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## **DEPARTMENT OF COMMERCE**

### **Bureau of Industry and Security**

#### **15 CFR part 774**

**[Docket No. 150820757-5757-01]**

### **Commerce Control List: Request for Comments Regarding Controls on Military Vehicles, Vessels of War, Submersible Vessels, Oceanographic Equipment, and Auxiliary and Miscellaneous Military Equipment**

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

**ACTION:** Notice of inquiry.

**SUMMARY:** The Bureau of Industry and Security (BIS), Department of Commerce, maintains the Export Administration Regulations, including the Commerce Control List (CCL). The Export Control Reform Initiative, a fundamental reform of the U.S. export control system, has resulted in transfer to the CCL of items that the President has determined do not warrant control

on the United States Munitions List (USML), including certain military vehicles, vessels of war, submersible vessels, oceanographic equipment, auxiliary and miscellaneous military equipment, and related items therefor. The USML is part of the International Traffic in Arms Regulations maintained by the Department of State. Through this notice, BIS is seeking public comments to perform a complementary review of the aforementioned items on the CCL, concurrent with the Department of State's review of the controls implemented in its recent revisions to Categories VI, VII, XIII, and XX of the USML (which control surface vessels of war and special naval equipment, military ground vehicles, miscellaneous military articles and materials, submersible vessels, and related items therefor), to ensure that the descriptions of these items on the CCL are clear, do not inadvertently control items in normal commercial use, account for technological developments, and properly implement the national security and foreign policy objectives of the reform effort. This notice also furthers the retrospective regulatory review directed by the President in Executive Order 13563.

**DATES:** Comments must be received by BIS no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted to the Federal rulemaking portal (<http://www.regulations.gov>). You can find this notice by searching on its regulations.gov docket number, which is BIS-2015-0039. Comments may also be submitted via e-mail to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov) or on paper to Regulatory Policy Division, Bureau of Industry and Security, Room 2099B, U.S. Department of Commerce, Washington, DC 20230. Please refer to RIN 0694-XC025 in all comments and in the subject line of e-mail comments. All

comments (including any personally identifying information) will be made available for public inspection and copying. Commerce's full plan for retrospective regulatory review can be accessed at: <http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules>.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding ground vehicles and related items (ECCNs 0A606, 0B606, 0C606, 0D606 and 0E606), contact Gene Christiansen, Office of National Security and Technology Transfer Controls, at 202-482-2984 or [gene.christiansen@bis.doc.gov](mailto:gene.christiansen@bis.doc.gov). For questions regarding surface vessels and related items (ECCNs 8A609, 8B609, 8C609, 8D609 and 8E609) or submersible vessels and related items (ECCNs 8A620, 8B620, 8D620, and 8E620), contact Alexander Lopes, Office of Nonproliferation and Treaty Compliance, at 202-482-4875 or [alexander.lopes@bis.doc.gov](mailto:alexander.lopes@bis.doc.gov). For questions regarding miscellaneous equipment, materials, and related items (ECCNs 0A617, 0B617, 0C617, 0D617, and 0E617), contact Michael Rithmire, Office of National Security and Technology Transfer Controls, at 202-482-6105 or [michael.rithmire@bis.doc.gov](mailto:michael.rithmire@bis.doc.gov). For questions regarding license applications for any of the items specified above, contact Elena Love, Thomas DeFee or Jeffery Leitz of the Office of Strategic Industries and Economic Security, by phone, at 202-482-4506, or by email, at [Elena.Love@bis.doc.gov](mailto:Elena.Love@bis.doc.gov), [Thomas.DeFee@bis.doc.gov](mailto:Thomas.DeFee@bis.doc.gov), or [Jeffrey.Leitz@bis.doc.gov](mailto:Jeffrey.Leitz@bis.doc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Bureau of Industry and Security (BIS), Department of Commerce maintains the Export Administration Regulations, including the Commerce Control List (CCL). The Export Control Reform Initiative, a fundamental reform of the U.S. export control system, has resulted in transfer to the CCL of items that the President has determined do not warrant control on the United States Munitions List (USML), including certain military vehicles, vessels of war, submersible vessels, oceanographic equipment, auxiliary and miscellaneous military equipment, and related items therefor. The USML is part of the International Traffic in Arms Regulations maintained by the Department of State. Through this notice, BIS is seeking comments to perform a complementary review of military vehicles, vessels of war, submersible vessels, oceanographic equipment, auxiliary and miscellaneous military equipment, and related items on the CCL, concurrent with the Department of State's review of the controls implemented in its recent revisions to Categories VI, VII, XIII, and XX of the USML (which control surface vessels of war and special naval equipment, military ground vehicles, miscellaneous military articles and materials, submersible vessels, and related items therefor), to ensure that the descriptions of these items on the CCL are clear, do not inadvertently control items in normal commercial use, account for technological developments, and properly implement the national security and foreign policy objectives of the reform effort.

Specifically, BIS is soliciting comments on the clarity, usability and any other matters related to implementation of the "600 series" Export Control Classification Numbers (ECCNs) that control the following items, as well as certain items related thereto: military vehicles (ECCNs 0A606, 0B606, 0C606, 0D606, and 0E606); vessels of war (ECCNs 8A609, 8B609, 8C609, 8D609, and

8E609); submersible vessels and oceanographic equipment (ECCNs 8A620, 8B620, 8D620, and 8E620); and auxiliary and miscellaneous military equipment (ECCNs 0A617, 0B617, 0C617, 0D617, and 0E617).

### **The Export Control Reform Initiative: USML Review and the CCL**

A core element of the Export Control Reform (ECR) Initiative has been the streamlining of categories on the USML and the control on the CCL of those items that the President determines do not warrant USML control. On December 10, 2010, the Department of State provided notice to the public of its intent, pursuant to the ECR Initiative, to revise the USML to create a more “positive list” that describes controlled items using, to the extent possible, objective criteria rather than broad, open-ended, subjective, or design intent-based criteria (see 75 FR 76935). As a practical matter, this meant revising USML categories so that, with some exceptions, the descriptions of defense articles that continued to warrant control under the USML did not use catch-all phrases, such as “specially designed” or “specifically designed or modified,” to control unspecified items. With limited exceptions, the defense articles that continued to warrant control under the USML were those that provided the United States with a critical military or intelligence advantage. Items that no longer warranted control under the USML were to become subject to the jurisdiction of the Department of Commerce under the Export Administration Regulations (EAR). Since that time, the Departments of State and Commerce have jointly published final rules in which, collectively, the Department of State has made revisions to fifteen of the USML categories (each of which has been restructured to provide a uniform and more

“positive list” of controlled items) and the Department of Commerce has made corresponding revisions to the CCL.

The advantage of revising the USML into a more positive list is that its controls can be tailored to satisfy the national security and foreign policy objectives of the ITAR by maintaining control over those defense articles that provide a critical military or intelligence advantage, or otherwise warrant control under the ITAR, without inadvertently controlling items in normal commercial use. This approach, however, requires that both the USML and the CCL be regularly revised and updated to address technological developments, practical application issues identified by exporters and reexporters, and changes in the military and commercial applications of items affected by the USML and the “600 series” ECCNs on the CCL.

Consistent with the approach described above, this notice of inquiry requests public comments as part of a complementary review of changes to the EAR and the ITAR based on the ECR Initiative and implemented by a set of rules, published by the Departments of State and Commerce, that became effective on January 6, 2014. These rules implemented revisions to Category VI (surface vessels of war and special naval equipment), Category VII (ground vehicles), Category XIII (materials and miscellaneous articles), and Category XX (submersible vessels and related articles) on the USML (see 78 FR 40922) and added the following “600 series” ECCNs to the CCL (see 78 FR 40892): ECCNs 0A606, 0B606, 0C606, 0D606, and 0E606 (military vehicles and related items); ECCNs 8A609, 8B609, 8C609, 8D609, and 8E609 (vessels of war and related items); ECCNs 8A620, 8B620, 8D620, and 8E620 (submersible vessels, oceanographic equipment and related items); and ECCNs 0A617, 0B617, 0C617,

0D617, and 0E617 (auxiliary and miscellaneous military equipment). The Department of State is seeking comments from the public on the condition and efficacy of the revised Categories VI, VII, XIII, and XX and whether they are meeting the ECR objectives for the list revisions. BIS will make any changes to the CCL that it determines are necessary to complement revisions to the USML by the Department of State. In addition, through this notice of inquiry, BIS is independently seeking comments on how to improve the implementation of the aforementioned “600 series” ECCNs on the CCL.

### **Executive Order 13563**

On January 18, 2011, President Barack Obama issued Executive Order 13563, affirming general principles of regulation and directing government agencies to improve regulation and regulatory review. Among other things, the President stressed the need for the regulatory system to allow for public participation and an open exchange of ideas, as well as promote predictability and reduce uncertainty. The President also emphasized that regulations must be accessible, consistent, written in plain language, and easy to understand. As part of its ongoing effort to ensure that its regulations are clear, effective, and up-to-date, BIS is issuing this notice soliciting public comments.

DATED: October 5, 2015

Matthew S. Borman

Deputy Assistant Secretary

for Export Administration

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