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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 181010936-8936-01]

RIN 0694-AH66

**Request for Public Comments Regarding Review of Commerce Control List for
Items Transferred from United States Munitions List Categories IV and XV**

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: As part of its work with the National Space Council, the Bureau of Industry and Security, Department of Commerce requests public comment to inform its review of the controls implemented in recent revisions to Categories IV and XV of the United States Munitions List (USML) and the related transfer of items to the Department of Commerce's Commerce Control List (CCL). These items include launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines; and spacecraft and related articles. BIS's review seeks to ensure that the CCL describes these items clearly, captures those items in normal commercial use, accounts for technological developments, and implements the national security and foreign policy objectives of the United States properly.

DATES: Comments must be received by BIS no later than [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted through the Federal rulemaking portal (<http://www.regulations.gov>). The regulations.gov ID number for this rule is BIS-2018-0029. All comments (including any personally identifying information) will be made available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: For questions regarding launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs, and mines (Export Control Classification Numbers (ECCNs) 0A604, 0B604, 0D604, 0E604, 9A604, 9B604, 9D604, and 9E604), contact Jeffrey Leitz, Senior Staff Engineer, Munitions Control

Division, Office of Strategic Industries and Economic Security at (202) 482-7417 or Jeffrey.Leitz@bis.doc.gov. For questions regarding spacecraft and related items (ECCNs 9A515, 9B515, 9D515, and 9E515), contact Dennis Krepp, Director, Sensors and Aviation Division, Office of National Security and Technology Transfer Controls at (202) 482-1309 or Dennis.Krepp@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS), Department of Commerce, maintains the CCL under the Export Administration Regulations (EAR). To ensure controls align with the national security and foreign policy objectives of the U.S. Government, the USML and the CCL must be regularly reviewed and updated to account for technological developments, issues related to the practical application of these controls, and changes in the military and commercial applications of items covered by the USML or by the corresponding “600 series” and 9x515 ECCNs on the CCL.

Consistent with the objectives in Space Policy Directive-2 (available at <https://www.whitehouse.gov/presidential-actions/space-policy-directive-2-streamlining-regulations-commercial-use-space/>), this Advanced Notice of Proposed Rulemaking (ANPRM), seeks public comments to inform a review of those items on the CCL implemented in connection with the recent removal of articles from Categories IV (79 FR 34, January 2, 2014) and XV (82 FR 2889, January 10, 2017) of the USML and the placement of those items on the CCL. BIS seeks to ensure the CCL includes clear descriptions, captures items in normal commercial use, takes into account technological

developments, and implements the national security and foreign policy objectives of the United States properly.

In particular, BIS seeks comment on ways to thoughtfully streamline export control regulations for both the U.S. commercial space industry as well as our international partners to lower administrative burden, decrease regulatory compliance costs as well as increase exports thereby bolstering the U.S. space commercial sector and industrial base.

Request for Comments

1. For technologies controlled under ECCN 9A515 -- examples include habitats, planetary rovers, and planetary systems such as communications and power -- what factors or specific technologies should be considered for movement to a different ECCN or paragraph under ECCN 9A515 with less stringent licensing requirements?
2. The USG is considering further refinement or updated controls on the various technologies listed below. Are there additional specific space-related technologies not described in the list which warrant further review by State or Commerce given their current or anticipated near term commercial applications?
 - satellite thrusters (bi-propellant, electric, and liquid apogee engines);
 - gyroscopes;
 - inertial navigation systems;
 - large aperture earth observation cameras;
 - spacecraft antenna systems and adaptive Global Navigation Satellite System (GNSS) antennas;
 - suborbital systems with propulsion systems currently controlled under USML;
 - kapton tape;
 - star trackers; and

- astrocompasses.
3. NASA continues to pursue development of the future Lunar Gateway, which may be described in USML Category XV(a). If moved to the CCL, what would be the appropriate controls to apply to items associated with the Lunar Gateway, *e.g.*, ECCNs 9A515 or 9A004?
 4. Are there technologies controlled in the USML for either Category IV and XV, which are not currently described or not described with sufficient clarity which the commenter believes should be controlled under the EAR? While this notice discusses specific items based on initial communications with industry, the list is not exhaustive and commenters are encouraged to provide additional examples within both USML categories.
 5. Are there specific defense articles which have entered into normal commercial use since the most recent revisions? If so, please provide sufficient detail in describing and identifying the article to support your claim. Commenters may include documentation to support this claim, *e.g.*, product information demonstrating what is currently in the market (web pages describing products and product brochures), or scientific and industry articles, in particular those also describing trends in commercial products, that resulted from new technologies or manufacturing methods.
 6. Are there defense articles for which commercial use is proposed, intended, or anticipated in the next five years? If so, provide sufficient detail in describing and

identifying the article to support your claim. Commenters may include documentation to support this claim, *e.g.*, product development or marketing information describing what products will soon to be in the market (web pages describing products under development, press releases related to products under development) or scientific and industry articles, in particular those describing new products that may soon enter the market place as a result of new technologies or manufacturing methods.

7. Are there other technical issues for these items which BIS should address, *e.g.*, the addition of technical notes or defined terms used in the control parameters to make the controls easier to understand and apply consistently?
8. What are the cost savings to private entities by shifting control of additional specific commercial items from the USML to the CCL? To the extent possible, please quantify the current cost of compliance with USML control of an item and any cost savings if a particular change was implemented. Cost savings could include time saved in terms of regulatory uncertainty over whether certain items are regulated as on the USML or the CCL. This reduced uncertainty, under the “bright line” approach of the USML to CCL review process, would allow both BIS and industry to avoid spending hours and resources on case by case determinations for certain items. As much as possible, please quantify time saved, reduction in compliance costs, and reduction in paperwork.

Please note general comments on other aspects of the CCL are outside of the scope of this inquiry.

Dated: February 22, 2019.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

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