59. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9E001 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

9E001 "Technology" according to the General Technology Note for the "development" of equipment or "software", controlled by 9A001.b, 9A004 to 9A012, 9B (except 9B990 or 9B991), or 9D (except 9D990 or 9D991).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

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60. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9E002 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

9E002 "Technology" according to the General Technology Note for the "production" of equipment controlled by 9A001.b, 9A004 to 9A011 or 9B (except 9B990 or 9B991).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in this entry.

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61. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9E003 is amended by adding at the end of the License Exception section, a new License Exception STA paragraph to read as follows:

9E003 Other "technology" as follows (see List of Items Controlled).

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License Exceptions

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STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in 9E003.a.1, 9E003.a.2 to a.5, 9E003.a.8, or 9E003.h.

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Dated: December 6, 2010.

Gary Locke,

Secretary of Commerce.

[FR Doc. 2010–30968 Filed 12–8–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 101112562–0577–01]

Commerce Control List: Revising Descriptions of Items and Foreign Availability

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advance notice proposed rulemaking.

SUMMARY: As part of the President's export control reform initiative, the Bureau of Industry and Security (BIS) seeks public comments on how the descriptions of items controlled on the Commerce Control List (CCL) of the Export Administration Regulations (EAR) could be more clear and positive and "tiered" in a manner consistent with the control criteria the Administration has developed as part of the reform effort. The request for comments on how items on the CCL could be tiered includes a request for comments on the degree to which a controlled item provides the United States with a critical, substantial, or significant military or intelligence advantage; and the availability of the item outside certain groups of countries.

DATES: Comments must be received by February 7, 2011.

ADDRESSES: Written comments on this notice of inquiry may be sent by e-mail to *publiccomments@bis.doc.gov.* Include "Notice of Inquiry—CCL" in the subject line of the message. Comments may also be submitted by mail or hand delivery to Timothy Mooney, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 1401 Constitution Avenue, NW., Room 2705, Washington, DC 20230, *ATTN:* Notice of Inquiry—CCL.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Regulatory Policy Division, Bureau of Industry and Security, *Telephone:* (202) 482–2440, *E-mail: tmooney@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

A core task of the Administration's Export Control Reform Initiative is to enhance national security by reviewing and revising, as necessary and to the extent permitted by law and regime obligations, the lists of items (*i.e.,* commodities, software, and technology) controlled for export and reexport so that they (1) are clearer and more "positive" in nature and (2) can more easily be screened into three tiers based upon a set of criteria. The Administration has developed a three-tiered set of criteria to help determine whether a license should be required or a license exception should be available to allow license-free export, reexport, or transfer (in-country) of a given item, with appropriate conditions, to various destinations. The three-tiered set of criteria has two primary elements—(a) the degree to which an item provides the United States with a military or intelligence advantage and (b) the availability of the item outside the United States, its close allies and multilateral export control regime partners.

1. Request for Comments on How To Make the CCL More Clear and "Positive"

a. Background—The Current Commerce Control List and the Reform Effort

The Commerce Control List (CCL), which is in Supplement No. 1 to part 774 of the Export Administration Regulations (EAR) (15 CFR part 774), is the list of items for which BIS controls the export, reexport, and transfer (in-country). The CCL's ten categories identify controlled items by five-character Export Control Classification Numbers (ECCNs). Items that are not listed on the CCL but are still "subject to the EAR" are designated as "EAR99" items.

Most items on the CCL are controlled in accordance with the United States' commitments to the four multilateral export control regimes, *i.e.,* the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers Group. Members of the regimes have the discretion to clarify the descriptions of regime-controlled items on their domestic control lists.

BIS also has items on the CCL that are controlled unilaterally by the United States, and thus generally has the authority to clarify the descriptions of those items. For purposes of this notice, a unilaterally controlled item is any item listed on the CCL that is not listed on a control list of one of the four multilateral export control regimes. These unilaterally controlled items are typically listed in the "900" series on the CCL, such as ECCNs 1C998 or 9A980, but many multilaterally controlled items (i.e., items listed in the ECCNs in the "000", "100", "200" and "300" series) also include reasons for control that are unilateral, such as an item in the "000" series that is controlled for national

security (NS) reasons but is also controlled for antiterrorism (AT) reasons.

The CCL is mostly a "positive" control list that describes items using objective criteria, such as qualities to be measured (*e.g.,* accuracy, speed, and wavelength), units of measure (*e.g.,* hertz, horsepower, and microns), or other precise descriptions, rather than broad, open-ended, subjective, catch-all, or design intent-based criteria. However, not all ECCNs contain "positive" descriptions and some descriptions could be clearer and more specific. The Administration wants the lists of items controlled pursuant to export control laws and regulations (*i.e.,* the CCL and the United States Munitions List (USML) (22 CFR part 121) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130)) to be sufficiently "positive," clear, and precise so that persons, including persons who are not knowledgeable about U.S. export controls, who understand the technical parameters, characteristics, and capabilities of an item ordinarily will be able to determine its export control classification and jurisdictional status without needing to consult the government for an interpretation. For these reasons, BIS seeks public comment on how to improve the descriptions of items on the CCL that are unclear or that use vague, open-ended, or subjective criteria.

b. The Types of Comments BIS Seeks Pertaining to the Text of the ECCNs

If possible, suggestions on ways to improve the descriptions of items on the CCL should reflect internationally accepted standards and use industry-standard terms and references. Where objective criteria are missing from ECCNs, BIS seeks specific suggestions on what technical parameters, characteristics, thresholds, and capabilities should be used to describe the item. All suggestions should include proposed revisions to the text of ECCNs or proposed Technical Notes to ECCNs that explain terms or phrases used in the ECCN. Suggestions may include proposed revisions to the text of ECCNs to rearrange the order of words or technical parameters to make the entries more clear. All suggestions should contain an explanation, with supporting materials if available, of why the proposed change is needed to the ECCN and why the proposed changes would make the ECCN more clear and positive than the current ECCN.

2. Request for Comments on the "Tiering" of Items on the CCL

a. Background—The Criteria Used in the Reform Effort for Evaluating Controlled Items

The Administration is considering whether to amend, to the extent permitted by law and U.S. regime obligations, the lists of export controlled items—the CCL and the USML—and related licensing policies to accord with new criteria that focus controls on the most sensitive items. These criteria would place items listed on these two control lists into three tiers. Tier 1 items are (a) weapons of mass destruction (WMD); (b) WMD-capable unmanned delivery system; (c) plants, facilities, or items specially designed for producing, processing, or using WMDs, special nuclear materials, or WMD-capable unmanned delivery systems; or (d) items almost exclusively available from the United States and which provide a critical military or intelligence advantage to the United States. Tier 2 items are almost exclusively available from regime partners or adherents and provide a substantial military or intelligence advantage to the United States, or make a substantial contribution to the indigenous development, production, use, or enhancement of a Tier 1 or Tier 2 item. Tier 3 items are more broadly available and provide a significant military or intelligence advantage to the United States or make a significant contribution to the indigenous development, production, use, or enhancement of a Tier 1, 2, or 3 item, or are otherwise controlled for national security, foreign policy, or human rights reasons. Thus, an aspect of the criteria the Administration has developed is the degree to which a controlled item is available outside of different groups of countries.

The following are definitions of several of the key terms and phrases used in the tiered criteria set forth above. The term "almost exclusively available" means that the item is only available from a very small number of other countries that have in place effective export controls on the item. The term "critical" means providing a capability with respect to which the United States cannot afford to fall to parity and that would pose a grave threat to U.S. national security if not controlled (*i.e.,* a "crown jewel"). Examples of "grave threat to U.S. national security" include: Armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex crypto-logic and communications intelligence systems; the revelation of sensitive intelligence operations; the disclosure of scientific or technological developments vital to national security; or critical assistance to foreign development or acquisition of WMD.

The term "substantial" means providing a capability with respect to which the United States must maintain parity and that would pose a serious threat to U.S. national security if not controlled. Examples of a "serious threat to the U.S. national security" include: Disruption of foreign relations significantly affecting the national security; substantial impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; compromise of scientific or technological developments important to national security; or substantial assistance to foreign development or acquisition of a WMD.

The term "significant" means providing a capability that could be reasonably expected to cause damage to U.S. national security if not controlled. Examples of "damage to U.S. national security" include: Disruption of foreign relations affecting the national security; impairment of a program or policy directly related to the national security; revelation of military plans or intelligence operations; compromise of scientific or technological developments relating to national security; or assistance to foreign development or acquisition of a WMD.

The basic premise of this aspect of the Export Control Reform effort is that if an item type falls within the scope of one of the criteria's three tiers, the item should be controlled for export, reexport, and in-country transfer at the level set forth in the licensing policy the U.S. Government is developing for that tier. The licensing policies to be assigned to each tier are still under development but generally, the highest tier of control will carry the most comprehensive license and compliance requirements. If an item is determined not to be within the scope of any of the three tiers, it should not be on a control list. Items that do not meet one of the primary elements of the tiered criteria, such as being significant for maintaining a military or intelligence advantage, that must nonetheless be controlled for a separate foreign policy, statutory, or multilateral obligation, will be identified as Tier 3 items with the required licensing policy.

b. The Types of Information BIS Seeks Regarding the How Items on the CCL Could Be Tiered

As described above, there are two primary aspects to determining how an item on the CCL should be tiered—(i) the degree to which the item provides a military or intelligence advantage to the United States and (ii) its availability outside of certain groups of countries.

i. Request for Comments on How Items on the CCL Could Be Described Based on the Tier Criteria

BIS seeks public comments on whether items on the CCL that are controlled for other than solely Anti-Terrorism (AT) or Crime Control (CC) reasons provide a "critical," "substantial," or "significant" military or intelligence advantage to the United States, as these terms are defined above. This includes a request for comments on how existing ECCNs, down to the subparagraph level, could be further divided so that their descriptions are divided by technical or other objective characteristics consistent with the "critical," "substantial," and "significant" criteria. The U.S. Government will make the final decisions on what types of CCL-listed items are within the scope of any of the three tiers and, thus, may or may not accept suggestions regarding how items should be tiered. Nonetheless, BIS is interested in the public's comments on the issue of how CCL-listed items can be described so that they are distinguished even within ECCNs by tier.

ii. Request for Comments on the Availability of Items on the CCL

BIS also seeks public comments on whether items with the capabilities and characteristics described on the CCL, and controlled for other than solely anti-terrorism (AT) reasons or Crime Control (CC) reasons, are indigenously developed, produced, or enhanced (a) almost exclusively in the United States or (b) in destinations other than Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, Ukraine, or the United Kingdom. For purposes of this notice, "enhanced" means that (a) the basic characteristics, such as accuracy, capability, performance, or productivity of the item listed on the CCL are improved to provide greater functionality, and (b) the enhancement is effected in destinations outside the above-listed destinations. Information about the availability of these CCL-listed items will help BIS and the other relevant U.S. Government agencies determine the appropriate tier for these items.

Public comments should do more than merely state that specific items are available outside the United States or this group of countries. Rather, they should include specific, objectively verifiable information regarding the availability—that is, the indigenous development, production, or enhancement of the CCL-listed items. The types of availability information that will be most useful to BIS include, for example, those set out in EAR section 768.6, which are evidence that the item is (i) available-in-fact, (ii) from a non-U.S. source, (iii) in sufficient quantity, and (iv) of comparable quality.

For example, a public comment identifying a CCL-listed item as being manufactured outside the above-listed countries should ideally include (a) information about its foreign manufacturer(s), (b) relevant company catalogues or print-outs from company websites that describe the item's technical capabilities and parameters, and (c) a detailed, documented explanation of why these parameters equal or exceed those contained in the relevant ECCN entry. Company claims that are made in catalogues or Web sites that are based on accepted international standards or other internationally recognized certification authorities are more likely to be useful to BIS than claims that are more difficult to objectively verify.

3. Comments That Are Outside the Scope of This Notice

As a separate regulatory initiative, BIS and the State Department are planning to coordinate on the parallel publishing of proposed rules in the **Federal Register** that would create a definition of the term "specially designed" that would be common within the CCL and that would replace the definition of "specifically designed" in the ITAR. Accordingly, this notice of inquiry does not solicit comments pertaining to the use of this term. In addition, this notice does not seek public comment on whether an item should or should not be controlled on the CCL, whether the United States should ask any of the four export control regimes to change the controls on an item, or whether an item should be controlled differently for export and reexport to different countries. General comments on the overall reform process or the other aspects of current export controls are similarly outside the scope of this inquiry.

Comments should be submitted to BIS as described in the **ADDRESSES** section of this notice by February 7, 2011.

Dated: December 6, 2010.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2010–30966 Filed 12–8–10; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AC96

Reporting, Recordkeeping, and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing regulations to implement new statutory provisions established under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 731 of the Dodd-Frank Act added new sections 4s(f) and (g) to the Commodity Exchange Act (CEA), which set forth reporting and recordkeeping requirements and daily trading records requirements for swap dealers and major swap participants. The proposed rules would establish the regulatory standards for compliance with these new sections of the CEA.

DATES: Submit comments on or before February 7, 2011.

ADDRESSES: You may submit comments, identified by RIN number 3038–AC96 and Reporting, Recordkeeping, and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants, by any of the following methods:

- *Agency Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.