Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

9. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6—Sensors and Lasers,” add a new ECCN 6E619 between ECCNs 6E202 and 6E990 to read as follows:

6E619 “Technology” “required” for the “development,” “production,” operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 6E619 or “software” controlled by 6E619.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s) (see Supp. No. 1 to Part 738)

<table>
<thead>
<tr>
<th>NS applies to entire entry.</th>
<th>RS applies to entire entry.</th>
<th>AT applies to entire entry.</th>
<th>UN applies to entire entry.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NS Column 1.</td>
<td>RS Column 1.</td>
<td>AT Column 1.</td>
<td>See § 746.1(b) for UN controls.</td>
</tr>
</tbody>
</table>

License Exceptions

CIV: N/A

TSR: N/A

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 6E619.

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated or otherwise described in USML Category XVIII are subject to the ITAR (See 22 CFR 121.1, Category XVIII(f)).

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

Dated: June 9, 2015.

Kevin J. Wolf,
Assistant Secretary for Export Administration.

[FR Doc. 2015–14474 Filed 6–16–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF STATE

22 CFR Part 121

RIN 1400–AD03

[Public Notice: 9166]

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Categories XIV and XVII

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: As part of the President’s Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Categories XIV (toxicological agents, including chemical agents, biological agents, and associated equipment) and XVIII (directed energy weapons) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control on the USML. The revisions contained in this rule are part of the Department of State’s retrospective plan under E.O. 13563 completed on August 17, 2011. The Department of State’s full plan can be accessed at http://www.state.gov/documents/organization/181028.pdf.

DATES: The Department of State will accept comments on this proposed rule until August 17, 2015.

ADDRESSES: Interested parties may submit comments within 60 days of the date of publication by one of the following methods:

- Email: DDTCPublicComments@state.gov
- Internet: At www.regulations.gov, search for this proposed rule by using this rule’s RIN (1400–AD03)

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not wish to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmitted emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at www.pmddtc.state.gov. 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. Comments submitted via www.regulations.gov are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2792; email, DDTCPublicComments@state.gov.

ATTN: ITAR Amendment—USML Categories XIV and XVII.

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, i.e., “defense articles,” are identified on the ITAR’s U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (“EAR,” 15 CFR parts 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to Part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports and reexports. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

Revision of Category XIV

This proposed rule revises USML Category XIV, covering toxicological agents, including chemical agents, biological agents, and associated equipment. The revisions are proposed in order to advance the national security objectives of greater interoperability with U.S. allies, enhancing the defense industrial base, and permitting the U.S. government to focus its resources on transactions of greater concern. Additionally, the revisions are intended to more accurately describe the articles within the subject categories, in order to establish a “bright line” between the USML and the CCL for the control of these articles.

This proposed rule implements changes consistent with the requirements of Executive Order 13546 on Optimizing the Security of Biological Select Agents and Toxins in the United States, which includes direction to address variations in, and limited coordination of, individual executive departments’ and agencies’ oversight that add to the cost and complexity of compliance. It also directs a risk-based tiering of the biological select agent list. As a result, the proposed control language in paragraph (b) adopts the “Tier 1” pathogens and toxins established in the Department of Health and Human Services and the United States Department of Agriculture select agent regulations (42 CFR part 73 and 9 CFR 121) for those pathogens and toxins that meet specific capabilities listed in paragraph (b). The Tier 1 pathogens and toxins that do not meet these capabilities remain controlled in Export Control Classification Number (ECCN) 1C351 or 1C352 on the CCL.

Additionally, this rule, in concert with the analogous proposed rule published by the Department of
Commerce, proposes the movement of riot control agents to the export jurisdiction of the Department of Commerce, as well as the articles covered currently in paragraphs (j), (k), and (l), which include test facilities, equipment for the destruction of chemical and biological agents, and tooling for production of articles in paragraph (f), respectively.

Other changes include the addition of paragraph (a)(5) to control chemical warfare agents “adapted for use in war” and not elsewhere enumerated, as well as the removal of paragraphs (f)(3) and (f)(6) and movement to the CCL of equipment for the sample collection and decontamination or remediation of chemical agents and biological agents. Paragraph (f)(5) for collective protection was removed and partially combined in (f)(4) or the CCL. Proposed paragraph (g) enumerates antibodies, recombinant protective antigens, polynucleotides, biopolymers, or biocatalysts exclusively funded by a Department of Defense contract for detection of the biological agents listed in paragraph (b)(1)(ii).

The Department notes that the controls in paragraph (f)(2) that include the phrase “developed under a Department of Defense contract or other funding authorization,” do not apply when the Department of Defense acts solely as a servicing agency for a contract on behalf of another agency of the U.S. government.

The Department notes that the controls in paragraphs (g)(1) and (h) that include the phrase “exclusively funded by a Department of Defense contract” do not apply when the Department of Defense acts solely as a servicing agency for a contract on behalf of another agency of the U.S. government, or, for example, in cases where the Department of Defense provides initial funding for the development of an item but another agency of the U.S. government provides funding to further develop or adapt the item.

Proposed paragraph (h) enumerates certain vaccines funded exclusively by the Department of Defense, as well as certain vaccines controlled in (h)(2) that are specially designed for the sole purpose of protecting against biological agents and biologically derived substances identified in (b). Thus, the scope of vaccines controlled in (h)(2) is circumscribed by the nature of funding, the satisfaction of the term “specially designed” as that term is defined in ITAR § 120.41, and the limitations in (b) that control only those biological agents and biologically derived substances meeting specific criteria. In evaluating the scope of this control, please note that the Department offers a decision tool to aid exporters in determining whether a defense article meets the definition of “specially designed.” This tool is available at http://www.pmddtc.state.gov/licensing/dt_SpeciallyDesigned.htm.

Proposed revised paragraph (i) is updated to provide better clarity on the scope of the control by including examples of Department of Defense tools that are used to determine or estimate potential effects of chemical or biological weapons strikes and incidents in order to plan to mitigate their impacts. A new paragraph (x) has been added to USML Category XIV, allowing ITAR licensing on behalf of the Department of Commerce for commodities, software, and technology subject to the EAR provided those commodities, software, and technology are to be used in or with defense articles controlled in USML Category XIV and are described in the purchase documentation submitted with the application. The intent of paragraph (x) is not to impose ITAR jurisdiction on commodities, software, and technology subject to EAR controls.

Finally, the rule proposes to only control on the USML chemical or biological agent detectors when they contain Department of Defense reagents, spectra, algorithms, databases, etc.

Revision of Category XVIII

This proposed rule revises USML Category XVIII, covering directed energy weapons. As with USML Category XIV, the revisions are proposed in order to advance the national security objectives set forth above and to more accurately describe the articles within the subject categories, in order to establish a “bright line” between the USML and the CCL for the control of these articles. A change proposed in this rule would revise paragraph (a) to control only those items that satisfy the paragraph’s definition of “directed energy weapon,” which focuses on the sole or primary purpose of the article in order to exclude those items that might achieve the same effect in an incidental, accidental, or collateral manner. The articles controlled currently in paragraphs (c) and (d) would move to the export control jurisdiction of the Department of Commerce.

The remaining paragraphs in this category would undergo conforming changes to bring their structures into alignment with the analogous provisions found in other revised USML categories.

Request for Comments

The proposed revisions to the USML will control items in normal commercial use and on the Wassenaar Arrangement’s Dual Use List. The Department welcomes the assistance of users of the lists and requests input on the following:

(1) A key goal of this rulemaking is to ensure the USML and the CCL together control all the items that meet Wassenaar Arrangement commitments embodied in Munitions List Categories 7 (WA–ML7) and 19 (WA–ML19). The public is therefore asked to identify any potential lack of coverage brought about by the proposed rules for Categories XIV and XVIII contained in this proposed rule and the new Category 1 and Category 6 ECCNs published separately by the Department of Commerce when reviewed together.

(2) Another key goal of this rulemaking is to identify items proposed for control on the USML or the CCL that are not controlled on the Wassenaar Arrangement’s Munitions or Dual Use List. The public is therefore asked to identify any potential expansion of coverage brought about by the proposed rules for Categories XIV and XVIII contained in this proposed rule and the new Category 1 and Category 6 ECCNs published separately by the Department of Commerce when reviewed together.

(3) A third key goal of this rulemaking is to establish a “bright line” between the USML and the CCL for the control of these materials. The public is asked to provide specific examples of toxicological agents, including chemical agents, biological agents, and associated equipment, as well as directed energy weapons, whose jurisdiction would be in doubt based on this revision. The public is also asked to comment on whether there is a sufficiently clear line drawn between the biological items proposed for control by USML Category XIV(b) and those proposed for control under the CCL.

(4) Although the proposed revisions to the USML do not preclude the possibility that items in normal commercial use would or should be ITAR-controlled because, e.g., they provide the United States with a critical military or intelligence advantage, the U.S. government does not want to inadvertently control items on the ITAR that are in normal commercial use. Items that would be controlled on the USML in this proposed rule have been identified as possessing parameters or characteristics that provide a critical military or intelligence advantage. The public is thus asked to provide specific examples of items, or associated technical data, if any, that would be controlled in the revised USML Categories XIV or XVIII that are now in normal commercial use, or that are...
controls on certain civilian and public
health equipment containing the items
listed in paragraph (f)(2). Accordingly,
as proposed, paragraph (f)(2) may
clearance detection equipment that may
not warrant ITAR control, but contains
items that are fully or partially Defense-
funded. The Department requests
comment from the public, including
specific examples of equipment that the
public believes may be unintentionally
controlled by this text by virtue of
Defense funding.
In addition, the Department
acknowledges that some members of
the public may not be able to comment
meaningfully on this matter because
they lack full awareness of items that
have previously been fully or partially
developed under Defense funding. To
the extent that commenters require
specific additional information about
the scope of Defense funding in certain
contexts, the Department requests
that commenters identify any relevant gaps
in knowledge.

Regulatory Analysis and Notices

Administrative Procedure Act
The Department of State is of the
opinion that controlling the import and
export of defense articles and services is
a foreign affairs function of the United
States Government and that rules
implementing this function are exempt
from sections 553 (Rulemaking) and 554
(Adjudications) of the Administrative
Procedure Act. Although the
Department is of the opinion that this
rule is exempt from the rulemaking
provisions of the APA, the Department is
publishing this rule with a 60-day
provision for public comment and
without prejudice to its determination
that controlling the import and export of
defense services is a foreign affairs
function. As noted above, and also
without prejudice to the Department
position that this rulemaking is not
subject to the APA, the Department
previously published a related Advance
Notice of Proposed Rulemaking (RIN
1400–AC76) on December 10, 2010 (75
FR 76935), and accepted comments for
60 days.

Regulatory Flexibility Act
Since the Department is of the
opinion that this rule is exempt from the
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 proposed amendment 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.

Small Business Regulatory Enforcement
Fairness Act of 1996
This proposed amendment has been
found not to be a major rule within the
meaning of the Small Business
Regulatory Enforcement Fairness Act of
1996.

Executive Orders 12372 and 13132
This proposed amendment will not
have substantial direct effects on the
States, on the relationship between the
national government and the States, or
on the distribution of power and
responsibilities among the various
levels of government. Therefore, in
accordance with Executive Order 13132,
it is determined that this proposed
amendment 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 proposed
amendment.

Executive Order 12866 and 13563
Executive Orders 12866 and 13563
direct agencies to assess all costs and
benefits of available regulatory
alternatives and, if regulation is
necessary, to select regulatory
approaches that maximize net benefits
(including potential economic,
environmental, public health and safety
effects, 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. This rule has been
designated a “significant regulatory
action,” although not economically
significant, under section 3(f) of
Executive Order 12866. Accordingly,
the rule has been reviewed by the Office
of Management and Budget (OMB).

Executive Order 12988
The Department of State has reviewed
the proposed amendment 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.
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, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

Following is a listing of approved collections that will be affected by revision of the U.S. Munitions List (USML) and the Commerce Control List pursuant to the President’s Export Control Reform (ECR) initiative. This rule continues the implementation of ECR. The list of collections and the description of the manner in which they will be affected pertains to revision of the USML in its entirety, not only to the categories published in this rule. In accordance with the Paperwork Reduction Act, the Department of State will request comment on these collections from all interested persons. In particular, the Department will seek comment on changes to licensing burden based on implementation of regulatory changes pursuant to ECR, and on projected changes based on continued implementation of regulatory changes pursuant to ECR. The affected information collections are as follows:

(1) Statement of Registration, DS–2032, OMB No. 1405–0002. The Department estimates that between 3,000 and 5,000 of currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of between 6,000 and 10,000 hours annually, based on a revised time burden of two hours to complete a Statement of Registration.

(2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003. The Department estimates that there will be 35,000 fewer DSP–5 submissions annually following full revision of the USML. This would result in a burden reduction of 35,000 hours annually.

(3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013. The Department estimates that there will be 200 fewer DSP–61 submissions annually following full revision of the USML. This would result in a burden reduction of 100 hours annually.

(4) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023. The Department estimates that there will be 800 fewer DSP–73 submissions annually following full revision of the USML. This would result in a burden reduction of 800 hours annually.

(5) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092. The Department estimates that there will be 2,000 fewer amendment submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually.

(6) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093. The Department estimates that there will be 1,000 fewer agreement submissions annually following full revision of the USML. This would result in a burden reduction of 2,000 hours annually.

(7) Maintenance of Records by Registrants, OMB No. 1405–0111. The requirement to actively maintain records pursuant to provisions of the International Traffic in Arms Regulations (ITAR) will decline commensurate with the drop in the number of persons who will be required to register with the Department pursuant to the ITAR. As stated above, the Department estimates that up to 5,000 of the currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of 100,000 hours annually. However, the ITAR does provide for the maintenance of records for a period of five years. Therefore, persons newly relieved of the requirement to register with the Department may still be required to maintain records.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter 1, Subchapter M, part 121 is proposed to be amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

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


2. Section 121.1 is amended by revising U.S. Munitions List Categories XIV and XVIII to read as follows:

§ 121.1 The United States Munitions List.

Category XIV—Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment

(a) Chemical agents, to include:

(i) Nerve agents, as follows:

(A) O-Alkyl (equal to or less than C10, including cycloalkyl) alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonofluoridates, such as: Sarin (GB); O-Isoptyl methylphosphonofluoridate (CAS 107–44–8) (CWC Schedule 1A); and Soman (GD); O-Pinacolyl methylphosphonofluoridate (CAS 96–64–0) (CWC Schedule 1A);

(B) O-Alkyl (equal to or less than C10, including cycloalkyl) N,N-diaryl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphoramidocyanidates, such as: Tabun (GA); O-Ethyl N,N-dimethylphosphoramidocyanidate (CAS 77–81–6) (CWC Schedule 1A); or

(ii) O-Alkyl (H or equal to or less than C10, including cycloalkyl) S–2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonothiolates and corresponding alkylated and protonated salts, such as: VX (Equally diisopropylaminoethyl methyl phosphonothiolate (CAS 50782–69–9) (CWC Schedule 1A);

(iii) F>-diethylamino)ethyl phosphorothiolate and corresponding alkylated or protonated salts (CAS 78–52–5) (CWC Schedule 2A);

(iv) Vehicant agents, as follows:

(A) Sulfur mustards, such as: 2-Chloroethylchloromethylsulfide (CAS 2625–76–5) (CWC Schedule 1A); Bis(2-chloroethyl)sulfide (HD) (CAS 505–60–2) (CWC Schedule 1A); Bis(2-chloroethylthio)methane (CAS 63839–13–6) (CWC Schedule 1A); 1.2-bis (2-chloroethylthio)ethane (CAS 3563–36–8) (CWC Schedule 1A); 1.3-bis (2-chloroethylthio)-n-propene (CAS 63905–10–2) (CWC Schedule 1A); 1.4-bis (2-chloroethylthio)-n-butane (CWC Schedule 1A); 1.5-bis (2-chloroethylthio)-n-pentane (CWC Schedule 1A); Bis (2-chloroethylthiomethyl)ether (CWC Schedule 1A); Bis (2-chloroethylthio)ether (CAS 63918–89–8) (CWC Schedule 1A);

(ii) Lewisites, such as: 2-Chlorovinyldichloroarsine (CAS 541–25–3) (CWC Schedule 1A); Tris (2-chlorovinyl) arsine (CAS 40334–70–1) (CWC Schedule 1A); Bis (2-chlorovinyl) chloroarsine (CAS 40334–69–8) (CWC Schedule 1A);

(iii) Nitrogen mustards, or their protonated salts, as follows:
(A) HN1: bis (2-chloroethyl) ethylamine (CAS 538–07–8) (CWC Schedule 1A); 
(B) HN2: bis (2-chloroethyl) methylamine (CAS 51–75–2) (CWC Schedule 1A); 
(C) HN3: tris (2-chloroethyl) amine (CAS 555–77–1) (CWC Schedule 1A); or 
(D) Other nitrogen mustards, or their salts, having a propyl, isopropyl, butyl, isobutyl, or tertiary butyl group on the bis(2-chloroethyl) amine base; 

Note 1 to paragraph (a)(3)(iii): Pharmaceutical formulations containing nitrogen mustards or certain reference standards for these formulations are not considered to be chemical agents and are subject to the EAR when: 1) the pharmaceutical is in the form of a final medical product, or 2) the reference standard contains salts of HN2 [bis(2-chloroethyl) methylamine], the quantity to be shipped is 150 milligrams or less, and individual shipments do not exceed twelve per calendar year per end user. 

Note 2 to paragraph (a)(3)(iii): A “final medical product,” as used in this paragraph, is a pharmaceutical formulation that is (1) designed for testing and administration in the treatment of human medical conditions, (2) prepackaged for distribution as a clinical or medical product, and (3) approved by the Food and Drug Administration to be marketed as a clinical or medical product or for use as an “Investigational New Drug” (IND) (see 21 CFR part 312) 

(iv) Ethyldichloroarsine (ED) (CAS 598–14–1); or 
(v) Methylchloroarsine (MD) (CAS 593–89–5); 

(4) Incapacitating agents, such as: 
   (i) 3-Quinuclidinyl benzilate (BZ) (CAS 6581–06–2) (CWC Schedule 2A); 
   (ii) Phosphorylchloroarsine (DA) (CAS 712–48–1); or 
   (iii) Diphenylcyanaroxide (DC) (CAS 23525–22–6); 

(5) Chemical warfare agents not enumerated above adapted for use in war to produce casualties in humans or animals, degrade equipment, or damage crops or the environment. (See the CCL at ECCNs 1C350, 1C355, and 1C395 for control of certain chemicals not adapted for use in war.) 

Note to paragraph (a)(5): “Adapted for use in war” means any modification or selection (such as altering purity, shelf life, dissemination characteristics, or resistance to ultraviolet radiation) designed to increase the effectiveness in producing casualties in humans or animals, degrading equipment, or damaging crops or the environment. 

Note 1 to paragraph (a): Paragraph (a) of this category does not include the following: Cyanogen chloride, Hydrocyanic acid, Chlorine, Carbonyl chloride (Phosgene), Ethyl bromoacetate, Xylyl bromide, Benzyl bromide, Benzyl iodide, Chloroacetone, Chloropicrin (trichloronitromethane), Fluorine, and Liquid pepper. 

Note 2 to paragraph (a): Regarding U.S. obligations under the Chemical Weapons Convention (CWC), refer to Chemical Weapons Convention (CWC) (15 CFR parts 710 through 722). As appropriate, the CWC schedule is provided to assist the exporter. 

*(b) Biological agents and biologically derived substances and genetic elements thereof as follows: 
   (1) Genetically modified biological agents: 
      (i) Having non-naturally occurring genetic modifications which result in an increase in any of the following: 
         (A) Persistence in a field environment (e.g., resistance to oxygen, UV damage, temperature extremes, or arid conditions); or 
         (B) The ability to defeat or overcome standard detection methods, personnel protection, natural or acquired host immunity, or response to standard medical countermeasures; and 
      (ii) Being any micro-organisms/toxins or their non-naturally occurring genetic elements as listed below: 
         (A) Bacillus anthracis; 
         (B) Botulinum neurotoxin producing species of Clostridium; 
         (C) Burkholderia mallei; 
         (D) Burkholderia pseudomallei; 
         (E) Ebola virus; 
         (F) Foot-and-mouth disease virus; 
         (G) Francisella tularensis; 
         (H) Marburg virus; 
         (J) Variola minor virus (Alastrim); 
         (I) Variola major virus (Smallpox virus); 
         (J) Variola minor virus (Alastrim); 
         (K) Yersinia pestis; or 
         (L) Rinderpest virus. 
   (2) Biological agent or biologically derived substances controlled in ECCNs 1C351, 1C352, 1C353, or 1C354: 
      (i) Physically modified, formulated, or produced as any of the following: 
         (A) 1–10 micron particle size; 
         (B) Particle-absorbed or combined with nano-particles; 
         (C) Having coatings/surfactants, or 
         (D) By microencapsulation; and 
      (ii) Meeting the criteria of paragraph (b)(2)(i) of this category in a manner that results in an increase in any of the following: 
         (A) Persistence in a field environment (e.g., resistant to oxygen, UV damage, temperature extremes, or arid conditions); or 
         (B) Dispersal characteristics (e.g., reduce the susceptibility to shear forces, optimize electrostatic charges); or 
         (C) The ability to defeat or overcome standard detection methods, personnel protection, natural or acquired host immunity, or response to standard medical countermeasures. 

Note 1 to paragraph (b): Non-naturally occurring means that the modification has not already been observed in nature, was not discovered from samples obtained from nature, and was developed with human intervention. 

Note 2 to paragraph (b): This paragraph does not control biological agents or biologically derived substances, when these agents or substances have been demonstrated to be attenuated relative to natural pathogenic isolates, and are incapable of causing disease or intoxication of ordinarily affected and relevant species (e.g., humans, livestock, crop plants) due to the attenuation of virulence or pathogenic factors. This paragraph also does not control genetic elements, nucleic acids, or nucleic acid sequences (whether recombinant or synthetic) that are unable to be produced or direct the biosynthesis of infectious or functional forms of the biological agents or biologically derived substances that are capable of causing disease or intoxication of ordinarily affected and relevant species. 

Note 3 to paragraph (b): Biological agents or biologically derived substances that meet both paragraphs (b)(1) and (b)(2) of this category are controlled in paragraph (b)(1). 

*(c) Chemical agent binary precursors and key precursors, as follows: 
   (1) Alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonyldifluorides, such as: 
      (A) Difluorophosphoryl difluoride (CAS 676–49–9) (CWC Schedule 1B); 
      (B) Methylphosphoryl difluoride (CAS 753–59–9) (CWC Schedule 2B); 
   (2) O-Alkyl (H or equal to or less than C10, including cycloalkyl O–2-dialkyl (methyl, ethyl, n-Propyl or isopropyl) aminoethyl alkyl (methyl, ethyl, N-propyl or isopropyl) phosphonite and corresponding alkylated and protonated salts, such as: 
      (A) O-Ethyl-2-diisopropylaminoethyl methylyphosphonite (CAS 57856–11–8) (CWC Schedule 1B); 
      (B) Chlorosarin: O-Isopropyl methylphosphonochloridate (CAS 1445–76–7) (CWC Schedule 1B); 
      (C) Chlorosoman: O-Pinakolyl methylphosphonochloridate (CAS 7040–57–5) (CWC Schedule 1B); or 
      (D) Methylphosphonyldichloride (CAS 676–97–1) (CWC Schedule 2B); Methylphosphonyldichloride (CAS 676–83–5) (CWC Schedule 2B). 
   (d) [Reserved] 
   (e) Defoliants, as follows: 
      (1) 2,4,5-trichlorophenoxyacetic acid (CAS 93–76–5) mixed with 2,4-dichlorophenoxyacetic acid (CAS 94–75–7) (Agent Orange (CAS 39277–47–9)) or 
      (2) Butyl 2-chloro-4-fluorophenoxyacetate (LNF). 

*(f) Equipment or items, as follows: 

17JNP1
(1) Any equipment for the dissemination, dispersion, or testing of items controlled in paragraphs (a), (b), (c), or (e) of this category, as follows:
   (i) Any equipment "specially designed" for the dissemination and dispersion of items controlled in paragraphs (a), (b), (c), or (e) of this category; or
   (ii) Any equipment "specially designed" for testing the items controlled in paragraphs (a), (b), (c), or (e) of this category; or
   (f)(4)(iii) of this category developed under a Department of Defense contract or other funding authorization.

(2) Any equipment containing reagents, algorithms, coefficients, software, libraries, spectral databases, or alarm set point levels developed under a Department of Defense contract or other funding authorization.

Note 1 to paragraph (f)(2): This paragraph does not control items that are (a) determined to be subject to the EAR via a commodity jurisdiction determination (see §120.4 of this subchapter), or (b) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

Note 2 to paragraph (f)(2): Note 1 does not apply to defense articles enumerated on the USML.

Note 3 to paragraph (f)(2): This paragraph is applicable only to those contracts and funding authorizations that are dated [DATE ONE YEAR AFTER DATE OF PUBLICATION OF THE FINAL RULE], or later.

(3) [Reserved]

(4) For individual protection or collective protection against the items controlled in paragraphs (a) and (b) of this category, as follows:
   (i) M53 Chemical Biological Protective Mask or M50 Joint Service General Purpose Mask (JSPM);
   (ii) Filter cartridges containing sorbents controlled in paragraph (f)(4)(iii) of this category;
   (iii) ASZM–TEDA carbon; or
   (iv) Ensembles, garments, suits, jackets, pants, boots, or socks for individual protection, and liners for collective protection that allow no more than 1% breakthrough of GD or no more than 2% of HD;

Note to paragraph (f)(4)(iv): Evaluation is made by applying 10 mg of GD or HD to a 1-inch swatch. Ambient air is directed through the swatch for 24 hours and sampled/tested from the opposite side of the swatch using a gas chromatograph with flame photometric detector (FPD) or pulsed FPD (PFPD) and using sorption/desorption tools to increase sensitivity.

(5) [Reserved]

(6) [Reserved]

(7) Chemical Agent Resistant Coatings that have been qualified to military specifications (MIL–DTL–64159, MIL–C–46168, or MIL–C–53039); or

(8) Any equipment, material, tooling, hardware or test equipment that:
   (i) Is classified;
   (ii) Is manufactured using classified production data; or
   (iii) Is being developed using classified information.

Note to paragraph (f)(8): “Classified” means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government.

(g) Antibodies, recombinant protective antigens, polypeptides, biopolymers, or biocatalysts (including their expression vectors, viruses, plasmids, or cultures of specific cells modified to produce them) as follows:
   (1) When exclusively funded by a Department of Defense contract for detection of the biological agents at paragraph (b)(1)(ii) of this category even if naturally occurring;
   (2) Joint Biological Agent Identification and Diagnostic System (JBAIDS) Freeze Dried reagents listed by JRPD–ASY-No and Description respectively as follows:
      (i) JRPD–ASY–0016 Q-Fever IVD Kit;
      (ii) JRPD–ASY–0100 Vaccinia (Orthopox);
      (iii) JRPD–ASY–0106 Brucella melitensis (Brucellosis);
      (iv) JRPD–ASY–0108 Rickettsia prowazekii (Rickettsia);
      (v) JRPD–ASY–0109 Burkholderia spp. (Burkholderia);
      (vi) JRPD–ASY–0112 Eastern equine encephalitis (EEE);
      (vii) JRPD–ASY–0113 Western equine encephalitis (WEE);
      (viii) JRPD–ASY–0114 Venezuelan equine encephalitis (VEE);
      (ix) JRPD–ASY–0122 Coxiella burnetii (Coxiella);
      (x) JRPD–ASY–0136 Influenza A/H5 IVD Detection Kit;
      (xi) JRPD–ASY–0137 Influenza A/B IVD Detection Kit; or
      (xii) JRPD–ASY–0138 Influenza A Subtype IVD Detection Kit;
      (xiii) Critical Reagent Polymerase (CRP) Chain Reactions (PCR) assay kits with Catalog-ID and Catalog-ID Product respectively as follows:
         (i) PCR–BRU–1FB–B–K Brucella Target 1 FastBlock Master Mix Biotinylated;
         (ii) PCR–BRU–1FB–K Brucella Target 1 FastBlock Master Mix;
         (iii) PCR–BRU–1R–K Brucella Target 1 FastBlock Master Mix;
         (iv) PCR–BURK–2FB–B–K Burkholderia Target 2 FastBlock Master Mix Biotinylated;
         (v) PCR–BURK–2FB–K Burkholderia Target 2 FastBlock Master Mix;
         (vi) PCR–BURK–2R–K Burkholderia Target 2 FastBlock Master Mix;
         (vii) PCR–BURK–3FB–B–K Burkholderia Target 3 FastBlock Master Mix Biotinylated;
         (viii) PCR–BURK–3FB–K Burkholderia Target 3 FastBlock Master Mix;
         (ix) PCR–BURK–3R–K Burkholderia Target 3 LightCycler/RAPID Master Mix;
         (x) PCR–COX–1FB–B–K Coxiella burnetii Target 1 FastBlock Master Mix Biotinylated;
         (xi) PCR–COX–1R–K Coxiella burnetii Target 1 LightCycler/RAPID Master Mix;
         (xii) PCR–COX–2R–K Coxiella burnetii Target 2 LightCycler/RAPID Master Mix;
         (xiii) PCR–OP–1FB–B–K Orthopox Target 1 FastBlock Master Mix Biotinylated;
         (xiv) PCR–OP–1FB–K Orthopox Target 1 FastBlock Master Mix;
         (xv) PCR–OP–1R–K Orthopox Target 1 LightCycler/RAPID Master Mix;
         (xvi) PCR–OP–2FB–B–K Orthopox Target 2 FastBlock Master Mix Biotinylated;
         (xvii) PCR–OP–3R–K Orthopox Target 3 LightCycler/RAPID Master Mix;
         (xix) PCR–RIC–1FB–K Ricin Target 1 FastBlock Master Mix;
         (xx) PCR–RIC–1R–K Ricin Target 1 LightCycler/RAPID Master Mix;
         (xxi) PCR–RIC–2R–K Ricin Target 2 LightCycler/RAPID Master Mix;
         (xxii) PCR–VEE–1R–K Venezuelan equine encephalitis Target 1 LightCycler/RAPID Master Mix;
         (xxiii) PCR–VEE–1FB–B–K Venezuelan equine encephalitis Target 1 LightCycler/RAPID Master Mix;
         (xxiv) Critical Reagent Program Antibodies with Catalog ID and Product respectively as follows:
            (i) AB–AG–RIC Aff. Goat anti-Ricin;
            (ii) AB–ALVG–MAB Anti-Alphavirus Generic Mab;
            (iii) AB–AR–SEB Aff. Rabbit anti-SEB;
            (iv) AB–BRU–M–MAB1 Anti-Brucella melitensis Mab 1;
            (v) AB–BRU–M–MAB2 Anti-Brucella melitensis Mab 2;
            (vi) AB–BRU–M–MAB3 Anti-Brucella melitensis Mab 3;
            (vii) AB–BRU–M–MAB4 Anti-Brucella melitensis Mab 4;
            (viii) AB–CHOL–0139–MAB Anti-V. cholerae 0139 Mab;
            (ix) AB–CHOL–01–MAB Anti-V. cholerae 01 Mab;
            (x) AB–CHOL–0139–MAB Anti-V. cholerae 0139 Mab;
(x) AB–COX–MAB Anti-Coxiella Mab;
(xi) AB–EEE–MAB Anti-EEE Mab;
(xii) AB–G–BRU–A Goat anti-Brucella abortus;
(xiii) AB–G–BRU–M Goat anti-
Brucella melitensis;
(xiv) AB–G–BRU–S Goat anti-Brucella suis;
(xv) AB–G–CHOL–01 Goat anti-
V.cholerae 0:1;
(xvi) AB–G–COL–139 Goat anti-
V.cholerae 0:139;
(xvii) AB–G–DENG Goat anti-Dengue;
(xviii) AB–G–R–IC Goat anti-Ricin;
(xix) AB–G–S–AL–T Goat anti-S. typhi;
(xx) AB–G–SEA Goat anti-SEA;
(xxi) AB–G–SEB Goat anti-SEB;
(xxii) AB–G–SEC Goat anti-SEC;
(xxiii) AB–G–SED Goat anti-SED;
(xxiv) AB–G–SEE Goat anti-SEE;
(xxv) AB–G–SHIG–D Goat anti-
Shigella dysenteriae;
(xxvi) AB–R–BA–PA Rabbit anti-
Protective Antigen;
(xxviii) AB–R–COX Rabbit anti-C.
burnettii;
(xxviii) AB–R–MAB1 Anti-Ricin Mab 1;
(xxix) AB–R–MAB2 Anti-Ricin Mab 2;
(xxx) AB–R–MAB3 Anti-Ricin Mab3;
(xxxi) AB–R–SEB Rabbit anti-SEB;
(xxxii) AB–R–VACC Rabbit anti-
Vaccinia;
(xxxiii) AB–SEB–MAB Anti-SEB Mab;
(xxxiv) AB–SLT2–MAB Anti-Shigella-
like t x2 Mab;
(xxxv) AB–T2T–MAB1 Anti-T2 Mab 1;
(xxvi) AB–T2T–MAB2 Anti-T2
Toxin 2;
(xxxvii) AB–VACC–MAB1 Anti-
Vaccinia Mab 1;
(xxxviii) AB–VACC–MAB2 Anti-
Vaccinia Mab 2;
(xxxix) AB–VACC–MAB3 Anti-
Vaccinia Mab 3;
(xl) AB–VACC–MAB4 Anti-Vaccinia
Mab 4;
(xli) AB–VACC–MAB5 Anti-Vaccinia
Mab 5;
(xlii) AB–VACC–MAB6 Anti-Vaccinia
Mab 6;
(xliii) AB–VEE–MAB1 Anti-VEE Mab
1;
(xliv) AB–VEE–MAB2 Anti-VEE Mab 2;
(xlv) AB–VEE–MAB3 Anti-VEE Mab 3;
(xlvi) AB–VEE–MAB4 Anti-VEE Mab
4;
(xlvii) AB–VEE–MAB5 Anti-VEE Mab
5;
(xlviii) AB–VEE–MAB6 Anti-VEE
Mab 6; or
(xlix) AB–VEE–MAB Anti-VEE
Complex Mab.
(b) Vaccines exclusively funded by a
Department of Defense contract, as
follows:
(1) Recombinant Botulinum Toxin A/
B Vaccine;
(2) Recombinant Plague Vaccine;
(3) Trivalent Filovirus Vaccine; or
(4) Vaccines specially designed for the
sole purpose of protecting against
biological agents and biologically
derived substances identified in
paragraph (b) of this category.

Note to paragraph (b): See ECCN 1A607.k
for military medical countermeasures such as
autoinjectors, combopens, and creams.

(i) Modeling or simulation tools,
including software controlled in
paragraph (m) of this category, for
chemical or biological weapons design,
development, or employment developed
or produced under a Department of
Defense contract or other funding
authorization (e.g., the Department of
Defense’s HPAC, SCIPUFF, and the Joint
Effects Model (JEM)).

(m) Technical data (as defined in
§ 120.10 of this subchapter) and defense
services (as defined in § 120.9 of this
subchapter) directly related to the
defense articles enumerated in
paragraphs (a) through (l) and (n) of
this category; (See § 125.4 of this
subchapter for exemptions).

(n) Developmental countermeasures
or sorbents funded by the Department of
Defense via contract or other funding
authorization:

Note 1 to paragraph (n): This paragraph
does not control countermeasures or sorbents
that are (a) in production, (b) determined to
be subject to the EAR via a commodity
jurisdiction determination (see § 120.4 of
this subchapter), or (c) identified in the
relevant Department of Defense contract or other
funding authorization as being developed for
both civil and military applications.

Note 2 to paragraph (n): Note 1 does not
apply to defense articles enumerated on the
USML, whether in production or
development.

Note 3 to paragraph (n): This paragraph
is applicable only to those contracts and
funding authorizations that are dated [DATE
ONE YEAR AFTER DATE OF PUBLICATION
OF THE FINAL RULE], or later.

(g) Technical data (as defined in
§ 120.10 of this subchapter) and defense
services (as defined in § 120.9 of this
subchapter) directly related to the
defense articles enumerated in
paragraphs (a) through (e) of
this category;

(h)–(w) [Reserved]

(x) Commodities, software, and
technology subject to the EAR (see
§ 120.42 of this subchapter) used in or
with defense articles controlled in this
category.

(c)–(d) [Reserved]

(e) Components, parts, accessories,
attachments, and associated systems or
equipment specially designed for any of
the articles in paragraphs (a) and (b) of
this category.

(f) Developmental directed energy
weapons funded by the Department of
Defense via contract or other funding
authorization;

Note 1 to paragraph (f): This paragraph
does not control directed energy weapons (a)
in production, (b) determined to be subject to the
EAR via a commodity jurisdiction
determination (see § 120.4 of this
subchapter), or (c) identified in the relevant
Department of Defense contract or other
funding authorization as being developed for
both civil and military applications.

Note 2 to paragraph (f): Note 1 does not
apply to defense articles enumerated on the
USML, whether in production or
development.

Note 3 to paragraph (f): This paragraph is
applicable only to those contracts and
funding authorizations that are dated [DATE
ONE YEAR AFTER DATE OF PUBLICATION
OF THE FINAL RULE], or later.

(g) Technical data (as defined in
§ 120.10 of this subchapter) and defense
services (as defined in § 120.9 of this
subchapter) directly related to the
defense articles enumerated in
paragraphs (a) through (e) of
this category;

(h)–(w) [Reserved]

(x) Commodities, software, and
technology subject to the EAR (see
§ 120.42 of this subchapter) used in or
with defense articles controlled in this
category.

Note to paragraph (x): Use of this
paragraph is limited to license applications
DEPARTMENT OF EDUCATION

34 CFR Chapter III

[DOCKET ID ED–2015–OSERS–0069]

Proposed Priority—Rehabilitation Training: Vocational Rehabilitation Workforce Innovation Technical Assistance Center

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

Purpose of Program:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to establish the Workforce Innovation Technical Assistance Center. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2015 and later years. We take this action to provide training and technical assistance (TA) to State vocational rehabilitation (VR) agencies to improve services under the State Vocational Rehabilitation Services program (VR program) and State Supported Employment Services program for individuals with disabilities, including those with the most significant disabilities, and to implement changes to the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), signed into law on July 22, 2014.

Dated: June 3, 2015.

Rose E. Gottemoeller,
Under Secretary, Arms Control and International Security, Department of State.

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

CFDA Number: 84.264G.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to establish the Workforce Innovation Technical Assistance Center. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2015 and later years. We take this action to provide training and technical assistance (TA) to State vocational rehabilitation (VR) agencies to improve services under the State Vocational Rehabilitation Services program (VR program) and State Supported Employment Services program for individuals with disabilities, including those with the most significant disabilities, and to implement changes to the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), signed into law on July 22, 2014.

DATES: We must receive your comments on or before July 17, 2015.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “Are you new to the site?”

Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about the proposed priority, address them to Jerry Elliott, U.S. Department of Education, 400 Maryland Avenue SW., Room 5042, Potomac Center Plaza (PCP), Washington, DC 20202–2800.

Privacy Note: The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments any information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Jerry Elliott. Telephone: (202) 245–7335 or by email: jerry.elliott@ed.gov.

FOR FURTHER INFORMATION CONTACT: Jerry Elliott. Telephone: (202) 245–7335 or by email: jerry.elliott@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific section of the proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the comments in person in Room 5021, 550 12th Street SW., PCP, Washington, DC, 20202–2800, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: Under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by WIOA, the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education) to support projects that provide training, traineeships, and TA designed to increase the numbers of, and improve the skills of, qualified personnel (especially rehabilitation counselors) who are trained to provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities; assist individuals with communication and related disorders; and provide other services authorized under the Rehabilitation Act.


Proposed Priority: This notice contains one proposed priority.

Workforce Innovation Technical Assistance Center, Background: WIOA supersedes the Workforce Investment Act of 1998 and amends the Rehabilitation Act, making major changes that affect the management and performance of the VR program and Supported Employment program. Among the changes are: (a) A requirement that States reserve at least 15 percent of their Federal VR allotment for providing or arranging for the provision of pre-employment transition services to students with disabilities; (b) a requirement that States reserve at least 50 percent of their Federal Supported Employment allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities; (c) a requirement that States provide a 10 percent non-Federal share to match the 50 percent of Supported Employment allotment reserved for the provision of supported employment services to youth with the most significant disabilities; (d) a requirement that VR agencies provide documentation of the completion of certain specified activities to individuals with disabilities, including youth with disabilities, seeking or wanting to maintain employment at a subminimum wage; (e) a heightened emphasis on the achievement of competitive integrated employment by individuals with disabilities; (f) enhanced coordination