



DEPARTMENT OF STATE

22 CFR Parts 120, 121, and 123

[Public Notice: 13123]

RIN 1400-AF40

International Traffic in Arms Regulations (ITAR): Review of the U.S. Munitions List and Related Definitions and License Exemptions

ACTION: Proposed rule; request for comments.

SUMMARY: The Department of State (the Department) proposes to amend the International Traffic in Arms Regulations (ITAR) to ensure that the U.S. Munitions List (USML) focuses ITAR controls on the most sensitive technologies, to improve regulatory transparency and clarity, and to reduce regulatory burdens. The revisions proposed in this rule would remove certain items from the USML, update definitions and standardize the regulatory text, and add a new exemption to the licensing requirements of the ITAR. The Department also requests public comments to further refine ITAR controls.

DATES: Send comments by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may submit comments to the Department by any of the following methods:

- Visit the *Regulations.gov* website at: <https://www.regulations.gov> and search for the docket number **DOS-2026-0991**.
- *Email:* DDTCPublicComments@state.gov. Commenting parties must include RIN 1400-AF40 in the subject line of the email message.

See **SUPPLEMENTARY INFORMATION** for other information about electronic filing in the “Comment Submission Instructions” section.

FOR FURTHER INFORMATION CONTACT: Chris Weil, Office of Defense Trade

Controls Policy, Department of State, telephone 202-663-1282, email

DDTCCustomerService@state.gov; SUBJECT: International Traffic in Arms Regulations:

Omnibus Proposed Changes (RIN 1400-AF40)

SUPPLEMENTARY INFORMATION: The Department's Directorate of Defense Trade

Controls (DDTC) administers the ITAR (22 CFR parts 120 through 130) to, among other things, regulate the export, reexport, retransfer, and temporary import of the defense articles and defense services identified on the USML at 22 CFR 121.1. Items not subject to the ITAR or to the exclusive licensing jurisdiction of certain other departments or agencies of the U.S. Government are subject to the Export Administration Regulations (EAR, 15 CFR parts 730 through 774, which includes the Commerce Control List (CCL) in supplement no. 1 to part 774). The EAR is administered by the Department of Commerce, Bureau of Industry and Security (BIS). The changes proposed by this rule would not modify the list of defense articles and defense services controlled for purposes of permanent import by the Attorney General, as enumerated on the U.S. Munitions Import List (USMIL) at 27 CFR 447.21.

Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778), the authority from which the ITAR is derived, requires periodic review to determine what articles and services, if any, no longer warrant designation on the USML at ITAR § 121.1. Further, Executive Order 14268 directs the Department to focus ITAR protections "...on our most sensitive and sophisticated technologies..." DDTC's Office of Defense Trade Controls Policy (DTCP) identifies articles and services for potential removal from or addition to the USML, or clarification on how they are described on the USML, through a variety of methods, including public feedback and interagency consultations, commodity jurisdiction reviews, advisory opinions, and technology monitoring. The Department maintains the USML such that it is composed of those defense articles or defense services that provide a critical military or intelligence advantage. The Department, informed by consultations with its interagency partners,

assesses that the items this rule proposes to remove from the USML no longer meet this standard, and therefore proposes to transfer them to the jurisdiction of the EAR.

This rule proposes the removal of items ranging from specific types of items to much broader sets of items described in catch-all controls (i.e., controls that refer to unspecified parts, components, accessories, or attachments if they are specially designed for an enumerated item; see § 120.42(g)). It also proposes to create a new exemption from the licensing requirements of the ITAR for the temporary export of a foreign defense article to its foreign manufacturer. In addition, the Department proposes to revise parts 120 and 121 to improve the clarity, consistency, and syntax of the regulatory text, and to align with evolving technologies and update internal references within the USML, with no change in the scope of the regulation.

The Department invites feedback from industry and other interested parties on revisions proposed by this rule, which are further explained in this supplementary information. In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at <https://www.regulations.gov>.

Proposed Changes to Part 120

§ 120.31 - Defense article.

To clarify the definition of defense article at § 120.31, the Department proposes to restructure, revise, and relocate paragraph (b) to new paragraphs in § 120.35. These changes would clarify the terms “basic marketing information on function or purpose” and “general system descriptions” in proposed paragraphs § 120.35(b)(1) and (2), with no intended change in scope. Additional details are included in the section of this preamble discussing changes to § 120.35.

§ 120.32 - Defense service.

The Department proposes to revise the definition of defense service in § 120.32 by adding a cross-reference in paragraph (a) to proposed § 120.35, which would exclude certain

services from the USML. Additional details are included in the section of this preamble discussing changes to § 120.35.

§ 120.33 - Technical data.

The Department proposes to revise the definition of technical data in § 120.33 by moving the last sentence in paragraph (a)(1) to a new note 1 to paragraph (a)(1). The Department proposes this move, and minor revisions for clarity, as the list of examples in the sentence is a subset of the definition, which includes information in all forms.

§ 120.35 - Items that are excluded from the U.S. Munitions List

The Department proposes to remove the reserved § 120.35 and add a new § 120.35 to identify certain items that would be excluded from control under the ITAR. Proposed paragraphs (a) and (b) would exclude certain items from the § 120.31 definition of defense article.

Proposed paragraph (a) would clarify specific circumstances in which, following demilitarization, certain commodities are no longer described in a USML paragraph that uses the term “specially designed.” In analyzing whether an article has been modified such that it is no longer described on the USML, practitioners must assess whether all characteristics that made the item a defense article have been permanently removed. This may require specific development and engineering knowledge from the original equipment manufacturer (OEM). Removing all components described on the USML (e.g., armor and weapons) may be insufficient if, for example, structural elements or other features remain that result in the article continuing to be described on the USML.

Consider, for example, a helicopter that was designed to deliver munitions. Such aircraft are described in USML Category VIII, even if the specific aircraft is now used exclusively for fighting wildfires, as it has an airframe that was designed to meet the requirements for delivering munitions. Removing components supporting that function (e.g., hard points, ballistically tolerant systems, weapons, and mission systems) would not remove all the airframe properties that were included in the design to support the vertical stub-wing loads for carrying munitions

and the horizontal stub-wing loads to accommodate forces from munitions launches. Such a helicopter still has properties that are only in its design to enable the delivery of munitions, and thus it remains described in USML Category VIII.

An example of an article that has been modified such that it is no longer a defense article described in USML Category VII(b) would be a vehicle variant designed to launch missiles, from which all of its weapons, mission systems, and armor have been removed such that the remaining vehicle chassis and systems are also common to variants of the same vehicle that were not designed as a firing or launch platform. Specifically, provided the vehicle no longer has defense articles incorporated, and no properties that meet paragraph (a)(1) of § 120.41 in the context of USML Category VII(b), it would no longer be described therein.

Proposed paragraph (b) would revise the text relocated from § 120.31(b), with no intended change to the scope of control, to better describe the information this paragraph excludes from the defense article definition.

§ 120.41 - Specially designed.

The Department proposes revisions to paragraph (b) of the definition of specially designed in § 120.41. Specifically, the Department proposes to revise paragraph (b)(3), with no change to the scope of control, to add and reserve paragraph (b)(6) to prevent conflation with paragraph (b)(6) in the EAR's parallel definition, to add paragraphs (b)(7) and (8) to reduce the scope of items designated on the USML, and to make conforming changes to the notes to paragraph (b).

In paragraph (b)(3), the Department proposes to remove the phrase “and fit” as an artifact of language that has no practical effect and has caused confusion among practitioners. Specifically, the definition of equivalent at § 120.42(e) requires a difference in fit. Thus, the Department assesses the correct term is “equivalent form” when referring to a change in form solely for fit purposes. Stated another way, if the fit is the same, any change in form would not be for fit purposes and thus would not be equivalent.

The Department proposes to revise paragraph (b)(3)(i) to account for the proposed revisions to the definitions of production and development. This change is intended to have no effect on the scope of the controls, as the current and proposed text both require that production has begun and development has ended.

Additionally, the Department proposes to add paragraph (b)(7) to § 120.41 to prevent certain items from being described in a catch-all control on the USML. Specifically, the Department is proposing to remove from the USML certain items originally designed for a defense article that were not described on the USML within the first year after leaving development but are later used, without modification, in another defense article that results in their *post hoc* description on the USML in a catch-all control. The proposed paragraph (b)(7) would establish distinct conditions in which an article would not meet the ITAR's "specially designed" definition despite its subsequent use in or with additional defense articles if it did not meet the definition initially and all modifications for subsequent use were solely for fit purposes.

This new exclusion from the USML via the specially designed definition is intended to ensure that the ITAR does not inadvertently control articles that were designed and produced for defense articles with no catch-all control on the USML and are later used in defense articles with a catch-all control on the USML. For example, consider a component originally developed for an electronic support system described in paragraph (a)(4)(i) of USML Category XI. If the component is not described elsewhere on the USML, it is subject to the EAR and described in Export Control Classification Number (ECCN) 3A611.x. Years later, the unmodified component is reused in an electronic support system specially designed for a naval submarine described in paragraph (a)(1) of USML Category XX, which has a catch-all control in paragraph (c) of Category XX. In the context of that catch-all control, the component meets the definition of "specially designed" in ITAR § 120.41(a)(2) as a component for use in or with the Category XX(a)(1) submersible. It does not meet the criteria in the current carve-out language in paragraphs (b)(3) through (5) of § 120.41 because it was developed exclusively for a defense

article and is still used only in defense articles. As a result, the component previously subject to the EAR becomes described on the USML in Category XX(c) solely due to its subsequent use in a Category XX(a)(1) submersible. New paragraph § 120.41(b)(7) would ensure such a component is not described in USML Category XX(c) if it has the same or equivalent form when comparing the versions used in each defense article.

Additionally, the Department proposes to add paragraph (b)(8), which will expand the list of commodities that are explicitly excluded from catch-all controls on the USML. Proposed paragraph (b)(8) is intended to have a similar effect as paragraph (b)(2). Paragraph (b)(2) currently excludes fasteners and other basic commodities that the Department has determined do not provide a critical military or intelligence advantage. However, unlike paragraph (b)(2), paragraph (b)(8) would not have a similar provision in the EAR definition of specially designed. As a result, while commodities described in paragraph (b)(2) are not described in catch-all controls on either the USML or the CCL, being described in paragraph (b)(8) means that a commodity is not described in any catch-all controls on the USML. The Department assesses that the removal of these commodities, which the Department has determined do not provide a critical military or intelligence advantage, would promote U.S. industry participation in a range of international supply chains without adversely affecting U.S. national security.

§ 120.42 - Form, fit, function, performance capability, equivalent, enumerated, and catch-all control.

The Department proposes to clarify the definition of “equivalent” in paragraph (e) of § 120.42 by adding the word “form” to clarify that a commodity has “equivalent form” when its form has been modified solely for fit purposes. This is intended to provide clearer guidance and reinforce that the reason for the form change is what is being assessed, not the fit. The Department also proposes to adjust the heading of § 120.42 to reflect that adjustment in terminology defined therein.

§ 120.43 - Development, production, and related terms; Basic and applied research.

The Department proposes revising paragraphs (a) and (b) in § 120.43 to provide greater clarity on the scope of the development and production phases in the product lifecycle. The proposed revisions to § 120.43 add subparagraphs to paragraph (a) that detail specific development activities, while noting when development ends, and correct the structure of paragraph (b).

The proposed revisions would amend paragraph (a) to clarify the definition of development. Note this rule uses the name “Department of Defense” (DoD) as opposed to the “Department of War,” as the name of the agency designated with these authorities in the Arms Export Control Act, which the ITAR partially implements. Proposed paragraph (a)(2) would maintain that development concludes when design is finalized and tested to support serial production (or its equivalent), with all key design decisions, integration, and validation activities complete. Proposed paragraph (a)(3) would relocate language from current paragraph (b)(2) and clarify existing provisions that routine enhancements to sustainability, reliability, maintainability, quality improvements, cost reductions, or feature enhancements do not restart the development cycle for articles already in production. These revisions would also provide that cosmetic changes do not restart the development cycle.

Similarly, a portion of current paragraph (b)(1) would be moved to the unused paragraph (b) and revised for clarity. Paragraph (b)(1) would be revised to refine the definition, with adjustments to encompass equivalents to serial production. Having moved a portion of the existing scope of current paragraph (b)(2) to proposed paragraph (a)(3), the Department proposes to revise paragraph (b)(2) to provide more precise guidance on when post-production modifications constitute development versus production activities, distinguishing between routine enhancements that remain in production status and changes that alter function or performance capabilities that restart the development cycle. These revisions are intended to harmonize the definitions and resolve classification uncertainty during product transitions.

§ 120.54 - Activities that are not exports, reexports, retransfers, or temporary imports.

The Department proposes to revise the language in § 120.54(a)(1) to clarify that for the launch of a defense article out of the United States to not constitute an export, reexport, retransfer, or temporary import under the ITAR, the defense article must be launched into or beyond orbit. The Department proposes this change for transparency and regulatory clarity and consistent with the scope of the current language, as launches into space that do not reach orbit and return directly to the United States are not currently exports (see § 120.54(a)(4)). The proposed revisions would provide a clear criterion for determining which launches are included in this regulatory provision, as the term “into space” is not defined.

Proposed Changes to Part 121

USML Category II - Guns and Armament

The Department proposes to narrow USML Category II(a)(4) to remove smooth-bore, fixed-barrel canister launchers. This change would remove the less-lethal and less-precise canister launchers from the USML while retaining grenade launchers with rifled or removable barrels. The Department assesses the items proposed for removal no longer provide a critical military or intelligence advantage.

USML Category VIII - Aircraft and Related Articles

The Department proposes to remove and reserve USML Category VIII(h)(10), which would remove most radar altimeters from the USML, based on its assessment these items no longer provide a critical military or intelligence advantage.

USML Category X - Personal Protective Equipment

The Department proposes to modify USML Category X(a)(7) to adjust the control text parameters to remove from the USML certain goggles, spectacles, visors, vision blocks, canopies, or filters for optical sights or viewers that it assesses no longer provide a critical military or intelligence advantage. The Department also proposes to remove the parenthetical

examples as unnecessary. Additionally, the Department requests public comments on ways to further refine the scope and clarity of paragraph (a)(7) and the related controls in paragraph (d)(3).

USML Category XX - Submersible Vessels and Related Articles

The Department proposes to revise USML Category XX(c) in several ways. First, the Department proposes to restructure paragraph (c) by moving the items described therein into three new subparagraphs (1) through (3). Proposed paragraph (c)(1) would clarify controls on items specially designed for naval nuclear propulsion plants or facilities described in paragraph (b)(1) and newly designate them as Significant Military Equipment (SME), consistent with related paragraph (f)(5) of USML Category VI. Proposed new paragraph (c)(2) would describe the remaining systems and equipment currently described in paragraph (c). The remaining catch-all control in current paragraph (c), for items other than nuclear propulsion, would move to proposed paragraph (c)(3).

In addition, the Department proposes to narrow what would be described in proposed paragraph (c)(2) by replacing the single broad paragraph with multiple focused subparagraphs. Currently, paragraph (c) describes all specially designed parts, components, accessories, attachments, and associated equipment for military submersible and semi-submersible vehicles, which is one of the broadest control paragraphs on the USML. The Department assesses that certain articles described by this paragraph do not provide a critical military or intelligence advantage. Although the proposed changes would increase the number of subparagraphs to paragraph (c)(2), their addition would significantly narrow the scope of controls currently implemented through paragraph (c).

Proposed Changes to Part 123

§ 123.26 - Temporary export for servicing or repair of foreign defense articles.

The Department proposes a new exemption to ITAR licensing requirements at § 123.26 to allow the temporary export of foreign defense articles from the United States when the export is solely for certain activities, such as servicing or repair by the OEM or its authorized service provider. An export license would not be required when specific conditions are met, including that the defense article is unclassified and is temporarily exported from the United States to the OEM or its authorized service provider for specific authorized activities. This exemption from export licensing requirements does not relate to the import requirements that may be imposed by the United States Munitions Import List (USMIL), found at 27 CFR part 447, which is administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice. The Department assesses this change would reduce unnecessary regulatory burdens while maintaining appropriate controls on sensitive items.

Updating of Licenses and Agreements

As part of the Department's USML modernization efforts, the USML classification for some defense articles and defense services would change or be removed. Consistent with prior revisions of USML categories, additional guidance on the treatment of such items, including the impact of the change on the treatment of items previously exported under an ITAR license, is provided on DDTC's website.

Request for Comments

Comments Requested

Consistent with its ongoing USML review process, the Department is requesting public comments on the revisions proposed in this rulemaking. In particular, the Department is requesting comment on ways to streamline the descriptions and criteria on the USML, so that it may continue to protect U.S. national security and foreign policy interests while benefitting U.S.

industry and international partners. Describing items more precisely could lower administrative burdens and regulatory compliance costs and present an opportunity for increased exports, thus bolstering the U.S. commercial sector and industrial base.

The Department encourages the public to provide both comments directly related to this proposed rule and responses to the questions presented in the rule. To facilitate timely review and assessment of comments, the Department recommends beginning with a concise summary sentence or paragraph, followed by explanations and supporting facts or evidence. Multiple comments should be submitted in separate paragraphs from each other. The Department specifically requests comments focused on the following questions:

1. Paragraph (a)(7) of USML Category X describes certain ocular personal protective equipment “employing other than common broadband absorptive dyes or UV inhibitors as a means of protection,” and provides a non-exhaustive list of examples. The Department requests comments on the following questions to assist in refining the scope and clarity of paragraph (a)(7) and the related controls in paragraph (d)(3).

a. Are there other specific functions, performance levels, or characteristics that could better delineate the ocular protection items on the USML from those widely available for civil applications such as laboratory work and manufacturing?

b. How useful do you find the optical density criterion? Should the thresholds be different for paragraphs (a)(7)(i), (ii), and (iii)? What is involved in changing the application process for a specific dye to reliably achieve greater optical density, and how challenging is it to make those changes?

c. Would a percentage of visible light transmission (VLT) be a useful criterion for distinguishing capabilities for this equipment? Please provide examples of VLT for ocular protection used in civil applications and that used in military applications.

2. The Department previously noted in 90 FR 41778 that paragraph (c)(10)(iv) of USML Category XI is not intended to describe antennas developed exclusively for civil airborne

weather radar. If there are specific examples of antennas developed exclusively for civil airborne weather radar currently described therein, the Department requests detailed examples and technical criteria it could use to differentiate these antennas from other antennas described in paragraph (c)(10).

3. The Department emphasizes that paragraph (x) within the various categories of the USML is not an export classification. Instead, it serves as a mechanism to streamline export licensing by enabling a unified method to apply for an authorization to export both articles subject to the ITAR and related items subject to the EAR. Practitioners can utilize paragraph (x) to simplify the licensing process for such mixed shipments involving items controlled under both regulatory frameworks. The Department invites public comment on ways to enhance clarity and understanding for practitioners to avoid the erroneous application of this paragraph while maintaining this paragraph's ease of use and understanding.

4. The Department is considering removing references to “software” from paragraphs (a)(2), (b), (b)(3), and (b)(5) of the specially designed definition at § 120.41, as well as modifying paragraph (a) to read “Except for commodities described in paragraph (b) of this section, a commodity or software is specially designed if...” With this potential revision, an (a)(1) analysis would remain applicable to software, but the (a)(2) and (b) analyses would not. (Note that this proposed change would affect only USML entries where software is described as specially designed and not where software is described as technical data – which uses the definition at § 120.33(a)(4).) The Department is considering this change to address the implementation reality that system- and equipment-level controls, such as those in USML Category XI(b), generally do not release software despite the text of § 120.41(b). It would also be counterintuitive to potentially control software via § 120.41(a) because it was designed explicitly for intelligence purposes, then not do so via § 120.41(b)(4) merely because it was developed to run on both defense articles and EAR items. Specifically, in the case of software, even when portions of the code meet the text of § 120.41(b), the see-through rule at § 120.11(c)

continues to control portions of the code that do not meet the text of § 120.41(b) and § 120.33(a)(4) continues to apply to software described in the technical data paragraphs that are directly related to the combined system or equipment (consisting of (1) the software running (2) on hardware subject to the EAR). Removing “software” from the specified paragraphs would ensure that software designations are applied more consistently by practitioners, consistent with the software’s intended national security purpose. The Department invites comments on this potential revision, including locations within the regulations where practitioners would find guidance on reviewing software most useful.

5. The Department invites comments on the following questions to assist in refining the scope and clarity of the development and production phases in the product lifecycle, as defined in paragraphs (a) and (b) of § 120.43:

a. The Department considered using Technology Readiness Levels (TRLs) and DoD Acquisition Milestones; however, they only generally align with the development and production phases and the definitions apply broadly outside of DoD acquisitions. For example, in DoD Major Capability Acquisitions, the Milestone C decision generally aligns with the decision to enter into the Production and Deployment Phase; however, for the purposes of the ITAR, the Milestone C decision does not necessarily indicate the end of the development phase. The end of the development phase, for the purposes of the ITAR, is more aligned with entrance into Full Rate Production or equivalent production at scale. To what extent would you find an accompanying note to the definitions beneficial, if it only identifies general DoD TRL or milestone alignments (and is thus not determinative)?

b. Do you believe the proposed definitions provide sufficient clarity for applicability or would other types of references be useful in the definition or explanatory notes? For example, do they sufficiently address the continuous integration and continuous deployment (CI/CD) or custom-build contexts?

c. Are there any other product lifecycle scenarios you believe these definitions do not fully address or incorrectly address?

6. Proposed paragraph (b) of § 120.35 is intended to relocate and more clearly identify the provision in § 120.31(b) that “basic marketing information on function or purpose or general system descriptions” is excluded from the definition of a defense article, with no change in scope. The Department welcomes suggestions on ways to further enhance clarity of the proposed paragraph (b) of § 120.35 and any perceived change in scope from the existing text.

7. Are there commodities, services, or technical data closely related to the proposed revisions that warrant ITAR control, but are currently either not described on the USML, or not described with sufficient clarity? If so, please provide examples and a concise explanation.

8. Are there specific commodities, services, or technical data described on the USML following these proposed revisions that are, or have previously been, in normal commercial use, that were previously removed from the USML, or that were previously determined not to be subject to the ITAR via a commodity jurisdiction determination issued pursuant to § 120.12? If so, please include supporting documentation.

9. Are there specific commodities, services, or technical data described on the USML following these proposed revisions for which civil use is proposed, intended, or anticipated in the next five years? Please include supporting documentation and a point of contact familiar with the details.

10. Are there specific articles or services described on the USML following these proposed revisions with such widespread foreign availability that they, and their directly related technical data and defense services, do not provide a critical military or intelligence advantage? Please include supporting documentation and a point of contact familiar with the details.

11. Are there specific functions, performance levels, or characteristics related to these proposed revisions that could better:

a. Distinguish between the commodities that do, and do not, warrant ITAR control;

b. Delineate the criteria for control, in lieu of using the term “specially designed”; or

c. Align with the constructions or language used in other USML entries?

12. Can any of these revisions be more concisely stated?

13. Are these revisions unclear to you in any way? For example, please identify any:

a. Terms that you find ambiguous in definition or context; or

b. Constructions or regulatory text that varies from existing USML paragraphs.

14. Are there other technical issues directly related to these paragraphs which you believe the Department should address in future rulemaking?

Comment Submission Instructions

Include the Regulatory Information Number (RIN) (1400-AF40) or agency name and docket number for all submissions related to this rule. Parties who wish to comment anonymously may do so by submitting their comments via www.regulations.gov, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Commenters are cautioned not to include proprietary, export-controlled, or other sensitive information that they are not comfortable making public in their comments. If such information would provide useful insight to the comment, (1) assemble that information in a separate document with proprietary markings; (2) include “Proprietary supplement on file with: [provide Point of Contact]” as the first line in the body of the email submission; (3) submit the public portion of the comment via email; and (4) call DDTC at (202) 663-1282 to coordinate submission of the proprietary supplement.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from the rulemaking requirements of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as it involves a military or foreign affairs

function of the United States. Nevertheless, and without prejudice to this determination, the Department elects to seek public comment on this rule.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563, directs 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, distributed 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. The Department specifically welcomes public comment on the impact, including costs and benefits, of this rule.

After review by the Office of Management and Budget (OMB), this rule has been deemed a significant regulatory action.

This rule was undertaken pursuant to a statutory directive to periodically review the items on the USML. The Department generally determines which items warrant addition to, or removal from, the USML by assessing whether each provides a critical military or intelligence advantage based on national security and foreign policy considerations. Because the costs and benefits of changing what is controlled focus on the effect or utility of the item or service, rather than its market prevalence or economic value, quantitative analyses cannot be usefully estimated and are not available, particularly since the global prevalence or availability of the item or service are not known. Moreover, the Department does not have useful estimates or models to predict whether or how frequently the items added to the USML by this rule will be applied for export or to which countries, or for temporary import and from which countries. Qualitatively, this rule was assessed for costs and benefits. Because listing individual items or model numbers would necessarily lead to incomplete controls when an item is renamed or slightly modified, the USML contains many descriptive controls that are based on broader characteristics, including form, fit, function, and performance capability. To more accurately describe only what the Department intends to control, and to provide companies and individuals with better certainty, some USML revisions made by this rule are intended to clarify and otherwise improve various entries and to more precisely focus controls. These revisions are also informed by confidential commodity jurisdiction determination and advisory opinion requests submitted by industry. The Department considers common questions and strives to streamline and simplify USML entries based on and consistent with industry's experience parsing the USML.

The Department assesses that the benefits of this rulemaking outweigh any costs, that modifying the USML in this manner is the most cost-effective method to achieve the Department's regulatory objectives on this matter, and that doing so will result in a net reduction of the burden on the regulated community.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Executive Order 14192

This rule is exempt from Executive Order 14192 as it is a regulation issued with respect to a foreign affairs or national security function of the United States.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

List of Subjects

22 CFR Parts 120 and 121

Arms and munitions, Classified information, Exports.

22 CFR Part 123

Arms and munitions, Exports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth above and under the authority of 22 U.S.C. 2778, the Department of State proposes to amend 22 CFR parts 120, 121, and 123, the United States Munitions List, as follows:

PART 120—PURPOSE AND DEFINITIONS

1. The authority citation for part 120 continues to read as follows:

Authority: 22 U.S.C. 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2785, 2794, 2797;
E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

2. Amend § 120.31 by revising paragraph (a) and removing and reserving paragraph (b) to read as follows:

§ 120.31 Defense article.

(a) *Defense article* means, except as noted in § 120.35 of this subchapter, any item or technical data designated in § 121.1 of this subchapter and includes the following:

* * * * *

(b) [Reserved]

* * * * *

3. Amend § 120.32 by revising paragraph (a) to read as follows:

§ 120.32 Defense service.

(a) *Defense service* means, except as noted in § 120.35 of this subchapter:

* * * * *

4. Amend § 120.33 by revising paragraph (a)(1) and adding note 1 to paragraph (a)(1) to read as follows:

§ 120.33 Technical data.

(a) Technical data means for purposes of this subchapter:

(1) Information, other than software as defined in § 120.40(g), that is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles.

Note 1 to paragraph (a)(1): This includes information in any form (e.g., blueprints, drawings, photographs, plans, instructions, or documentation).

* * * * *

5. Add § 120.35 to read as follows:

§ 120.35 Items that are excluded from the U.S. Munitions List.

(a) Commodities, as follows:

(1) End-items, systems, and equipment that are described only in USML paragraphs pursuant to § 120.41(a)(1) and are subsequently modified by removing all properties peculiarly responsible for achieving or exceeding the control criteria in those USML paragraphs; or

(2) [Reserved]

Note 1 to paragraph (a): Certification of an item as “demilitarized” or “DEMIL” by the cognizant DoD agency does not mean that item is no longer described on the USML.

(b) Information, as follows:

(1) Unclassified descriptions of a commodity or software’s functions, or the purpose it serves, that do not convey details on how the functions or purpose are performed; or

(2) Unclassified descriptions of a commodity or software’s performance capabilities that do not convey requirements or specifications.

(c) [Reserved]

6. Amend § 120.41 by revising paragraph (b) to read as follows:

§ 120.41 Specially designed.

* * * * *

(b) For purposes of this subchapter, a part, component, accessory, attachment, or software is not specially designed if it:

(1) Is subject to the EAR pursuant to a commodity jurisdiction determination;

(2) Is, regardless of form or fit, a fastener (e.g., screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washer, spacer, insulator, grommet, bushing, spring, wire, or solder;

(3) Has the same function, performance capabilities, and the same or equivalent form as a commodity or software used in or with a commodity that:

(i) Was in production after leaving development; and

(ii) Is not enumerated on the USML;

(4) Was or is being developed with knowledge that it is or would be for use in or with both defense articles enumerated on the USML and also commodities not on the USML;

(5) Was or is being developed as a general-purpose commodity or software, *i.e.*, with no knowledge for use in or with a particular commodity (e.g., a F/A-18 or HMMWV) or type of commodity (e.g., an aircraft or machine tool);

(6) [Reserved]

(7) Was not described in § 121.1 of this subchapter within the first year after leaving development, and is subsequently used, in the same or equivalent form, in or with a defense article that is described in a USML entry that has a catch-all control on the USML; or

(8) Is, regardless of form or fit, a knob, tire, visible spectrum light bulb, light fixture, analog gauge or indicator, audio selector panel, nameplate, magnetic compass, rheostat, manual electrical switch, solenoid, circuit breaker utilizing solely thermal-magnetic overcurrent protection, fuse, glass preform, latch, hinge, bracket, pneumatic hose, or passenger seat.

Note 1 to paragraph (b): For a defense article not to be specially designed on the basis of paragraph (b)(4), (5), or (7) of this section, documents contemporaneous with its development, in their totality, must establish the elements of paragraph (b)(4), (5), or (7). Such documents may include concept design information, marketing plans, declarations in patent applications, or contracts. Absent such documents, the commodity may not be excluded from being specially designed by paragraph (b)(4), (5), or (7).

Note 2 to paragraph (b): For the purpose of paragraphs (b)(4) and (5) of this section, “knowledge” includes not only the positive knowledge a circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts.

Note 3 to paragraph (b): Items described in paragraph (b)(2) of this section may only have functions described in paragraph (b)(2). Thus, a flange nut (i.e., a nut integrated with a washer) would qualify, whereas a hose connecting bolt (i.e., a bolt with internal piping for fluid transfer) would not. Similarly, items described in paragraph (b)(8) of this section may only have functions described in paragraphs (b)(2) and (8). Thus, a bracket with integrated fasteners is eligible for paragraph (b)(8) of this section, but not paragraph (b)(2). For items meeting paragraph (b)(2), see also paragraph (b)(2) of the EAR definition for specially designed in 15 CFR 734. Coatings and other materials described on the USML remain ineligible for paragraph (b) of this section when applied to items otherwise described in paragraph (b).

7. Amend § 120.42 by revising paragraph (e) to read as follows:

§ 120.42 Form, fit, function, performance capability, equivalent form, enumerated, and catch-all control.

* * * * *

(e) *Equivalent form.* With respect to a commodity, equivalent form means its form has been modified solely for fit purposes.

* * * * *

8. Amend § 120.43 by revising paragraph (a) and (b) to read as follows:

§ 120.43 Development, production, and related terms; Basic and applied research.

(a) *Development* is related to all product life cycle stages prior to full production.

(1) This includes design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, low-rate initial production, design data, the process of transforming design data into a product, configuration design, integration design, and layouts.

(2) Development ends once the functional design decisions, integration, validation, and testing activities are complete, except as provided in paragraph (b)(2) of this section, and the

design is approved for full-rate production, serial production, standardized production, software production release, deployment to production, or other equivalent transfer to full production.

(3) For articles in production, the following development activities do not place the article back in development: activities that would result only in cosmetic changes, or enhancements or improvements in the sustainability, reliability, or maintainability of the article, including those pertaining to quality improvements, cost reduction, or feature enhancements.

(b) *Production* is related to product life cycle activities after completion of development and includes production-focused product engineering, manufacture, integration, assembly, mounting, inspection, testing, quality assurance, and other stages following approval for full production.

(1) This includes serial production, or equivalent, when commodities have passed production readiness testing; have an approved, standardized design ready for full production; and are being or have been produced on an assembly line, or equivalent process, for multiple commodities using an approved, standardized design. If multiple quantities are not planned, such as custom builds, the equivalent is the production run for intended delivery or deployment for intended use. Production does not include runs to validate the manufacturing process.

(2) Articles in production reenter development when they are subjected to development activities that would result in changes to their function or performance capability. Such articles reenter production once the criteria in paragraph (a)(2) of this section are met again. The original version of the article may remain in production while the modified version is in development.

* * * * *

9. Amend § 120.54 by revising paragraph (a)(1) to read as follows:

§ 120.54 Activities that are not exports, reexports, retransfers, or temporary imports.

(a) * * *

(1) Launching a spacecraft, launch vehicle, payload, or other article into or beyond orbit;

PART 121—THE UNITED STATES MUNITIONS LIST

10. The authority citation for part 121 continues to read as follows:

Authority: 22 U.S.C. 2752, 2778, 2797; 22 U.S.C. 2651a; Sec. 1514, Pub. L. 105-261, 112 Stat. 2175; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

11. Amend § 121.1 as follows:

- a. In Category II, revise paragraph (a)(4);
- b. In Category VIII, remove and reserve paragraph (h)(10);
- c. In Category X, revise paragraph (a)(7) and Note 1 to paragraph (a)(7); and
- d. In Category XX, revise paragraph (c).

The revisions and additions read as follows:

§ 121.1 The United States Munitions List

* * * * *

Category II— Guns and Armament

(a) * * *

* (4) Grenade launchers with rifled or removable barrels or tubes; or

* * * * *

Category X—Personal Protective Equipment

(a) * * *

(7) Goggles, spectacles, visors, vision blocks, canopies, or filters for optical sights or viewers, employing other than common broadband absorptive dyes or ultraviolet (UV) inhibitors as a means of protection that meet any of the following:

- (i) Have an optical density greater than 4 and protect against multiple visible laser wavelengths;
- (ii) Protect against thermal flashes associated with nuclear detonations, achieving an optical density greater than 3; or

(iii) Have an optical density greater than 3 and protect against near infrared or ultraviolet laser wavelengths; or

Note 1 to paragraph (a)(7): See paragraphs (d)(2) and (3) of USML Category X for controls on related parts, components, and materials.

* * * * *

Category XX—Submersible Vessels and Related Articles

* * * * *

(c) Parts, components, accessories, attachments, systems, and equipment for articles described in paragraphs (a) and (b) of USML Category XX (MT for launcher mechanisms specially designed for rockets, space launch vehicles, or missiles capable of achieving a range greater than or equal to 300 km), as follows:

* (1) Parts, components, accessories, attachments, systems, and equipment, including tooling and production, testing, or inspection equipment, specially designed for plants or facilities described in paragraph (b)(1) of USML Category XX (see also § 120.5(c) of this subchapter for nuclear related controls);

(2) Systems and equipment, including production, testing, and inspection equipment and tooling, specially designed for articles described in paragraph (a) of USML Category XX, as follows:

(i) Habitability systems (e.g., air purification, air circulation, oxygen generation/supply, temperature and humidity control, or other life-supporting systems);

(ii) Water treatment, distillation, or desalination systems;

(iii) Hulls or superstructures, including support structures therefor;

(iv) Steering and dive plane control systems not otherwise described on the USML;

(v) Weight and balance management systems;

(vi) Emergency and safety systems;

(vii) Communications and identification systems not otherwise described on the USML;

(viii) Systems and equipment, not otherwise described, specially designed to function at depths exceeding 600 meters;

(ix) Armaments and weapon delivery systems, not otherwise described on the USML (MT for launcher mechanisms specially designed for rockets, space launch vehicles, or missiles capable of achieving a range greater than or equal to 300 km);

(x) Power generation, distribution, and storage systems; or

(xi) Hydraulic and pneumatic systems.

(3) Parts, components, accessories, and attachments specially designed for articles described in paragraphs (b)(2) or (c)(2) of USML Category XX.

* * * * *

PART 123—LICENSES FOR THE EXPORT AND TEMPORARY IMPORT OF DEFENSE ARTICLES

12. The authority citation for part 123 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105-261, 112 Stat. 1920; Sec. 1205(a), Pub. L. 107-228; Sec. 520, Pub. L. 112-55; Section 1261, Pub. L. 112-239; E.O. 13637, 78 FR 16129.

13. Add § 123.26 to read as follows:

§ 123.26 Temporary export for servicing or repair of foreign defense articles.

Exemption for temporary export. A license is not required for the temporary export of an unclassified foreign defense article when the export is solely for the purpose of servicing, inspecting, testing, calibrating, repairing, overhauling, upgrading, reconditioning, or one-to-one replacement of a defective item by the original equipment manufacturer (OEM) or its authorized service provider.

* * * * *

Thomas G. DiNanno,

Under Secretary for Arms Control and International Security,
Department of State.

[FR Doc. 2026-20079 Filed: 9/30/2026 8:45 am; Publication Date: 10/1/2026]