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov* and, leaving the fields for information 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 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 proposed rule, 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 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 will become eligible for License Exception STA under this rule. As specified in the STA eligibility paragraphs for 1A613 and 1B613, 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 the 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 personal protective equipment and related parts, components, production equipment, software, and technology. Because, with few exceptions, the ITAR allows exemptions from license requirements only for exports to Canada, most exports of such items, even when destined to NATO member states and other close allies, require State Department authorization. In addition, the exports of technology necessary to produce such items in the inventories of the United

States and its NATO and other close allies require State Department authorizations. Under the EAR, as proposed, such technology would become eligible for export to NATO member states 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. However, the Administration understands that complying with the requirements of STA is likely 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 reliable customers in countries that are close allies or members of export control regimes or both.

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 1E613 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. However, under section 605(b) of the RFA, 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, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities.

The changes proposed in this rule do not impact the original certification for these rules in the July 15 proposed rule. Consequently, BIS has not prepared a regulatory flexibility analysis. A summary of the factual basis for the certification, which also takes into consideration the changes proposed by this proposed rule, is provided below.

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 of them.

Economic Impact

This proposed rule is part of the Administration's Export Control Reform Initiative. Under that initiative, the USML would 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 the President determines to no longer warrant export control on the USML would become controlled on the CCL. Such items, along with certain military items that currently are on the CCL, will be identified in specific 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.

In practice, the greatest impact of this rule on small entities would likely be reduced administrative costs and reduced delay for exports of items that are now on the USML but would become subject to the EAR. As part of this proposal, parts and components that are ''specially designed'' for commodities proposed to be controlled under ECCN 1A613 and are not controlled under proposed USML Category X(d) would be included on the CCL. Such parts and components are more likely to be produced by small businesses, which would benefit from this proposed change.

Changing the jurisdictional status of the items described in this notice from the USML to the CCL would reduce the burden on small entities (and other entities as well) through: (i) Eliminating some license requirements; (ii) increasing availability of license exceptions; (iii) simplifying license application procedures; and (iv) reducing or eliminating registration fees.

These amendments are part of the Administration's effort to make the USML the U.S. Government's list of critical military and intelligence items that warrant the stringent worldwide export controls of the ITAR, while controlling all other military and intelligence items, particularly generic parts and components, through the CCL. BIS believes that the economic benefits for the proposed amendments include the significant reduction in the time spent determining and addressing issues associated with determining the jurisdictional status of such items now.

In addition, parts and components currently 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 Category X protective equipment and related items that would be placed on the CCL, as proposed in this rule, would become eligible for license exceptions that apply to shipments to U.S. Government agencies, shipments valued at less than $1,500 (equipment, components, and production equipment only), 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 member states 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 under the proposed rule, the process would be simpler and less costly under the EAR. When a USML Category X 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 than the license procedure for USML articles.

Under the ITAR 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 ITAR 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 by eliminating some or all registration fees currently assessed under the ITAR's licensing procedure. Currently, USML applicants must pay to use DDTC's licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,250 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 X items that are the subject to this rulemaking are moved from the USML to the CCL, entities currently applying for licenses from the Department of State will find their registration fees reduced if the number of ITAR licenses those entities need declines. If an entity's entire product line is moved to the CCL, its ITAR registration and registration fee requirements will be eliminated.

De minimis treatment under the EAR would also 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. BIS is still considering comments made in response to the July 15 rule pertaining to these proposed *de minimis* levels and, as noted above, will consider *de minimis*-related comments to this proposed rule provided they are in the context of this proposed rule. However, BIS believes that any increased burden imposed by those actions will 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.

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 740

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

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

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

PART 740—[AMENDED]

1. The authority citation for part 740 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).

2. As proposed to be amended July 15, 2011, at 76 FR 41958, and November 7, 2011, at 76 FR 65675, § 740.2 is further amended by:

a. Revising paragraph (a)(12) introductory text;

b. Revising the last sentence of paragraph (a)(13)(i)(E); and

c. Adding paragraph (a)(13)(i)(F).

The revision and additions read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(12) Items classified under the ''600 series'' that are destined to a country subject to a United States arms embargo or a United Nations Security Council arms embargo (Afghanistan, Belarus, Burma, China, Cote d'Ivoire, Cuba, Cyprus, Democratic Republic of Congo, Eritrea, Fiji, Haiti, Iraq, Iran, Lebanon, Liberia, Libya, North Korea, Somalia, Sri Lanka, Sudan, Syria, Venezuela, Vietnam, Yemen, and Zimbabwe) may not be authorized under any license exception except by License Exception GOV under § 740.11(b)(2)(ii), License Exception TMP under § 740.9(a)(3)(v) for exports to Afghanistan and Iraq, and License Exception BAG under § 740.14(h)(2) for exports to Afghanistan and Iraq.

* * * * *

(13) * * *

(i) * * *

(E) * * * Except for MT-controlled items, exports and reexports to non-governmental end users in a country listed in § 740.20(c)(1) are authorized through License Exception STA under § 740.20(c)(1) so long as the item at issue at the time of export, reexport, or transfer (in-country) is ultimately destined for end use by the armed forces, police, paramilitary, law enforcement, customs, correctional, fire, and search and rescue agencies of a government of one of the § 740.20(c)(1) countries or by the United States Government, or is for the ''development'' or ''production'' of an item for use by one of those agencies of those governments or a person in the United States; or

(F) License Exception BAG (§ 740.14).

* * * * *

3. Amend section 740.9 by adding paragraphs (a)(3)(i)(B)(*5*) through (*7*) and (a)(3)(v) to read as follows:

§ 740.9 Temporary imports, exports, and reexports (TMP).

* * * * *

(a) * * *

(3) * * *

(i) * * *

(B) * * *

(*5*) Body armor classified under ECCN 1A005 exported or reexported in accordance with paragraph (a)(2)(i) of this section;

(*6*) Body armor classified under ECCN 1A613.d exported in accordance with paragraph (a)(3)(v)(A) of this section, so long as the final destination is not a country listed in § 740.2(a)(12); and

(*7*) Body armor classified under ECCN 1A613.d exported to Iraq in accordance with paragraph (a)(3)(v)(B) of this section.

* * * * *

(v) *Restrictions specific to the export of body armor classified under ECCN 1A613.d.* (A) Exports to countries not identified in § 740.2(a)(12). U.S. persons may temporarily export one set of body armor classified under ECCN 1A613.d to countries not identified in § 740.2(a)(12), provided that:

(*1*) A declaration by the U.S. person and an inspection by a customs officer are made;

(*2*) The body armor is with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed); and

(*3*) The body armor is for that person's exclusive use and not for reexport or other transfer of ownership.

(B) Exports to Afghanistan or Iraq. U.S. persons may temporarily export one set of body armor classified under ECCN 1A613.d to Afghanistan or Iraq, provided that:

(*1*) A declaration by the U.S. person and an inspection by a customs officer are made;

(*2*) The body armor is with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed);

(*3*) The body armor is for that person's exclusive use and not for reexport or other transfer of ownership; and

(*4*) For temporary exports to Iraq, the U.S. person utilizing the license exception is either a person affiliated with the U.S. Government traveling on official business or is a person not affiliated with the U.S. Government but traveling to Iraq under a direct authorization by the Government of Iraq and engaging in humanitarian activities for, on behalf of, or at the request of the Government of Iraq.

* * * * *

4. Amend section 740.14 by adding paragraph (h) to read as follows:

§ 740.14 Baggage (BAG).

* * * * *

(h) *Special provisions: body armor controlled under ECCN 1A613.d.* (1) *Exports to countries not identified in § 740.2(a)(12).* U.S. persons may temporarily export one set of body armor classified under ECCN 1A613.d to countries not identified in § 740.2(a)(12) provided that:

(i) A declaration by the U.S. person and an inspection by a customs officer are made;

(ii) The body armor is with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed); and

(iii) The body armor is for that person's exclusive use and not for reexport or other transfer of ownership.

(2) *Exports to Afghanistan or Iraq.* U.S. persons may temporarily export one set of body armor classified under ECCN 1A613.d to Afghanistan or Iraq provided that:

(i) A declaration by the U.S. person and an inspection by a customs officer are made;

(ii) The body armor is with the U.S. person's baggage or effects, whether accompanied or unaccompanied (but not mailed);

(iii) The body armor is for that person's exclusive use and not for reexport or other transfer of ownership; and

(iv) For temporary exports to Iraq only, the U.S. person utilizing this license exception is either a person employed by or under contract to the U.S. Government traveling on official business or is a person not employed by or under contract to the U.S. Government but traveling to Iraq under a direct authorization by the Government of Iraq and engaging in humanitarian activities for, on behalf of, or at the request of the Government of Iraq.

Note to paragraph (h): Body armor controlled under ECCN 1A005 is eligible for this License Exception under paragraph (b) of this section.

PART 742—[AMENDED]

5. 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).

6. Amend section 742.6 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 0A606 (except 0A606.b and .y); 0A614

(except 0A614.y); 0A617 (except 0A617.y); 0B606 (except 0B606.y); 0B614 (except 0B614.y); 0B617 (except 0B617.y); 0C606 (except 0C606.y); 0C617 (except 0C617.y); 0D606 (except 0D606.y); 0D614 (except 0D614.y); 0D617 (except 0D617.y); 0E606 (except 0E606.y); 0E614 (except 0E614.y); 0E617 (except 0E617.y); 1A613 (except 1A613.y); 1B608 (except 1B608.y); 1B613 (except 1B613.y); 1C608; 1D608 (except 1D608.y); 1D613 (except 1D613.y); 1E608 (except 1E608.y); 1E613 (except 1E613.y); 3A982; 3D982; 3E982; 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]

7. The authority citation for 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).

8. In Supplement No. 1 to part 774, Category 0, amend Export Control Classification Number 0A018 by:

a. Revising the ''Related Controls'' paragraph in the List of Items Controlled section to read below;

b. Removing and reserving ''Items'' paragraph (d) in the List of Items Controlled section; and

c. Removing the ''Note'' to ''Items'' paragraph (d) in the List of Items Controlled section.

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

* * * * *

0A018 Items on the Wassenaar Munitions List.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) See also 0A979, 0A988, and 22 CFR 121.1 Categories I(a), III(b–d), and X(a). (2) See 0A617.a for items formerly controlled by ECCN 0A018.a. (3) See 1A613.c for military helmets providing less than NIJ Type IV protection and 1A613.y.1 for conventional military steel helmets that, immediately prior to [Insert effective date of final rule], were classified under 0A018.d and 0A988. (4) See 22 CFR 121.1 Category X(a)(5) and (a)(6) for controls on other military helmets.

* * * * *

9. In Supplement No. 1 to part 774, Category 0, amend Export Control Classification Number 0A988 by revising to read as follows:

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

* * * * *

0A988 Conventional military steel helmets as described by 0A018.d.1.; and machetes.

No items currently are in this ECCN. See ECCN 1A613.y.1 for conventional steel helmets that, immediately prior to [Insert effective date of final rule], were classified under 0A988. Machetes, which were classified under ECCN 0A988 prior to [Insert effective date of final rule], are designated as EAR99 items.

10. In Supplement No. 1 to part 774, Category 1, amend Export Control Classification Number 1A005 by:

a. Revising the Related Controls paragraph; and

b. Revising paragraphs a. and b. in the Items paragraph of the List of Items Controlled section, to read as follows:

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

* * * * *

1A005 Body armor and components therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) Bulletproof and bullet resistant vests (body armor) providing NIJ Type IV protection or greater are subject to the ITAR (see 22 CFR 121.1 Category X(a)). (2) Soft body armor and protective garments manufactured to military standards or specifications that provide protection

equal to NIJ level III or less are classified under ECCN 1A613.d.1. (3) Hard armor plates providing NIJ level III ballistic protection are classified under ECCN 1A613.d.2. (4) Police helmets and shields are classified under ECCN 0A979. (5) Other personal protective ''equipment'' ''specially designed'' for military applications not controlled by the USML or elsewhere in the CCL are classified under ECCN 1A613.e. (6) For ''fibrous or filamentary materials'' used in the manufacture of body armor, see ECCN 1C010. (7) See § 746.8(b)(1) for additional licensing requirements concerning this entry.

* * * * *

Items:

a. Soft body armor not manufactured to military standards or specifications that provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008).

b. Hard body armor plates that provide ballistic protection less than NIJ level III (NIJ 0101.06, July 2008).

* * * * *

11. In Supplement No. 1 to part 774, Category 1, add a new Export Control Classification Number 1A613 between ECCNs 1A290 and 1A984 to read as follows:

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

* * * * *

1A613 Armored and protective ''equipment'' and related commodities, as follows:

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 1A613.y.	NS Column 1.
RS applies to entire entry except 1A613.y.	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500.

GBS: N/A.

CIV: N/A.

STA: Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 1A613 without the need for a determination described in § 740.20(g). Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 1A613.

List of Items Controlled

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

Related Controls: (1) Defense articles, such as materials made from classified information, that are controlled by USML Category X or XIII of the ITAR, and technical data (including software) directly related thereto, are subject to the ITAR. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than 10% U.S.-origin ''600 series'' items.

Related Definitions: References to ''NIJ Type'' protection are to the National Institute of Justice Classification guide at NIJ Standard-0101.06, Ballistic Resistance of Body Armor, and NIJ Standard 0108.01, Ballistic Resistant Protective Materials.

Items:

a. Armored plate ''specially designed'' for military use and not controlled by the USML.

Note: For controls on body armor plates, see ECCN 1A613.d.2 and USML Category X(a)(1).

b. Shelters ''specially designed'' to:

b.1. Provide ballistic protection for military systems, or

b.2. Protect against nuclear, biological, or chemical contamination.

c. Military helmets and helmet shells providing less than NIJ Type IV protection.

Note 1: See ECCN 0A979 for controls on police helmets and ECCN 1A613.y.1 for military steel helmets.

Note 2: See USML Category X(a)(5) and (a)(6) for controls on other military helmets.

d. Body armor and protective garments, as follows:

d.1. Soft body armor and protective garments manufactured to military standards or specifications that provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008); or

d.2. Hard body armor plates that provide ballistic protection equal to NIJ level III (NIJ 0101.06, July 2008).

Note: See ECCN 1A005 for controls on soft body armor and protective garments not manufactured to military standards or specifications and hard body armor plates providing less than NIJ level III protection. For body armor providing NIJ Type IV protection or greater, see USML Category X(a)(1).

e. Other personal protective ''equipment'' ''specially designed'' for military applications not controlled by the USML or elsewhere in the CCL.

f. to w. [RESERVED]

x. ''Parts,'' ''components,'' ''accessories and attachments'' that are ''specially designed'' for a commodity controlled by ECCN 1A613 and not controlled elsewhere in the USML or CCL.

Note: 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 1A613.x are controlled by ECCN 1A613.x.

y. Specific ''parts,'' ''components,'' ''accessories and attachments'' ''specially designed'' for a commodity subject to control in this ECCN and not elsewhere specified in the CCL, as follows:

y.1 Conventional military steel helmets.

y.2 to 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 1A613.

12. In Supplement No. 1 to part 774, Category 1, add a new Export Control Classification Number 1B613 between ECCN 1B233 and 1B999 to read as follows:

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

* * * * *

1B613 Test, inspection, and ''production'' ''equipment'' and related commodities ''specially designed'' for the ''development'' or ''production'' of commodities controlled by ECCN 1A613 or USML Category X.

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 1B613.y.	NS Column 1.
RS applies to entire entry except 1B613.y.	RS Column 1.
AT applies to entire entry ..	AT Column 1.

License Exceptions

LVS: $1500.

GBS: N/A.

CIV: N/A.

STA: Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 1B613 without the need for a determination described in § 740.20(g). Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 1B613.

List of Items Controlled

Unit: N/A.

Related Controls:

Related Definitions: N/A.

Items:

a. Test, inspection, and ''production'' ''equipment,'' not controlled by USML

Category X(c), that is ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 1A613 or USML Category X.

b. Plasma pressure compaction (P2C) equipment ''specially designed'' for the production of ceramic or composite body armor plates controlled by ECCN 1A613 or USML Category X.

c. to x. [RESERVED]

y. Specific test, inspection, and ''production'' ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 1A613 or USML Category X, as follows:

y.1 to 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 1B613.

13. In Supplement No. 1 to part 774, Category 1, add a new Export Control Classification Number 1D613 between ECCN 1D390 and 1D993 to read as follows:

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

* * * * *

1D613 ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 1A613 or 1B613, as follows (see list of items controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 1D613.y.	NS Column 1.
RS applies to entire entry except 1D613.y.	RS 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 ''software'' in 1D613.

List of Items Controlled

Unit: $ value.

Related Controls: ''Software'' directly related to articles controlled by USML Category X is subject to the control of USML paragraph X(e) of the ITAR. 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'' (other than ''software'' controlled in paragraph .y of this entry) ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of commodities controlled by ECCNs 1A613 (except 1A613.y) or 1B613 (except 1B613.y).

b. to x. [RESERVED]

y. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities controlled by ECCNs 1A613 or 1B613, as follows:

y.1. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities controlled by ECCNs 1A613.y or 1B613.y.

y.2 through y.98 [RESERVED]

y.99 ''Software'' not identified on the CCL that (i) has been determined to be subject to the EAR in a commodity jurisdiction determination issued by the U.S. Department of State and (ii) would otherwise be controlled elsewhere in ECCN 1D613.

14. In Supplement No. 1 to part 774, Category 1, add a new Export Control Classification Number 1E613 between ECCN 1E355 and 1E994 to read as follows:

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

* * * * *

1E613 ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 1A613 or 1B613 or ''software'' controlled by 1D613, as follows (see list of items controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 1E613.y.	NS Column 1.
RS applies to entire entry except 1E613.y.	RS 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 ''technology'' in 1E613.

List of Items Controlled

Unit: $ value.

Related Controls: Technical data directly related to articles controlled by USML Category X is subject to the control of USML paragraph X(e) of the ITAR. 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. ''Technology'' (other than ''technology'' controlled by paragraph .y of this entry) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or ''software'' controlled by ECCNs 1A613 (except 1A613.y), 1B613 (except 1B613.y), or 1D613 (except 1D613.y).

b. through x. [RESERVED]

y. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, or overhaul of commodities or software controlled by ECCNs 1A613, 1B613, or 1D613, as follows:

y.1. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair or overhaul of commodities or software controlled by ECCNs 1A613.y, 1B613.y, or 1D613.y.

y.2. through y.98 [RESERVED]

y.99. ''Technology'' that would otherwise be controlled elsewhere in this entry but that (i) has been determined to be subject to the EAR in a commodity jurisdiction determination issued by the U.S. Department of State and (ii) is not otherwise identified elsewhere on the CCL.

Dated: May 30, 2012.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

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DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 7915]

RIN 1400–AD16

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

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 X