

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

15 CFR Parts 734, 738, 740, 742, 743, 744, 772, and 774

[Docket No. 140221170-5728-02]

RIN 0694-AF75

#### Revisions to the Export Administration Regulations (EAR): Control of Fire Control, Laser, Imaging, and Guidance and Control Equipment the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule describes how articles the President determines no longer warrant control under Category XII (Fire Control, Laser, Imaging, and Guidance and Control Equipment) of the United States Munitions List (USML) of the International Traffic in Arms Regulations (ITAR) would be controlled under the Commerce Control List (CCL) of the Export Administration Regulations (EAR) by amending Export Control Classification Number (ECCN) 7A611 and creating new “600 series” ECCNs 7B611, 7D611, and 7E611. In addition, for certain dual-use infrared detection items, this proposed rule would expand controls for certain software and technology, eliminate the use of some license exceptions, revise licensing policy, and expand license requirements for certain transactions involving military end users or foreign military commodities. This proposed rule would also harmonize provisions within the EAR by revising controls related to certain quartz rate sensors and uncooled thermal imaging cameras.

**DATES:** Comments must be received by April 4, 2016.

**ADDRESSES:** You may submit comments by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for this rule using its regulations.gov docket number: BIS-2015-0016

- By email directly to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov). Include RIN 0694-AF75 in the subject line.

- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694-AF75.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding the ECCNs included in this rule, contact Dennis Krepp, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Telephone: 202-482-1309, Email: [Dennis.Krepp@bis.doc.gov](mailto:Dennis.Krepp@bis.doc.gov). For general questions regarding the proposed regulatory changes, contact Steven Emme, Office of the Assistant Secretary for Export Administration, Telephone: 202-482-5491, Email: [Steven.Emme@bis.doc.gov](mailto:Steven.Emme@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

This proposed rule is part of the Administration’s Export Control Reform Initiative (Initiative), the objective of which is to protect and enhance U.S. national security interests. The Initiative began in August 2009 when President Obama directed the Administration to conduct a broad-based review of the U.S. export control system to identify additional ways to enhance national security. The Department of State’s International Traffic in Arms Regulations (ITAR) and its U.S. Munitions List (USML) are being amended to control only the items that provide the United States with a critical military or intelligence advantage or otherwise warrant such controls, and the Export Administration Regulations (EAR) are being amended to control military items that do not warrant USML controls. These changes will enhance national security by (i) improving interoperability of U.S. military forces with allied countries, (ii) strengthening the U.S. industrial base by, among other things, reducing incentives for foreign manufacturers to design out and avoid U.S.-origin content and services, and (iii) allowing export control officials to focus government resources on transactions that pose greater concern.

Pursuant to section 38(f) of the Arms Export Control Act (AECA), the President is obligated to review the USML “to determine what items, if any, no longer warrant export controls under” the AECA. The President must report the results of the review to Congress and wait 30 days before removing any such items from the USML. The report must “describe the nature of any controls to be imposed on that item under any other provision of law.” 22 U.S.C. 2778(f)(1).

Following the structure set forth in the final rule entitled “Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform” (78 FR 22660, April 16, 2013) (“April 16 (initial implementation) rule”), BIS published a proposed rule entitled “Revisions to the Export Administration Regulations (EAR): Control of Fire Control, Range Finder, Optical, and Guidance and Control Equipment the President Determines No Longer Warrant Control Under the United States Munitions List (USML)” (80 FR 25798, May 5, 2015) (“May 5 proposed rule”). That proposed rule was published in conjunction with a proposed rule published by the Department of State’s Directorate of Defense Trade Controls (DDTC) to propose controls for the ITAR’s USML Category XII.

The proposed changes described in this proposed rule and the corresponding changes in the State Department’s proposed amendment to USML Category XII are based, in part, on a review of public comments submitted in response to the May 5 proposed rule. The review of the comments on USML Category XII by the Departments of Commerce, Defense, Homeland Security, and State (hereinafter, “the agencies” or the “interagency review”) focused on identifying those types of articles that provide the United States with a critical military or intelligence capability and that are not currently in normal commercial use. It is the intent of the above agencies that the proposed USML Category XII and corresponding 600 series ECCNs not control items in normal commercial use. Such items should be controlled under existing dual-use controls on the CCL, consistent with the Wassenaar Arrangement List of Dual-Use Goods and Technologies. However, if the proposed entries in

USML Category XII or corresponding 600 series ECCNs include items in normal commercial use, then the public is encouraged to submit comments identifying such entries and examples of commercial items captured by those entries.

To address concerns regarding the sensitivity of certain dual-use items related to infrared detection capability, this proposed rule would add restrictions to the export or reexport of several sensors and cameras, and related software and technology, that provide important night vision capability for military use but are also widely used in civil products and applications. These proposed restrictions include amending the availability of certain license exceptions, including TSR, APR, and STA; expanding the license requirement in § 744.9 and scope of ECCN 0A919; adding new ECCN 0E987 for the development or production of commodities controlled by 0A987 that incorporate a focal plane array or image intensifier tube; expanding software controls related to items in ECCNs 6A002 and 6A003 by revising ECCNs 6D002, 6D003, and 6D991; and expanding the scope of read-out integrated circuits controlled under ECCN 6A990 and related software and technology in ECCNs 6D991 and 6E990.

This proposed rule would also revise controls pertaining to cameras classified under ECCN 6A993.a as a result of meeting the criteria to Note 3.a to ECCN 6A003.b.4.b (*i.e.*, having a maximum frame rate equal to or less than 9 Hz). The interagency review found that these 9 Hz cameras have been incorporated into foreign military commodities. As a result, this proposed rule would amend § 744.9 to include such 9 Hz cameras and subject them to the license requirements described in that section. Additionally, this proposed rule would create new ECCN 0E987 to control technology required for the development or production of ECCN 0A987 commodities that incorporate a focal plane array or image intensifier tube.

As a result of the interagency review, BIS believes that a limited number of military items, primarily less-sensitive parts and components, should move from USML Category XII to the 600 series entries proposed in this rule. This proposed rule would create (or revise in the case of 7A611) the following “600 series” ECCNs: 7A611, military fire control, laser, imaging, and guidance and control commodities; 7B611, test, inspection, and production commodities “specially designed” for military fire control, laser, imaging, and guidance and control commodities;

7D611, software “specially designed” for the “development,” “production,” operation, or maintenance of commodities controlled by 7A611 or 7B611; and 7E611, technology “required” for the “development,” “production,” operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 7A611 or 7B611, or software controlled by 7D611.

In this proposed rule, all references to the USML are to the list of defense articles that are controlled for the purpose of export or temporary import pursuant to the ITAR, and not to the defense articles on the USML that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of permanent import under its regulations (see 27 CFR part 447). Pursuant to § 38(a)(1) of the AECA, all defense articles controlled for export or import are part of the USML under the AECA. For the sake of clarity, the list of defense articles controlled by ATF for the purpose of permanent import is the United States Munitions Import List (USMIL). The transfer of defense articles from the ITAR’s USML to the EAR’s CCL for the purpose of export controls does not affect the list of defense articles controlled on the USMIL under the AECA for the purpose of permanent import.

BIS intends this proposed rule to be evaluated on its own merits, and the public need not review the May 5 proposed rule to understand this action. Once the public comments on this rule are reviewed and responded to, BIS intends to publish a final rule.

#### Public Comments in Response to the May 5 Proposed Rule

BIS received 60 public comments in response to the May 5 proposed rule. Many of the comments focused on aspects of both the BIS proposed rule and the DDTC proposed rule. Generally, many commenters found that when the May 5 proposed rules used an unambiguous, bright line to delineate jurisdiction, the line was drawn in the wrong place. For many entries on the proposed USML Category XII, commenters found that no military specification or parameters were used to identify items warranting ITAR control. In addition, many commenters asserted that the proposed USML Category XII would capture items currently subject to the EAR, including some items that are currently EAR99. For other entries, commenters said the proposed rules added difficulty in determining jurisdiction. For instance, commenters indicated that new terms introduced to the ITAR in the proposal, such as “core”

and “permanently encapsulated sensor assembly,” added new layers of complexity and confusion to the current controls. In addition, many commenters expressed concerns regarding new proposed controls in the EAR for certain infrared detection items and for the inclusion of certain items in the proposed 600 series entries.

Because of these concerns, one of the most common themes throughout the comments was that the May 5 proposed rules would lead to or further a competitive disadvantage for U.S. companies and research institutions. Commenters stated that many of the items proposed for control under either the proposed USML Category XII or 600 series entries were in normal commercial use and available from non-U.S. sources. To address these concerns, some commenters proposed additional parameters for various entries or recommended the use of “specially designed” in place of attempts to identify positive control parameters.

#### Changes From the May 5 Proposed Rule

To address concerns raised in the public comments and to further harmonize and simplify the EAR, this proposed rule makes a number of changes from the May 5 proposed rule. First, this rule does not propose to amend part 742 to create a new worldwide Regional Stability (RS) control for dual-use items but would maintain a new worldwide RS control for certain military technology in ECCN 7E611.a. All other items described in this proposed rule that are or would be subject to RS controls would generally be subject to an RS Column 1 control, which imposes a license requirement for all destinations except Canada. For items the agencies believe warrant strict control, this proposed rule amends the availability of license exceptions or licensing policy, as described further below.

This proposed rule also does not include controls proposed in the May 5 proposed rule for certain maintenance, repair, or overhaul software or technology related to certain dual-use infrared detection commodities. Such controls, which were proposed in new ECCNs 6D994 and 6E994, would exceed those of the Wassenaar Arrangement, and based on public comments, would likely have resulted in extensive license requirements for purely commercial activities, such as civil automotive repair.

Due to the elimination of the term “permanent encapsulated sensor assembly” as a parameter for determining jurisdiction for focal plane arrays in DDTC’s proposed rule, this

proposed rule also does not include the definition for that term in part 772, as proposed in the May 5 proposed rule. This rule also removes references to that term that were proposed to be included in ECCN 6A002.

With respect to the structure of the 600 series, this proposed rule would create only one set of 600 series ECCNs corresponding to USML Category XII rather than two sets. The May 5 proposed rule included a 6x615 series for military fire control, range finder, and optical items and a 7x611 series for military guidance and control items. In order to simplify controls, this proposed rule would only establish one set of 600 series ECCNs, the 7x611 series, which would correspond to all items proposed for control under USML Category XII.

Additional changes made from the May 5 proposed rule are discussed more fully below.

### **Proposed Revisions To Further Harmonize and Simplify the EAR**

This rule proposes new revisions to the EAR that were not included in the May 5 proposed rule. In order to make the EAR more consistent and easier to apply, this proposed rule would revise various parts of the EAR related to certain QRS-11 sensors and to license requirements related to uncooled thermal imaging cameras.

#### *Proposed Removal of Controls Specific to QRS-11 Sensors*

In 2007, DDTC and BIS published final rules (72 FR 31452 (June 7, 2007); 72 FR 62768 (Nov. 7, 2007)) that moved the licensing jurisdiction for certain QRS-11 quartz rate sensors from the ITAR to the EAR when such sensors were integrated into and included as an integral part of a Commercial Standby Instrument System (or aircraft incorporating such system) or exported solely for integration into such a system. The BIS final rule added certain QRS-11 sensors to ECCN 7A994 and included an RS Column 1 control. In addition, the BIS final rule amended § 734.4 to add certain QRS-11 sensors to the list of items for which there is no *de minimis* level for foreign-made items incorporating such content.

While predating Export Control Reform (ECR), the movement of certain QRS-11 sensors from the ITAR to the EAR reflects many of the rationales for ECR. The sensors, while originally designed for military application, began to be used in civil aircraft prior to the 2007 final rules. Thus, due to application of the see-through rule, State Department authorization would have been required for numerous

exports and reexports involving civil aircraft.

With the advent of ECR, BIS believes that special controls are no longer warranted for certain QRS-11 sensors. Consequently, this proposed rule would remove the RS Column 1 control from ECCN 7A994, along with references to certain QRS-11 sensors in the License Requirements Notes and Related Controls. To the extent that such sensors are not described on the USML (and the agencies do not believe that any of the sensors are described on the revised USML), one would follow the Order of Review in Supplement No. 4 to part 774 to determine whether the sensors may be captured under a 600 series ECCN or under a dual-use ECCN.

This proposed rule would also remove and reserve § 734.4(a)(3), which currently provides that there is no *de minimis* level for certain foreign-made items incorporating certain QRS-11 sensors subject to the EAR. Depending on the classification of the applicable QRS-11 sensor, one would follow the applicable *de minimis* requirements for 600 series items or for non-600 series items. In addition, this proposed rule would remove the restriction on the availability of license exceptions for certain QRS-11 sensors under § 740.2(a)(9), and this proposed rule would remove references to QRS-11 sensors classified under ECCN 7A994 in ECCNs 7E994 (Related Controls) and 9A991 (License Requirement Notes and Related Controls). Finally, this proposed rule would also amend Note 1 in the definition of “specially designed” to remove the reference to ECCN 7A994. With the proposed removal of the RS Column 1 control, 7A994 would only be subject to the Anti-Terrorism reason for control and would not need to be included in Note 1.

#### *Proposed Amendments to License Requirements and License Exception Eligibility for Certain Uncooled Thermal Imaging Cameras Controlled in ECCN 6A003*

On May 22, 2009, BIS published a final rule (74 FR 23941) (“May 2009 final rule”) that revised license requirements and license exception eligibility for certain uncooled thermal imaging cameras in ECCN 6A003. That rule revised ECCN 6A003 and § 742.6 to make the RS Column 1 reason for control inapplicable for certain transactions for a group of countries (now Country Group A:1) if certain uncooled thermal imaging cameras are fully packaged for use as consumer ready civil products or if such cameras with not more than 111,000 elements

are to be embedded in civil products by authorized companies.

While BIS believes that this structure has been useful to address foreign availability concerns regarding uncooled thermal imaging cameras, the different authorization structure established by the May 2009 final rule added complexity to the regulations. Further, BIS believes that with the implementation of License Exception STA, the authorizations described in § 742.6(a)(2)(iii) and (v) are no longer necessary for exports or reexports of certain uncooled thermal imaging cameras in 6A003. Thus, this proposed rule would remove §§ 742.6(a)(2) and (a)(4)(ii). Also, this proposed rule would remove the current distinction in ECCN 6A003 for RS Column 1 and Column 2 controls and subject all items in 6A003 to the RS Column 1 reason for control. BIS acknowledges that this proposal would require a license for certain transactions that currently would not require one, but BIS believes that the use of STA will alleviate concerns regarding this change. BIS welcomes comments on this proposal.

Due to the proposed changes to § 742.6 and ECCN 6A003, this proposed rule would also amend corresponding footnotes (current footnotes 2 and 4) used in the Commerce Country Chart (Supplement No. 1 to part 738). In addition, this proposed rule would amend License Exception APR to remove references in § 740.16(b) to the text proposed for removal in § 742.6. This proposed rule would also amend § 742.4 to remove similar references to text in § 742.6 proposed for deletion. Finally, this proposed rule would remove and reserve § 743.3, which describes the current reporting requirement created by the May 2009 final rule.

### **Proposed Revisions To Increase Controls for Infrared Detection Items Subject to the EAR**

The May 5 proposed rule included a number of proposed revisions to the EAR to address concerns regarding the sensitivity of certain items providing infrared detection capability. This proposed rule includes many of the same proposals, but with some differences noted below. This proposed rule would revise certain controls and policies for infrared detection items and foreign-made military commodities incorporating infrared detection items by amending §§ 734.4, 740.2, 740.16, 740.20, 742.6, and 744.9 of the EAR.

#### *Revisions to Section 734.4 for 0A919 Foreign Military Commodities*

Section 734.4(a)(5) of the EAR currently provides that there is no *de minimis* level for foreign military commodities, as described in ECCN 0A919, that incorporate certain infrared detection items. Since this proposed rule would expand the scope of items controlled under ECCN 0A919, as described further below, § 734.4(a)(5) would also be revised to reflect changes to that ECCN. However, this proposed rule would amend the *de minimis* treatment for 0A919 items incorporating infrared detection content to make them consistent with 0A919 items incorporating 600 series or 9x515 content. Thus, under this proposed rule, there would be no *de minimis* level for foreign-made military commodities described in ECCN 0A919, which incorporate commodities classified under ECCNs 6A002, 6A003, 6A990, or 6A993.a (that meet the criteria of Note 3.a to ECCN 6A003.b.4.b), if the 0A919 commodities are destined for a country in Country Group D:5. When destined for a country outside of Country Group D:5, such 0A919 commodities would be subject to the 25% *de minimis* threshold.

#### *Addition to Section 740.2*

Section 740.2 sets forth restrictions on all license exceptions, and the May 5 proposed rule included a restriction in § 740.2(a)(7) for certain 6E002 production technology for certain infrared detection components in 6A002.a.2 or a.3 as well as for 6E990 technology.

The interagency review re-examined those technologies that warranted additional restrictions under § 740.2. As a result of that review, this proposed rule would increase the scope of technology subject to the restriction by including certain development technology in ECCN 6E001. However, this proposed rule would also narrow the type of technology subject to the restriction to focus on technology related to the most sensitive dual-use focal plane arrays and image intensifier tubes in 6A002 to ensure that the restriction is not overly broad in covering technology related to all dual-use components. Thus, under this proposed rule, § 740.2(a)(7) would apply to 6E001 or 6E002 technology required for the development or production of the following focal plane arrays: photon detector, microbolometer detector, pyroelectric, or multispectral detector infrared focal plane arrays (IRFPAs), described in ECCN 6A002, having a peak response within the wavelength

range exceeding 900 nm but not exceeding 30,000 nm, excluding lead sulfide or lead selenide IRFPAs having a peak response within the wavelength range exceeding 1,000 nm but not exceeding 5,000 nm and not exceeding 16 detector elements. Moreover, § 740.2(a)(7) would apply to 6E001 or 6E002 technology required for the development or production of third generation image intensifier tubes or image intensifier tubes greater than third generation (*e.g.*, EBAPS). Such 6E001 and 6E002 technology would, however, remain eligible for § 740.11(b)(2) of License Exception GOV.

#### *Restrictions on the Use of License Exception APR*

License Exception APR currently authorizes specified reexports of items subject to the EAR by certain countries to specified destinations without individual licenses from BIS. The May 5 proposed rule would increase the number of items ineligible for paragraph (a) of APR by including all items in ECCNs 6A002, 6A003, and 6A990 in the restrictions found in paragraph (a)(2). This proposed rule maintains that proposed change. Similarly, this proposed rule would also add all items in those ECCNs to the scope of items subject to the restriction in paragraph (b)(2) on the use of paragraph (b) of APR. Also, this proposed rule would further revise paragraph (b) of APR, as previously described, with respect to certain uncooled thermal imaging cameras. With the proposed removal of paragraph (b)(3), this proposed rule also revises paragraph (b) by consolidating the list of items ineligible to be reexported under paragraph (b)(1) in one location in paragraph (b)(2).

#### *Restrictions on the Use of License Exception STA*

The EAR currently restricts the use of License Exception STA for specific commodities controlled by ECCNs 6A002, as well as related technology controlled by 6E001 or 6E002, for export or reexport to countries listed in § 740.20(c)(2). The May 5 proposed rule would amend § 740.20(b)(2) to remove License Exception STA availability for additional items related to infrared detection, and this proposed rule largely adopts that proposal. This rule maintains those proposed changes and would make License Exception STA unavailable for the following items: Newly-proposed technology controlled under ECCN 0E987; all commodities controlled under ECCN 6A002 or 6A990; software controlled under ECCN 6D002 for the “use” of commodities

controlled under ECCN 6A002.b; software controlled under ECCN 6D003.c; software controlled under ECCN 6D991 for the “development,” “production,” or “use” of commodities controlled under ECCNs 6A002, 6A003, or 6A990; technology controlled under ECCN 6E001 for the “development” of commodities controlled under ECCNs 6A002 or 6A003; technology controlled under ECCN 6E002 for the “production” of commodities controlled under ECCNs 6A002 or 6A003; and technology controlled under ECCN 6E990.

#### *Revisions to Licensing Policy*

As previously mentioned, this proposed rule does not include the worldwide RS control that was proposed in the May 5 proposed rule. Thus, this proposed rule also does not include the corresponding licensing policy that was proposed in the May 5 proposed rule for § 742.6(b)(1). However, this proposed rule would revise current § 742.6(b)(1) to include new licensing policy for 6E001 or 6E002 technology for the development or production of focal plane arrays or image intensifier tubes described in 6A002, or for 6E990 technology. Such technology would be subject to a presumption of denial for license applications for exports or reexports to countries in Country Group D:5. BIS is proposing this change due to the sensitivity of such technology.

#### *Revisions to End-Use/End-User Controls*

Section 744.9 currently requires a license for the export or reexport to any destination other than Canada for cameras controlled by ECCNs 6A003.b.3, 6A003.b.4.b, or 6A003.b.4.c when the exporter knows or is informed that the item is intended to be used by a “military end-user” or to be incorporated into a “military commodity” controlled by ECCN 0A919, in addition to other applicable license requirements in the EAR.

This proposed rule, like the May 5 proposed rule, would revise § 744.9 to require a license for exports, reexports, or transfers (in-country) of commodities controlled by ECCN 0A987 (incorporating items in ECCNs 6A002 and 6A003, or certain cameras in 6A993.a), ECCN 6A002, ECCN 6A003, ECCN 6A990, ECCN 6A993.a commodities meeting the criteria of Note 3.a to ECCN 6A003.b.4.b, ECCN 8A002.d.1.c, and ECCN 8A002.d.2, when the exporter, reexporter, or transferor knows or is informed that the item is intended to be used by a “military end-user” or to be incorporated into a “military commodity” controlled by ECCN

0A919. Commodities controlled by ECCN 6A993.a as a result of meeting the criteria of Note 3.a to ECCN 6A003.b.4.b are cameras with a maximum frame rate equal to or less than 9 Hz. Although these 9 Hz cameras are subject only to Anti-Terrorism controls, the agencies determined that 9 Hz cameras are used in foreign-made military commodities and thus merited inclusion in § 744.9.

Based on public comments to the May 5 proposed rule, this proposed rule does not include the license requirement for such items if at the time of the export, reexport, or transfer, the person is unable to determine whether the item will be or is intended to be used by a military end user or incorporated into a 0A919 military commodity. Increasing the scope of § 744.9 to include both the unable to determine standard and the license requirement for 9 Hz cameras (which are often low-cost consumer goods sold through distributors or storefronts) would have triggered extensive license requirements due to the inability to determine whether the items would be purchased by military end users. To address concerns with that standard, while still making 9 Hz cameras subject to § 744.9 license requirements, this proposed rule omits the unable to determine standard and would maintain the existing knowledge standard in § 744.9.

#### *Revisions to ECCN 0A919*

ECCN 0A919 currently controls “military commodities” produced and located outside the United States that are not subject to the ITAR, and incorporate one or more cameras controlled under ECCNs 6A003.b.3, 6A003.b.4.b, or 6A003.b.4.c. In addition, ECCN 0A919 controls such “military commodities” if they incorporate more than a *de minimis* amount of U.S.-origin 600 series content or are the direct products of U.S.-origin 600 series technology or software.

To control the reexport of such military commodities that incorporate a wider group of items on the CCL, this proposed rule would revise ECCN 0A919 to control military commodities produced outside the United States that are not subject to the ITAR, and have any of the following characteristics: (i) Incorporate one or more commodities classified under ECCNs 6A002, 6A003, or 6A990; (ii) incorporate one or more commodities controlled under ECCN 6A993.a as a result of meeting the criteria specified in Note 3.a to ECCN 6A003.b.4.b (*i.e.*, having a maximum frame rate equal to or less than 9 Hz); (iii) incorporate more than a *de minimis* amount of U.S.-origin “600 series” controlled content; or (iv) are direct

products of U.S.-origin “600 series” technology or software. This proposed change to ECCN 0A919 mirrors the proposal in the May 5 proposed rule.

#### *Establishment of ECCN 0E987*

As with the May 5 proposed rule, this proposed rule would create a new ECCN for technology required for the “development” or “production” of commodities controlled by ECCN 0A987, if such commodities incorporate a focal plane array or image intensifier tube. ECCN 0E987 would be subject to RS Column 1 and Anti-Terrorism Column 1 controls. In addition, items controlled by 0E987 would not be eligible for License Exception STA.

#### *Revisions to ECCN 6A002*

ECCN 6A002 currently controls specified optical sensors or equipment and components therefor. The Department of State’s proposed rule for Category XII, which is being published concurrently with this rule, proposes the use of “specially designed” for certain focal plane arrays, image intensifier tubes, and other related items that would be subject to the ITAR. Because of that change, this proposed rule does not include references in 6A002 to “permanent encapsulated sensor assembly” or use luminous sensitivity to describe those image intensifier tubes subject to the EAR and controlled under 6A002.

As noted above, this proposed rule does not include the worldwide RS control that was proposed in the May 5 proposed rule. This proposed rule maintains the existing reasons for control and would revise the Related Controls paragraph to include references to controls in USML Category XII, as well as proposed controls in ECCN 0A919 and § 744.9.

#### *Revisions to ECCN 6A003*

ECCN 6A003 currently controls specified cameras, systems or equipment and components therefor. As with the May 5 proposed rule, this proposed rule would add a reference to USML Category XII(c) in the Related Controls paragraph of ECCN 6A003. Also, this rule revises the Related Controls references to ECCN 0A919 and § 744.9 to reflect the expansion of the applicability of those provisions to all of ECCN 6A003.

Due to proposed changes described previously regarding license requirements for certain uncooled thermal imaging cameras in ECCN 6A003, this proposed rule would also revise the applicability of the regional stability control to the ECCN by eliminating the RS Column 2 control

and applying the RS Column 1 control to the entire ECCN. This proposed change would result in requiring a license for certain items in 6A003 that currently may not require a license when exported or reexported to certain destinations. While License Exception STA would be available for many of these transactions, BIS encourages organizations that may be affected by this change to submit public comments, including any quantitative data, on the impact of this proposal.

#### *Revisions to ECCN 6A990*

Under the Department of State’s proposed rule to revise USML Category XII, certain read-out integrated circuits (ROICs) would be controlled under XII(e). ROICs that are “specially designed” for focal plane arrays controlled under ECCN 6A002.a.3 would be classified under ECCN 6A990 and subject to the RS Column 1 reason for control. Unlike the May 5 proposed rule, this proposed rule would also add a note to clarify that ROICs “specially designed” for civil automotive applications would not be controlled under ECCN 6A990. BIS is proposing this note in order to address technological and market developments, and this note parallels a similar carve out in ECCN 6A003.

ROICs classified under 6A990 would not be eligible for License Exception STA and would be subject to the limitations on the use of License Exception APR in § 740.16(a)(2) and (b)(2). This rule also proposes to insert references to Category XII(e), ECCN 0A919, and § 744.9 under the Related Controls paragraph. Also, this rule would allow for the use of License Exception LVS for this ECCN with a \$500 value limit. This change would ensure that controls on ROICs subject to the EAR are not more restrictive than controls for ROICs proposed to be controlled in USML Category XII(e), which would be eligible for the exemption in § 123.16(b)(2) of the ITAR.

#### *Revisions to ECCN 6A993*

As previously mentioned, § 744.9 is proposed to be revised to require a license for 9 Hz cameras if exported to a “military end user” or if incorporated into a “military commodity.” To remind readers of the applicability of § 744.9 and ECCN 0A919 to 9 Hz cameras, this proposed rule would provide a reference to those provisions under the Related Controls paragraph of 6A993.

#### *Revisions to ECCNs 6D002, 6D003, and 6D991*

The Wassenaar Arrangement’s Lists of Dual-Use Goods and Technologies

impose limited controls on software related to commodities controlled under ECCNs 6A002 and 6A003. As a result, the CCL currently has the following multilateral and unilateral software controls related to such items: ECCN 6D002 (software “specially designed” for the “use” of commodities controlled under ECCN 6A002.b), ECCN 6D003.c (software designed or modified for cameras incorporating “focal plane arrays” specified by ECCN 6A002.a.3.f and designed or modified to remove a frame rate restriction and allow the camera to exceed the frame rate specified in ECCN 6A003.b.4 Note 3.a), and ECCN 6D991 (software specially designed for the “use” of commodities controlled under ECCN 6A002.a.1.d).

To address concerns regarding the lack of comprehensive software controls related to commodities controlled under ECCNs 6A002 and 6A003, this proposed rule would consolidate existing, unilateral software controls and would expand them to revise ECCN 6D991 to also control software, not elsewhere specified, that is “specially designed” for the “development,” “production,” or “use” of commodities controlled by ECCNs 6A002 or 6A003. Under this proposed rule, such software would be subject to the RS Column 1 reason for control. Also, this proposed rule would remove eligibility to use License Exception TSR for the software described above in ECCNs 6D002 and 6D003.c.

To prevent confusion over multiple ECCNs potentially controlling the same software, this proposed rule would add language to the Related Controls paragraphs of ECCN 6D991 to confirm that software currently controlled under ECCNs 6D002 and 6D003.c would remain controlled under those provisions. To reflect this understanding, this proposed rule would also revise the Related Controls paragraphs of ECCNs 6D002 and 6D003 to provide references to ECCNs 6D991.

#### *Revisions to ECCNs 6E001 and 6E002*

ECCNs 6E001 and 6E002 currently control “development” and “production” technology, respectively, related to multiple ECCNs in Category 6, including items related to infrared detection in ECCNs 6A002 and 6A003. This proposed rule would remove eligibility for License Exception TSR for all 6E001 or 6E002 technology related to commodities controlled under 6A002 or 6A003, and this proposed rule would add guidance to the Related Controls paragraphs in ECCNs 6E001 and 6E002 to provide clarity on technology controls related to commodities subject to the ITAR.

#### **Proposed Establishment of “600 Series” for Military Fire Control, Laser, Imaging, and Guidance and Control Items Under ECCNs 7A611, 7B611, 7D611, and 7E611**

This proposed rule would establish a “600 series” by revising ECCN 7A611 and adding new ECCNs 7B611, 7D611, and 7E611 for military fire control, laser, imaging, and guidance and control commodities, software, and technology. Categories 6 and 7 of the CCL currently control certain laser, imaging, and guidance and control items. In order to ease understanding and use of this “600 series,” BIS is proposing to consolidate such controls under Category 7 rather than both Categories 6 and 7. However, should readers look for such 600 series items in Category 6, this proposed rule would amend ECCN 6A611 to refer readers to Category 7 to locate the appropriate controls. ECCN 6A611 was added to the CCL by a previously published final rule entitled Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Other Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML), 79 FR 37551 (July 1, 2014). Also, to assist readers in locating controls for navigation and avionics items “specially designed” for a military application, this proposed rule would move the current heading of ECCN 7A611 into the Related Controls paragraph of proposed ECCN 7A611.

Under this proposed “600 series,” ECCN 7A611 would control military fire control, laser, imaging, and guidance and control equipment that would be removed from USML Category XII and that are not covered by an existing ECCN subject to controls for reasons other than Anti-Terrorism (AT) reasons. Due to the increased use of “specially designed” in the proposed USML Category XII and to ensure that no current defense articles are inadvertently decontrolled, ECCN 7A611 would use “specially designed” as the primary control parameter in paragraphs .a through .e, which would control certain guidance, navigation, or control systems; inertial measurement units; accelerometers; gyros or angular rate sensors; or gravity meters (gravimeters). Paragraph .x would control “parts,” “components,” “accessories,” and “attachments” that are “specially designed” for a commodity controlled by ECCN 7A611 (except 7A611.y) or a defense article in USML Category XII and not controlled elsewhere on the USML or in 7A611.y or 3A611.y. All items controlled under

7A611 (excluding 7A611.y) would be controlled for NS, RS, AT, and UN reasons. Paragraph .y would control specific “parts,” “components,” “accessories,” and “attachments” “specially designed” for a commodity subject to control in ECCN 7A611, or a defense article in USML Category XII and not elsewhere specified on the USML or in the CCL, and “parts,” “components,” “accessories,” and “attachments” “specially designed” therefor. No items would be listed in 7A611.y under this proposed rule, but should any items be added, they would be subject to AT controls only.

This proposed rule does not include any of the items enumerated under ECCN 6A615 in the May 5 proposed rule in ECCN 7A611. Due to the increased use of “specially designed” in USML Category XII in the State Department’s corresponding proposed rule, BIS believes that many of the items previously proposed for control under ECCN 6A615 would be controlled under USML Category XII. In addition, after reviewing public comments, BIS believes that many of the items proposed for control under ECCN 6A615.c in the May 5 proposed rule would be adequately captured as dual-use items under ECCN 6C004.

New ECCN 7B611 would impose controls on test, inspection, and production equipment and related commodities “specially designed” for military fire control, laser, imaging, and guidance and control equipment. Paragraph .a would control such equipment “specially designed” for the “development,” “production,” repair, overhaul, or refurbishing of items controlled in ECCN 7A611 (except 7A611.y) or commodities in USML Category XII that are not enumerated in USML Category XII or controlled by a “600 series” ECCN. Paragraph .b would control environmental test facilities “specially designed” for certification, qualification, or testing of commodities controlled in ECCN 7A611 (except 7A611.y) or commodities in USML Category XII that are not enumerated in USML Category XII or a “600 series” ECCN. Paragraph .c would control field test equipment “specially designed” to evaluate or calibrate the operation of systems described in USML Category XII(a), (b), or (c). Paragraphs .d through .w are reserved. Paragraph .x would control parts, components, accessories, and attachments that are “specially designed” for such test, inspection and production equipment that are not enumerated on the USML or controlled by another “600 series” ECCN. Items in ECCN 7B611 would be controlled for NS, RS, AT, and UN reasons.

New ECCN 7D611 would control “software” “specially designed” for the “development,” “production,” operation, or maintenance of commodities controlled by 7A611 or 7B611. Such software would be controlled for NS, RS, AT, and UN reasons. Any software added to 7D611.y would be controlled for AT reasons only.

New ECCN 7E611 would control “technology” “required” for the “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing of items controlled by 7A611, 7B611, or 7D611. Such technology would be controlled for NS, RS, AT, and UN reasons. Any technology added to 7E611.y would be controlled for AT reasons only. As described in proposed § 742.6(a)(8), the RS control would impose a license requirement for exports and reexports of technology in 7E611.a to all destinations, including Canada (all other technology in 7E611, other than 7E611.y, would be subject to an RS Column 1 control). BIS believes that this worldwide RS control would only affect technical data currently controlled in USML Category XII(f) that is not eligible for the Canadian exemption under Supplement No. 1 to part 126 of the ITAR. As described in § 742.6(b)(1), 7E611.a technology would be subject to the same licensing policy as other 600 series items. In addition, License Exception STA would not be available for 7E611.a technology but would be available for technology in 7E611.b or .c for exports or reexports to Country Group A:5.

#### **Proposed Revisions to Other Existing ECCNs**

The May 5 proposed rule included revisions to many existing dual-use ECCNs to provide cross references to controls for similar items subject to the ITAR under the proposed revisions to USML Category XII. This proposed rule includes revisions to the same ECCNs but updates many of the cross references to account for changes since the State Department’s May 5 proposal.

##### *Revisions to ECCN 0A987*

ECCN 0A987 currently controls specified optical sighting devices, and this proposed rule would revise ECCN 0A987.f to specify that the entry controls laser aiming devices or laser illuminators “specially designed” for use on firearms, and having an operational wavelength exceeding 400 nm but not exceeding 710 nm. A proposed note to ECCN 0A987.f would further specify that the entry does not control laser boresighting devices that

must be placed in the bore or chamber to provide a reference for aligning the firearms sights. This proposed rule would also provide jurisdictional guidance in the Related Controls paragraph to more clearly delineate jurisdiction between USML Category XII and ECCN 0A987.

##### *Revisions to ECCN 2A984*

ECCN 2A984 currently controls concealed object detection equipment that operates in the frequency range from 30 GHz to 3000 GHz and has a spatial resolution of 0.5 milliradians up to and including 1 milliradian at a standoff distance of 100 meters. Under the Department of State’s proposed revisions to USML Category XII, certain terahertz imaging systems would be enumerated under USML Category XII(c). Consequently, this proposed rule would add a reference to Category XII(c) in the Related Controls paragraph of ECCN 2A984.

##### *Revisions to ECCN 6A004*

ECCN 6A004 currently controls optical equipment and components, including gimbals meeting a number of parameters, including slew, bandwidth, angular pointing error, diameter, and angular acceleration. The Department of State proposes to control certain gimbals under Category XII(e). To aid in properly determining jurisdiction and classification of gimbals, this proposed rule would amend the Related Controls paragraph of ECCN 6A004 to reference gimbals controlled under USML Category XII(e).

##### *Revisions to ECCN 6A005*

ECCN 6A005 currently controls specified lasers, components and optical equipment. The Department of State’s corresponding proposed rule would control certain laser systems and lasers under USML Category XII(b) and (e), respectively. To aid in properly determining jurisdiction and classification, this proposed rule would revise the Related Controls paragraph of ECCN 6A005 to refer readers back to USML Category XII(b) and (e) for laser systems or lasers subject to the ITAR. Additionally, this proposed rule would add a reference in the Related Controls paragraph to USML Category XVIII for certain laser-based directed energy weapon items.

##### *Revisions to ECCNs 6A007 and 6A107*

ECCNs 6A007 and 6A107 currently control certain gravity meters (gravimeters) and gravity gradiometers. Under the State Department’s proposed rule, certain gravity meters and gravity gradiometers subject to the ITAR would

be controlled under USML Category XII(d). Consequently, this proposed rule would add references to the Related Controls paragraphs of ECCNs 6A007 and 6A107 to refer readers to that paragraph in Category XII. This proposed rule also adds a reference to ECCN 7A611 in the Related Controls paragraphs of those ECCNs.

##### *Revisions to ECCN 6A008*

ECCN 6A008 currently controls radar systems, equipment, and assemblies, including certain laser detection and ranging (LADAR) and light detection and ranging (LIDAR) equipment under ECCN 6A008.j. The Department of State’s proposed rule would control certain LIDAR, LADAR, and range-gated systems in USML Category XII(b). Consequently, this proposed rule would amend the Related Controls paragraph of ECCN 6A008 to add references to those provisions of Category XII.

##### *Revisions to ECCNs 7A001 and 7A101*

ECCNs 7A001 and 7A101 control certain accelerometers. The Department of State’s proposed rule would control certain accelerometers subject to the ITAR under USML Category XII(e). Therefore, this proposed rule would amend the Related Controls paragraphs of ECCNs 7A001 and 7A101 to add references to USML Category XII(d). This proposed rule also adds references to ECCN 7A611 in the Related Controls paragraphs of those ECCNs.

##### *Revisions to ECCNs 7A002 and 7A102*

ECCNs 7A002 and 7A102 control certain gyros or angular rate sensors. Under the State Department’s proposed rule, certain gyros or angular rate sensors would be subject to the ITAR under USML Category XII(e). This proposed rule would amend the Related Controls paragraphs of ECCNs 7A002 and 7A102 to add references to USML Category XII(e). This proposed rule also adds references to ECCN 7A611. For the Related Controls paragraph in ECCN 7A102, this proposed rule would also add references to ECCNs 7A002 and 7A994.

##### *Revisions to ECCN 7A003*

ECCN 7A003 controls inertial measurement equipment or systems. Under the State Department’s proposed rule, certain guidance or navigation systems would be subject to the ITAR under USML Category XII(d). This proposed rule would amend the Related Controls paragraph of ECCN 7A003 to add a reference to that USML entry. Also, this proposed rule would add a reference to ECCN 7A611.

#### Revisions to ECCN 7A005

ECCN 7A005 currently controls specified Global Navigation Satellite Systems (GNSS) receiving equipment. This proposed rule would amend the Related Controls section of ECCN 7A005 to use “GNSS” in place of “GPS” and to provide a reference to GNSS receiving equipment subject to the ITAR under USML Category XII.

#### Revisions to ECCN 8A002

To reflect the expansion of the scope of § 744.9 to apply to 8A002.d.1.c and .d.2 items, this proposed rule would add an additional sentence regarding § 744.9 to the Related Controls paragraph of 8A002.

#### Effects of This Proposed Rule

##### *De minimis*

The April 16 (initial implementation) rule imposed certain unique *de minimis* requirements on items controlled under the new “600 series” ECCNs. Section 734.3 of the EAR provides, *inter alia*, that under certain conditions, items made outside the United States that incorporate items subject to the EAR are not subject to the EAR if they do not exceed a *de minimis* percentage of controlled U.S.-origin content. Under the April 16 (initial implementation) rule, there is no *de minimis* eligibility for “600 series” items destined for countries subject to a U.S. arms embargo, but there is a 25% *de minimis* percentage for “600 series” items destined for all countries not subject to U.S. arms embargoes. The fire control, laser, imaging, and guidance and control items that would be subject to the EAR as a result of this proposed rule would become eligible for *de minimis* treatment, so long as they are not destined for a country subject to a U.S. arms embargo.

##### *Use of License Exceptions*

Unless subject to the restrictions on the use of STA in § 740.20(b)(2), many of the fire control, laser, imaging, and guidance and control items described in this proposed rule would become eligible for several license exceptions, including STA, which would be available for exports to certain government agencies of NATO and other multi-regime allies. The exchange of information and statements required under STA is substantially less burdensome than the license application requirements currently required under the ITAR. Some items covered by this rule also would be eligible for the following license exceptions: LVS (limited value

shipments), up to \$1500, and RPL (servicing and parts replacement).

##### *Alignment With the Wassenaar Arrangement Munitions List (WAML)*

The Administration has stated since the beginning of the Export Control Reform Initiative that the reforms will be consistent with U.S. obligations to the multilateral export control regimes. Accordingly, the Administration will, in this proposed rule, exercise its national discretion to implement, clarify, and, to the extent feasible, align its controls with those of the regimes. USML Category XII encompasses multiple WAML categories, including ML 5 (*e.g.*, fire control and range-finding systems), ML 11 (*e.g.*, “guidance and navigation equipment”), and ML 15 (*e.g.*, imaging equipment). For simplicity, this proposed rule uses one of these categories—ML 11 (“electronic equipment specially designed for military use,” including “guidance and navigation equipment”)—to add items moving from USML Category XII to the new 600 series ECCNs ending in “11.”

#### Request for Comments

BIS seeks comments on this proposed rule. BIS will consider all comments received on or before April 4, 2016. All comments must be in writing and submitted via one or more of the methods listed under the **ADDRESSES** caption to this notice. All comments (including any personal identifiable information or information for which a claim of confidentiality is asserted either in those comments or their transmittal emails) will be available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via [www.regulations.gov](http://www.regulations.gov), leaving the fields for information that would identify the commenter blank, and including no identifying information in the comment itself.

#### Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant

to Executive Order 13222, as amended by Executive Order 13637.

#### Rulemaking Requirements

1. Executive Orders 13563 and 12866 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, distribute 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).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This proposed rule would affect two approved collections: Simplified Network Application Processing + System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

As stated in the proposed rule published on July 15, 2011 (76 FR 41958) (“July 15 proposed rule”), BIS initially believed that the combined effect of all rules to be published adding items to the EAR that will be removed from the ITAR as part of the administration’s Export Control Reform Initiative would increase the number of license applications to be submitted by approximately 16,000 annually. As the review of the USML has progressed, the interagency group has gained more specific information about the number of items that will come under BIS jurisdiction and whether those items would be eligible for export under license exceptions. As of June 21, 2012, BIS revised that estimate to an increase in license applications of 30,000 annually, resulting in an increase in burden hours of 8,500 (30,000 transactions at 17 minutes each) under control number 0694–0088. BIS continues to believe that its revised estimate is accurate.

Some items formerly on the USML would become eligible for License



Exception STA under this rule. As stated in the July 15 proposed rule, BIS believes that the increased use of License Exception STA resulting from the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the Administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 23,858 hours (20,450 transactions at 1 hour and 10 minutes each).

BIS expects that this increase in burden would be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. This proposed rule addresses controls on fire control, laser, imaging, and guidance and control items. With few exceptions, most exports of such items, even when destined to NATO member states and other close allies, require State Department authorization. In addition, the exports of technology necessary to produce such items in the inventories of the United States and its NATO and other close allies require State Department authorizations. Under the EAR, as proposed, such technology that would be subject to the EAR would become eligible for export to NATO member states and other close allies under License Exception STA unless otherwise specifically excluded. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. However, the Administration believes that complying with the requirements of STA is likely less burdensome than applying for licenses. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date, and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship rather than applying repeatedly for licenses with every purchase order to supply reliable customers in countries that are close allies or members of export control regimes or both.

Control number 0694–0137 also includes thermal imaging camera reporting under § 743.3. This proposed rule would remove the reporting requirement in § 743.3. Thus, BIS estimates this elimination would reduce the total annual burden hours in control

number 0694–0137 by 60 hours annually (60 reports at 1 hour each).

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency (or his or her designee) certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that the May 5 proposed rule would not have a significant impact on a substantial number of small entities. The rationale for that certification was set forth in the preamble to that proposed rule. Although BIS received no comments on that rationale, and has accordingly made no changes to the proposed rule based on the RFA certification, BIS has determined that, in the interest of openness and transparency, it will briefly restate the rationale behind the certification here.

This proposed rule is part of the Administration's Export Control Reform Initiative, which seeks to revise the USML to a positive list—one that does not use generic, catch-all controls for items listed—and to move some items that the President has determined no longer merit control under the ITAR to control under the CCL.

Although BIS does not collect data on the size of entities that apply for and are issued export licenses, and is therefore unable to estimate the exact number of small entities—as defined by the Small Business Administration's regulations implementing the RFA—BIS acknowledges that some small entities may be affected by this proposed rule.

The main effects on small entities resulting from this rule will be in application times, costs, and delays in receiving licenses to export goods subject to the CCL. However, while small entities may experience some costs and time delays for exports due to

the license requirements of the CCL, these costs and delays will likely be significantly less than they were for items previously subject to the USML. BIS believes that in fact this rule will result in significantly reduced administrative costs and delays for exports of items that will, upon this rule's implementation, be subject to the EAR rather than the ITAR. Currently, USML applicants must pay to use the USML licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at \$2,250 per year, increase to \$2,750 for organizations applying for one to ten licenses per year and further increases to \$2,750 plus \$250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year. By contrast, BIS is statutorily prohibited from imposing licensing fees. In addition, exporters and reexporters of goods that would become subject to the EAR under this rule would need fewer licenses because their transactions would become eligible for license exceptions that were not available under the ITAR. Additionally, the ITAR controls parts and components even when they are incorporated—in any amount—into a foreign-made product. That limitation on the use of U.S.-made goods subject to the ITAR discouraged foreign manufacturers from importing U.S. goods. However, the EAR has a *de minimis* exception for U.S.-manufactured goods that are incorporated into foreign-made products. This exception may benefit small entities by encouraging foreign producers to use more U.S.-made items in their goods.

Even where an exporter or reexporter would need to obtain a license under the EAR, that process is both cheaper and the process is more flexible than obtaining a license under the ITAR. For example, unlike the ITAR, the EAR does not require license applicants to provide BIS with a purchase order with the application, meaning that small (or any) entities can enter into negotiations or contracts for the sale of goods without having to caveat any sale presentations with a reference to the need to obtain a license under the ITAR before shipment can occur. Second, the EAR allows license applicants to obtain licenses to cover all expected exports or reexports to a particular consignee over the life of a license, rather than having to obtain a new license for every transaction.

In short, BIS expects that the changes to the EAR proposed in this rule will have a positive effect on all affected

entities, including small entities. While BIS acknowledges that this rule may have some cost impacts to small (and other) entities, those costs are more than offset by the benefits to the entities from the licensing procedures under the EAR, which are much less costly and less time consuming than the procedures under the ITAR. Accordingly, the Chief Counsel for Regulation for the Department of Commerce has certified that this rule, if implemented, will not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required, and none has been prepared.

### List of Subjects

#### 15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research science and technology.

#### 15 CFR Part 738

Exports.

#### 15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

#### 15 CFR Part 742

Exports, Terrorism.

#### 15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

#### 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

#### 15 CFR Part 772

Exports.

#### 15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Export Administration Regulations (15 CFR parts 730–774) are proposed to be amended as follows:

### PART 734—[AMENDED]

■ 1. The authority citation for 15 CFR part 734 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015).

- 2. Section 734.4 is amended by:
  - a. Removing and reserving paragraph (a)(3);
  - b. Removing the Note to paragraph (a)(3); and
  - c. Revising paragraph (a)(5) to read as follows:

#### § 734.4 *De minimis* U.S. content.

(a) \* \* \*

(5) There is no *de minimis* level for foreign-made “military commodities” incorporating one or more of the commodities described in ECCN 0A919.a.1 when destined for a country listed in Country Group D:5 of Supplement No. 1 to part 740 of the EAR.

\* \* \* \* \*

### PART 738—[AMENDED]

■ 3. The authority citation for 15 CFR part 738 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

- 4. In Supplement No. 1 to part 738, The Commerce Country Chart, is amended by:
  - a. Removing references to footnote number 2 in the rows for Albania, Cyprus, Malta, and South Africa;
  - b. Removing references to footnote number 4 in the rows for Austria; Cyprus; Finland; Ireland; Korea, South; Malta; South Africa; Sweden; and Switzerland; and
  - c. Removing and reserving footnotes 2 and 4 to the table.

### PART 740—[AMENDED]

■ 5. The authority citation for 15 CFR part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

- 6. Section 740.2 is amended by:
  - a. Removing and reserving paragraph (a)(9), and
  - b. Revising paragraph (a)(7) to read as follows:

#### § 740.2 Restrictions on all License Exceptions.

(a) \* \* \*

(7) With the exception of License Exception GOV (§ 740.11(b)(2)), license exceptions are not available for the following 6E001 or 6E002 technology:

- (i) Technology required for the “development” or “production” of photon detector, microbolometer detector, pyroelectric, or multispectral detector infrared focal plane arrays (IRFPAs), described in ECCN 6A002, having a peak response within the wavelength range exceeding 900 nm but not exceeding 30,000 nm, excluding lead sulfide or lead selenide IRFPAs having a peak response within the wavelength range exceeding 1,000 nm but not exceeding 5,000 nm and not exceeding 16 detector elements; or
- (ii) Technology required for the “development” or “production” of third generation or greater (e.g., EBAPS) image intensifier tubes described in ECCN 6A002.

\* \* \* \* \*

- 7. Section 740.16 is amended by:
  - a. Revising paragraphs (a)(2), (b)(1), and (b)(2), and
  - b. Removing and reserving (b)(3), to read as follows:

#### § 740.16 Additional permissive reexports (APR).

(a) \* \* \*

(2) The commodities being reexported are not controlled for NP, CB, MT, SI or CC reasons and are not military commodities described in ECCN 0A919; commodities described in 3A001.b.2 or b.3 (except those that are being reexported for use in civil telecommunications applications); or commodities described in ECCNs 6A002, 6A003, or 6A990; and

\* \* \* \* \*

(b) \* \* \*

(1) Eligible commodities may be reexported to and among destinations in Country Group A:1 and Hong Kong for use or consumption within a destination in Country Group A:1 (see Supplement No. 1 to part 740) or Hong Kong, or for reexport from such country in accordance with other provisions of the EAR.

(2) Commodities not eligible for reexport under paragraph (b)(1) are:
 

- (i) Commodities controlled for nuclear nonproliferation or missile technology reasons;

(ii) Commodities in 3A001.b.2 or b.3 (except those that are being reexported for use in civil telecommunications applications);

(iii) “Military commodities” described in ECCN 0A919; or

(iv) Commodities described in ECCNs 6A002, 6A003, or 6A990, or commodities described in ECCN 0A987 incorporating an image intensifier tube.

(3) [RESERVED]

\* \* \* \* \*

■ 8. Section 740.20 is amended by revising paragraphs (b)(2)(ii) and (b)(2)(x), to read as follows:

**§ 740.20 License Exception Strategic Trade Authorization (STA).**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) License Exception STA may not be used for any item controlled under ECCNs 0A981, 0A982, 0A983, 0A985, 0E982, or 0E987.

\* \* \* \* \*

(x) License Exception STA may not be used for items controlled by ECCNs 6A002; 6A990; 6D002 (software specially designed for the “use” of commodities controlled under 6A002.b); 6D003.c; 6D991 (software “specially designed” for the “development,” “production,” or “use” of commodities controlled under 6A002, 6A003, or 6A990); 6E001 (“technology” for the “development” of commodities controlled under ECCNs 6A002 or 6A003); 6E002 “technology” (for the “production” of commodities controlled under ECCNs 6A002 or 6A003); or 6E990.

\* \* \* \* \*

**PART 742—[AMENDED]**

■ 9. The authority citation for 15 CFR part 742 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015).

■ 10. Section 742.4 is amended by revising paragraph (a) to read as follows:

**§ 742.4 National security.**

(a) *License requirements.* It is the policy of the United States to restrict the export and reexport of items that would make a significant contribution to the military potential of any other country or combination of countries that would prove detrimental to the national security of the United States. Accordingly, a license is required for exports and reexports to all destinations, except Canada, for all items in ECCNs on the CCL that include NS Column 1 in the Country Chart

column of the “License Requirements” section. A license is required to all destinations except those in Country Group A:1 (see Supplement No. 1 to part 740), for all items in ECCNs on the CCL that include NS column 2 in the Commerce Country Chart column of the “License Requirements” section. The purpose of the controls is to ensure that these items do not make a contribution to the military potential of countries in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) that would prove detrimental to the national security of the United States. License Exception GBS is available for the export and reexport of certain national security controlled items to Country Group B (see § 740.4 and Supplement No. 1 to part 740 of the EAR).

\* \* \* \* \*

■ 11. Section 742.6 is amended by:

- a. Removing and reserving paragraphs (a)(2) and (a)(4)(ii);
- b. Revising the last sentence of paragraph (a)(1);
- c. Adding paragraph (a)(8); and
- d. Revising paragraph (b)(1), to read as follows:

**§ 742.6 Regional stability.**

(a) \* \* \*

(1) \* \* \* Transactions described in paragraph (a)(3) of this section are subject to the RS Column 1 license requirements set forth in that paragraph rather than the license requirements set forth in this paragraph (a)(1).

\* \* \* \* \*

(8) Special worldwide RS license requirement for ECCN 7E611.a. A license is required to export or reexport items described in ECCN 7E611.a to all destinations, including Canada.

\* \* \* \* \*

(b) \* \* \*

(1) Licensing policy for RS Column 1 items and ECCN 7E611.a.

(i) *9x515 and “600 series” ECCNs.* Applications for exports and reexports of 9x515 and “600 series” items will be reviewed on a case-by-case basis to determine whether the transaction is contrary to the national security or foreign policy interests of the United States, including the foreign policy interest of promoting the observance of human rights throughout the world. Other applications for exports and reexports described in paragraph (a)(1), (6), (7), or (8) of this section will be reviewed on a case-by-case basis to determine whether the export or reexport could contribute directly or indirectly to any country’s military capabilities in a manner that would alter or destabilize a region’s military balance contrary to the foreign policy interests

of the United States. Applications for reexports of items described in paragraph (a)(3) of this section will be reviewed applying the policies for similar commodities that are subject to the ITAR. Applications for export or reexport of items classified under any 9x515 or “600 series” ECCN requiring a license in accordance with paragraph (a)(1) or (8) of this section will also be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR if destined to a country set forth in Country Group D:5 in Supplement No. 1 to part 740 of the EAR. Applications for export or reexport of “parts,” “components,” “accessories,” “attachments,” “software,” or “technology” “specially designed” or otherwise required for the F–14 aircraft will generally be denied. When destined to the People’s Republic of China or a country listed in Country Group E:1 in Supplement No. 1 to Part 740 of the EAR, items classified under any 9x515 ECCN will be subject to a policy of denial.

(ii) *Certain infrared detection technology.* Applications for exports and reexports to a country listed in Country Group D:5 (in Supplement No. 1 to part 740 of the EAR) of technology controlled under 6E001 for the development of focal plane arrays or image intensifier tubes described in 6A002, technology controlled under 6E002 for the production of focal plane arrays or image intensifier tubes described in 6A002, or technology controlled under 6E990 will be reviewed with a presumption of denial.

\* \* \* \* \*

**PART 743—[AMENDED]**

■ 12. The authority citation for 15 CFR part 743 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); 78 FR 16129; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 13. Part 743 is amended by removing and reserving § 743.3.

**PART 744—[AMENDED]**

■ 14. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3

CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 21, 2015, 80 FR 3461 (January 22, 2015); Notice of August 7, 2015, 80 FR 48233 (August 11, 2015); Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015).

■ 15. Section 744.9 is amended by revising the heading and paragraphs (a) and (b) to read as follows:

**§ 744.9 Restrictions on certain exports and reexports of certain cameras, systems, or equipment.**

(a) *General prohibitions.* In addition to the applicable license requirements for national security, regional stability, anti-terrorism and United Nations embargo reasons in §§ 742.4, 742.6, 742.8, 746.1(b), and 746.3 of the EAR, a license is required to export, reexport, or transfer (in-country) to any destination other than Canada commodities described in ECCNs 0A987 (incorporating commodities controlled by ECCNs 6A002 or 6A003, or commodities controlled by 6A993.a that meet the criterion of Note 3.a to 6A003.b.4), 6A002, 6A003, 6A990, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criteria of Note 3.a to 6A003.b.4), 8A002.d.1.c, or 8A002.d.2 if at the time of export, reexport, or transfer, the exporter, reexporter, or transferor knows or is informed that the item will be or is intended to be:

(1) Used by a “military end-user,” as defined in paragraph (d) of this section; or

(2) Incorporated into a “military commodity” controlled by ECCN 0A919.

(b) *Additional prohibition on exporters, reexporters, or transferors informed by BIS.* BIS may inform an exporter, reexporter, or transferor, either individually by specific notice or through amendment to the EAR, that a license is required for the export, reexport, or transfer of commodities described in ECCNs 0A987 (incorporating commodities controlled by ECCNs 6A002 or 6A003, or commodities controlled by 6A993.a that meet the criterion of Note 3.a to 6A003.b.4), 6A002, 6A003, 6A990, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criteria of Note 3.a to 6A003.b.4), 8A002.d.1.c, or 8A002.d.2 to specified end users, because BIS has determined that there is an unacceptable risk of diversion to the users or unauthorized incorporation into the “military commodities” described in paragraph (a) of this section. Specific notice is to be given

only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration.

\* \* \* \* \*

**PART 772—[AMENDED]**

■ 16. The authority citations paragraph for part 772 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 17. Section 772.1 is amended by revising the last sentence in Note 1 to the definition of “specially designed,” to read as follows:

**§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).**

\* \* \* \* \*

*Specially designed.*

\* \* \* \* \*

Note 1: \* \* \* For purposes of “specially designed,” ECCNs 0B986, 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999, 6A998 (except for .b), and 9A991 are treated as ECCNs controlled exclusively for AT reasons.

\* \* \* \* \*

**PART 774—[AMENDED]**

■ 18. The authority citations paragraph for part 774 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

**Supplement No. 1 to Part 774 [Amended]**

■ 19. In Supplement No. 1 to part 774, Category 0, ECCN 0A919 is amended by revising the Items paragraph of the List of Items Controlled section to read as follows:

**Supplement No. 1 to Part 774—The Commerce Control List**

\* \* \* \* \*

**0A919 “Military commodities” located and produced outside the United States as follows (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*

*Items:*

a. “Military commodities” produced and located outside the United States that are not subject to the International Traffic in Arms Regulations (22 CFR parts 120–130) and having any of the following characteristics:

a.1. Incorporate one or more commodities classified under ECCNs 6A002, 6A003, 6A990, or 6A993.a (having a maximum frame rate equal to or less than 9 Hz and thus meeting the criterion of Note 3.a to 6A003.b.4);

a.2. Incorporate more than a *de minimis* amount of U.S.-origin “600 series” controlled content (see § 734.4 of the EAR); or

a.3. Are direct products of U.S.-origin “600 series” technology or software (see § 736.2(b)(3) of the EAR).

b. [Reserved]

■ 20. In Supplement No. 1 to part 774, Category 0, ECCN 0A987 is amended by:

■ a. Revising the Related Controls paragraph in the List of Items Controlled section;

■ b. Revising paragraph f. in the Items paragraph in the List of Items Controlled section; and

■ c. Adding a note to 0A987.f, to read as follows:

**0A987 Optical sighting devices for firearms (including shotguns controlled by 0A984); and “components” as follows (See List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

*Related Controls:* (1) Sighting devices operating outside the visible spectrum, as enumerated in USML Category XII, or laser aiming or laser illumination equipment not specified in 0A987.f are subject to the ITAR. (2) Section 744.9 imposes a license requirement on certain commodities described in 0A987 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into an item controlled by ECCN 0A919.

\* \* \* \* \*

*Items:*

\* \* \* \* \*

f. Laser aiming devices or laser illuminators specially designed for use on firearms, and having an operational wavelength exceeding 400 nm but not exceeding 710 nm.

**Note:** 0A987.f does not control laser boresighting devices that must be placed in the bore or chamber to provide a reference for aligning the firearms sights.

\* \* \* \* \*

■ 21. In Supplement No. 1 to part 774, Category 0, add ECCN 0E987 between ECCN 0E984 and EAR99, to read as follows:

**0E987 “Technology” “required” for the “development,” or “production” of commodities controlled by 0A987 that incorporate a focal plane array or image intensifier tube.**

**License Requirements**

*Reason for Control:* RS, AT.

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

RS applies to entire entry. RS Column 1  
 AT applies to entire entry. AT Column 1

**List Based License Exceptions** (See Part 740 for a description of all license exceptions)  
 CIV: N/A  
 TSR: N/A

**List of Items Controlled**

*Related Controls:* N/A  
*Related Definitions:* N/A  
 Items:

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

■ 22. In Supplement No. 1 to part 774, Category 2, ECCN 2A984 is amended by adding Note 4 to the end of the Related Controls paragraph in the List of Items Controlled section, to read as follows:

**2A984 Concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution of 0.5 milliradian up to and including 1 milliradian at a standoff distance of 100 meters; and “parts” and “components,” n.e.s.**

\* \* \* \*

**List of Items Controlled**

*Related Controls:* \* \* \* (4) See USML Category XII(c) for terahertz imaging systems “subject to the ITAR.”

\* \* \* \*

■ 23. In Supplement No. 1 to part 774, Category 6, ECCN 6A002 is amended by:  
 ■ a. Removing the “Special Conditions for STA” section; and  
 ■ b. Revising the Related Controls paragraph in the List of Items Controlled section.

**6A002 Optical sensors and equipment and “components” therefor, as follows (see List of Items Controlled).**

\* \* \* \*

**List of Items Controlled**

\* \* \* \*

*Related Controls:* (1) For focal plane arrays, image intensifier tubes, and related parts and components subject to the ITAR, see USML Category XII(e). (2) See also ECCNs 6A102, 6A202, and 6A992. (3) See ECCN 0A919 for foreign-made military commodities that incorporate commodities described in 6A002. (4) Section 744.9 imposes a license requirement on commodities described in ECCN 6A002 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into an item controlled by ECCN 0A919.

\* \* \* \*

■ 24. In Supplement No. 1 to part 774, Category 6, ECCN 6A003 is amended by:

■ a. Revising the Control(s) table in the License Requirements section;  
 ■ b. Revising notes 4 and 5 in the Related Controls paragraph in the List of Items Controlled section; and  
 ■ c. Adding note 6 to the Related Controls paragraph in the List of Items Controlled section, to read as follows:

**6A003 Cameras, systems or equipment, and “components” therefor, as follows (see List of Items Controlled).**

**License Requirements**

\* \* \* \*

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

NS applies to entire entry. NS Column 2  
 NP applies to cameras controlled by 6A003.a.2, a.3 or a.4 and to plug-ins in 6A003.a.6 for cameras controlled by 6A003.a.3 or a.4. NP Column 1  
 RS applies to entire entry. RS Column 1  
 AT applies to entire entry. AT Column 1  
 UN applies to items controlled in 6A003.b.3 and b.4. See § 746.1(b) for UN controls

\* \* \* \*

**List of Items Controlled**

\* \* \* \*

*Related Controls:* \* \* \* (4) See ECCN 0A919 for foreign made military commodities that incorporate cameras described in 6A003. (5) Section 744.9 imposes a license requirement on cameras described in 6A003 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into a commodity controlled by ECCN 0A919. (6) See USML Category XII(c) for cameras subject to the ITAR.

\* \* \* \*

■ 25. In Supplement No. 1 to part 774, Category 6, ECCN 6A004 is amended by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

**6A004 Optical equipment and “components,” as follows (see List of Items Controlled).**

\* \* \* \*

**List of Items Controlled**

\* \* \* \*

*Related Controls:* (1) For optical mirrors or ‘aspheric optical elements’ “specially designed” for lithography “equipment,” see ECCN 3B001. (2) See USML Category XII(e) for gimbals “subject to the ITAR.” (3) See also 6A994.

\* \* \* \*

■ 26. In Supplement No. 1 to part 774, Category 6, ECCN 6A005 is amended by

revising the Related Controls paragraph in the List of Items Controlled section.

**6A005 “Lasers,” “components” and optical equipment, as follows (see List of Items Controlled), excluding items that are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).**

\* \* \* \*

**List of Items Controlled**

\* \* \* \*

*Related Controls:* (1) See ECCN 6D001 for “software” for items controlled under this entry. (2) See ECCNs 6E001 (“development”), 6E002 (“production”), and 6E201 (“use”) for technology for items controlled under this entry. (3) Also see ECCNs 6A205 and 6A995. (4) See ECCN 3B001 for excimer “lasers” “specially designed” for lithography equipment. (5) “Lasers” “specially designed” or prepared for use in isotope separation are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (6) See USML Category XII(b) and (e) for laser systems or lasers subject to the ITAR. (7) See USML Category XVIII for certain laser-based directed energy weapon systems, equipment, and components subject to the ITAR.

\* \* \* \*

■ 27. In Supplement No. 1 to part 774, Category 6, ECCN 6A007 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

**6A007 Gravity meters (gravimeters) and gravity gradiometers, as follows (see List of Items Controlled).**

\* \* \* \*

**List of Items Controlled**

*Related Controls:* (1) See USML Category XII(d) for certain gravity meters (gravimeters) and gravity gradiometers subject to the ITAR. (2) See also ECCNs 6A107, 6A997, and 7A611.

\* \* \* \*

■ 28. In Supplement No. 1 to part 774, Category 6, ECCN 6A008 is amended by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

**6A008 Radar systems, equipment and assemblies, having any of the following (see List of Items Controlled), and “specially designed” “components” therefor.**

\* \* \* \*

**List of Items Controlled**

\* \* \* \*

*Related Controls:* This entry does not control: Secondary surveillance radar (SSR); Car radar designed for collision prevention; Displays or monitors used for Air Traffic Control (ATC) having no more than 12 resolvable elements per mm; Meteorological (weather) radar. See also ECCNs 6A108 and 6A998. ECCN 6A998 controls, *inter alia*, the Light Detection and

Ranging (LIDAR) equipment excluded by the note to paragraph j of this ECCN (6A008). See USML Category XII(b) for certain LIDAR, Laser Detection and Ranging (LADAR), or range-gated systems subject to the ITAR.

\* \* \* \* \*

■ 29. In Supplement No. 1 to part 774, Category 6, ECCN 6A107 is amended by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

6A107 Gravity meters (gravimeters) or gravity gradiometers, other than those controlled by 6A007, designed or modified for airborne or marine use, as follows, (see List of Items Controlled) and "specially designed" "parts" and "components" therefor.

\* \* \* \* \*

List of Items Controlled

\* \* \* \* \*

Related Controls: See USML Category XII(d) for certain gravity meters (gravimeters) or gravity gradiometers subject to the ITAR. See also ECCN 7A611.

\* \* \* \* \*

■ 30. In Supplement No. 1 to part 774, Category 6, ECCN 6A611 is revised to read as follows:

6A611 Acoustic systems and equipment, radar, and "parts," "components," "accessories," and "attachments" "specially designed" therefor, "specially designed" for a military application that are not enumerated in any USML category or other ECCN are controlled by ECCN 3A611. Military fire control, laser, imaging, and guidance and control equipment that are not enumerated in any USML category or ECCN are controlled by ECCN 7A611.

■ 31. In Supplement No. 1 to part 774, Category 6, ECCN 6A990 is revised to read as follows:

6A990 Read-out integrated circuits, as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS, AT

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

RS applies to entire entry. RS Column 1

AT applies to entire entry. AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: \$500

GBS: N/A

CIV: N/A

List of Items Controlled

Related Controls: (1) See USML Category XII(e) for read-out integrated circuits "subject to the ITAR." (2) See ECCN 0A919 for foreign made military commodities that

incorporate commodities described in 6A990. (3) Section 744.9 imposes a license requirement on commodities described in 6A990 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into a commodity controlled by ECCN 0A919.

Related Definitions: N/A

Items:

a. Read-out integrated circuits "specially designed" for "focal plane arrays" controlled by 6A002.a.3;

Note: 6A990.a does not control read-out integrated circuits "specially designed" for civil automotive applications.

b. [RESERVED]

\* \* \* \* \*

■ 32. In Supplement No. 1 to part 774, Category 6, ECCN 6A993 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

6A993 Cameras, not controlled by 6A003 or 6A203, as follows (see List of Items Controlled).

\* \* \* \* \*

List of Items Controlled

\* \* \* \* \*

Related Controls: (1) See ECCN 0A919 for foreign made military commodities that incorporate cameras described in 6A993.a that meet the criteria specified in Note 3.a to 6A003.b.4.b (i.e., having a maximum frame rate equal to or less than 9 Hz). (2) Section 744.9 imposes license requirements on cameras described in 6A993.a as a result of meeting the criteria specified in Note 3.a to 6A003.b.4.b (i.e., having a maximum frame rate equal to or less than 9 Hz) if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into a commodity controlled by ECCN 0A919.

\* \* \* \* \*

■ 33. In Supplement No. 1 to part 774, Category 6, ECCN 6D002 is amended by:

a. Revising the TSR paragraph in the List Based License Exceptions section; and

b. Revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

6D002 "Software" "specially designed" for the "use" of equipment controlled by 6A002.b, 6A008 or 6B008.

\* \* \* \* \*

List Based License Exceptions (See Part 740 for a description of all license exceptions)

\* \* \* \* \*

TSR: Yes, except N/A for the following: (1) Items controlled for MT reasons; (2) "Software" "specially designed" for the "use" of "space qualified" "laser" radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1; or (3) "Software" "specially designed" for the "use" of commodities controlled by 6A002.b.

List of Items Controlled

\* \* \* \* \*

Related Controls: (1) "Software" "specially designed" for the "use" of "space-qualified" LIDAR "equipment" "specially designed" for surveying or for meteorological observation, released from control under the note in 6A008.j, is controlled in 6D991. (2) See also 6D102, 6D991, and 6D992.

\* \* \* \* \*

■ 34. In Supplement No. 1 to part 774, Category 6, ECCN 6D003 is amended by:

a. Revising the TSR paragraph in the List Based License Exceptions section; and

b. Revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

6D003 Other "software" as follows (see List of Items Controlled).

\* \* \* \* \*

List Based License Exceptions (See Part 740 for a description of all license exceptions)

\* \* \* \* \*

TSR: Yes, except for 6D003.c and exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of "software" for items controlled by 6D003.a.

\* \* \* \* \*

List of Items Controlled

\* \* \* \* \*

Related Controls: See also 6D103, 6D991, and 6D993.

\* \* \* \* \*

■ 35. In Supplement No. 1 to part 774, Category 6, ECCN 6D991 is revised to read as follows:

6D991 "Software," n.e.s., "specially designed" for the "development", "production", or "use" of commodities controlled by 6A002, 6A003, 6A990, 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: RS, AT

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

RS applies to "software" for commodities controlled by 6A002, 6A003, 6A990, or 6A998.b. RS Column 1

RS applies to "software" for commodities controlled by 6A998.c. RS Column 2

AT applies to entire entry, except "software" for commodities controlled by 6A991. AT Column 1

AT applies to "software" for commodities controlled by 6A991. AT Column 2

List Based License Exceptions (See Part 740 for a description of all license exceptions)

CIV: N/A  
TSR: N/A

List of Items Controlled

Related Controls: (1) See ECCN 6D002 for "software" "specially designed" for the "use" of commodities controlled under ECCN 6A002.b. (2) See ECCN 6D003.c for "software" "specially designed" for cameras incorporating "focal plane arrays" specified by 6A002.a.3.f and "specially designed" to remove a frame rate restriction and allow the camera to exceed the frame rate specified in 6A003.b.4 Note 3.a.

Related Definitions: N/A  
Items:

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

- 36. In Supplement No. 1 to part 774, Category 6, ECCN 6E001 is amended by:
■ a. Revising the TSR paragraph in the List Based License Exceptions section; and
■ b. Revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

6E001 "Technology" according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A (except 6A990, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, 6A998, or 6A999.c), 6B (except 6B995), 6C (except 6C992 or 6D993), or 6D (except 6D991, 6D992, or 6D993).

\* \* \* \* \*

List Based License Exceptions (See Part 740 for a description of all license exceptions)

\* \* \* \* \*

TSR: Yes, except for the following: (1) Items controlled for MT reasons; (2) "Technology" for commodities controlled by 6A002, 6A003, 6A004.e or 6A008.j.1; (3) "Technology" for "software" "specially designed" for "space qualified" "laser" radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1 and controlled by 6D001 or 6D002; or (4) Exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of "technology" for the "development" of the following: 6A001.a.1.b, 6A001.a.1.e, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.3, 6A001.a.2.a.5, 6A001.a.2.a.6, 6A001.a.2.b, 6A001.a.2.d, 6A001.a.2.e, 6A004.c, 6A004.d, 6A006.a.2, 6A006.c.1, 6A006.d, 6A006.e, 6A008.d, 6A008.h, 6A008.k, 6B008, 6D003.a; (b) Equipment controlled by 6A001.a.2.c or 6A001.a.2.f when "specially designed" for real time applications; or (c) "Software" controlled by 6D001 and "specially designed" for the "development" or "production" of equipment controlled by 6B008, or 6D003.a.

\* \* \* \* \*

List of Items Controlled

Related Controls: (1) Technical data directly related to satellites and all other items

described in USML Category XV are subject to the ITAR under USML Category XV(f). (2) Technical data directly related to laser systems, infrared imaging systems, and all other items described in USML Category XII are subject to the ITAR under USML Category XII(f). (3) See also 6E101, 6E201, and 6E991.

\* \* \* \* \*

- 37. In Supplement No. 1 to part 774, Category 6, ECCN 6E002 is amended by:

■ a. Revising the TSR paragraph in the List Based License Exceptions section; and

■ b. Revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

6E002 "Technology" according to the General Technology Note for the "production" of equipment or materials controlled by 6A (except 6A990, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, 6A998 or 6A999.c), 6B (except 6B995) or 6C (except 6C992 or 6C994).

\* \* \* \* \*

List Based License Exceptions (See Part 740 for a description of all license exceptions)

\* \* \* \* \*

TSR: Yes, except for the following:

- (1) Items controlled for MT reasons;
(2) "Technology" for commodities controlled by 6A002, 6A003, 6A004.e, 6A008.j.1; or
(3) Exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of "technology" for the "production" of the following: (a) Items controlled by 6A001.a.1.b, 6A001.a.1.e, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.3, 6A001.a.2.a.5, 6A001.a.2.a.6, 6A001.a.2.b, 6A004.c, 6A004.d, 6A006.a.2, 6A006.c.1, 6A006.d, 6A006.e, 6A008.d, 6A008.h, 6A008.k, 6B008; and (b) Items controlled by 6A001.a.2.c and 6A001.a.2.f when "specially designed" for real time applications.

\* \* \* \* \*

List of Items Controlled

Related Controls: (1) Technical data directly related to satellites and all other items described in USML Category XV are subject to the ITAR under USML Category XV(f). (2) Technical data directly related to laser systems, infrared imaging systems, and all other items described in USML Category XII are subject to the ITAR under USML Category XII(f). (3) See also 6E992.

\* \* \* \* \*

- 38. In Supplement No. 1 to part 774, Category 6, ECCN 6E990 is amended by revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

6E990 "Technology" "required" for the "development" or "production" of commodities controlled by ECCN 6A990.

\* \* \* \* \*

List of Items Controlled

Related Controls: Technical data directly related to read-out integrated circuits described in USML Category XII(e) are subject to the ITAR under USML Category XII(f).

\* \* \* \* \*

- 39. In Supplement No. 1 to part 774, Category 7, ECCN 7A001 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

7A001 Accelerometers as follows (see List of Items Controlled) and "specially designed" "components" therefor.

\* \* \* \* \*

List of Items Controlled

\* \* \* \* \*

Related Controls: (1) See USML Category XII(e) for accelerometers subject to the ITAR. (2) See also ECCNs 7A101, 7A611, and 7A994. For angular or rotational accelerometers, see ECCN7A001.b. MT controls do not apply to accelerometers that are "specially designed" and developed as Measurement While Drilling (MWD) sensors for use in downhole well service applications.

\* \* \* \* \*

- 40. In Supplement No. 1 to part 774, Category 7, ECCN 7A002 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

7A002 Gyros or angular rate sensors, having any of the following (see List of Items Controlled) and "specially designed" "components" therefor.

\* \* \* \* \*

List of Items Controlled

Related Controls: (1) See USML Category XII(e) for gyros or angular rate sensors subject to the ITAR. (2) See also ECCNs 7A102, 7A611, and 7A994. For angular or rotational accelerometers, see ECCN 7A001.b.

\* \* \* \* \*

- 41. In Supplement No. 1 to part 774, Category 7, ECCN 7A003 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

7A003 'Inertial measurement equipment or systems,' having any of the following (see List of Items Controlled).

\* \* \* \* \*

List of Items Controlled

Related Controls: See also ECCNs 7A103, 7A611, and 7A994. See USML Category XII(d) for guidance or navigation systems subject to the ITAR.

\* \* \* \* \*

- 42. In Supplement No. 1 to part 774, Category 7, amend ECCN 7A005 by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

7A005 Global Navigation Satellite Systems (GNSS) receiving equipment having any of the following (see List of Items Controlled) and "specially designed" "components" therefor.

\* \* \* \* \*

List of Items Controlled

Related Controls: (1) See also ECCNs 7A105 and 7A994. Typically commercially available GNSS receivers do not employ decryption or adaptive antennas and are classified as 7A994. (2) See USML Category XII(d) for GNSS receiving equipment subject to the ITAR.

\* \* \* \* \*

43. In Supplement No. 1 to part 774, Category 7, ECCN 7A101 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

7A101 Accelerometers, other than those controlled by 7A001 (see List of Items Controlled), and "specially designed" "parts" and "components" therefor.

\* \* \* \* \*

List of Items Controlled

Related Controls: (1) See USML Category XII(e) for accelerometers subject to the ITAR. (2) See also ECCNs 7A001 and 7A611. (3) This entry does not control accelerometers that are "specially designed" and developed as MWD (Measurement While Drilling) sensors for use in downhole well service operations.

\* \* \* \* \*

44. In Supplement No. 1 to part 774, Category 7, ECCN 7A102 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

7A102 Gyros, other than those controlled by 7A002 (see List of Items Controlled), and "specially designed" "parts" and "components" therefor.

\* \* \* \* \*

List of Items Controlled

Related Controls: (1) See USML Category XII(e) for gyros or angular rate sensors subject to the ITAR. (2) See also ECCNs 7A002, 7A611, and 7A994.

\* \* \* \* \*

45. In Supplement No. 1 to part 774, Category 7, ECCN 7A611 is revised to read as follows:

7A611 Military fire control, laser, imaging, and guidance and control equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Table with 2 columns: Control(s), Country chart (see Supp. No. 1 to Part 738). Row 1: NS applies to entire entry except 7A611.y, NS Column 1

Control(s)

Country chart (see Supp. No. 1 to Part 738)

RS applies to entire entry except 7A611.y. AT applies to entire entry. UN applies to entire entry except 7A611.y.

RS Column 1. AT Column 1. See § 746.1(b) for UN controls

List Based License Exceptions

(See Part 740 for a description of all license exceptions) LVS: \$1500 GBS: N/A CIV: 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 7A611.

List of Items Controlled

Related Controls: (1) Military fire control, laser, imaging, and guidance and control equipment that are enumerated in USML Category XII, and technical data (including software) directly related thereto, are subject to the ITAR. (2) Navigation and avionics equipment and systems, and "parts," "components," "accessories," and "attachments" "specially designed" therefor, "specially designed" for a military application that are not enumerated in any USML category or another "600 series" ECCN are controlled by ECCN 3A611. (3) See Related Controls in ECCNs 0A987, 2A984, 6A002, 6A003, 6A004, 6A005, 6A007, 6A008, 7A001, 7A002, 7A003, 7A005, 7A101, and 7A102. (4) See ECCN 3A611 and USML Category XI for controls on countermeasure equipment. (5) See ECCN 0A919 for foreign-made "military commodities" that incorporate more than a de minimis amount of U.S. origin "600 series" controlled content.

Related Definitions: N/A

Items:

- a. Guidance, navigation, or control systems, not elsewhere specified on the USML, that are "specially designed" for a defense article on the USML or for a 600 series item. b. Inertial measurement units (IMUs), not elsewhere specified on the USML, that are "specially designed" for a 600 series item. c. Accelerometers, not elsewhere specified on the USML, that are "specially designed" for a defense article on the USML or for a 600 series item. d. Gyros or angular rate sensors, not elsewhere specified on the USML, that are "specially designed" for a defense article on the USML or for a 600 series item. e. Gravity meters (gravimeters), not elsewhere specified on the USML, that are "specially designed" for a defense article on the USML or for a 600 series item. f. to w. [RESERVED] x. "Parts," "components," "accessories," and "attachments" that are "specially designed" for a commodity enumerated or otherwise described in ECCN 7A611 (except

7A611.y) or a defense article enumerated or otherwise described in Category XII and not elsewhere specified on the USML, in 7A611.y, or 3A611.y.

y. Specific "parts," "components," "accessories," and "attachments" "specially designed" for a commodity subject to control in this ECCN or a defense article in Category XII and not elsewhere specified on the USML or in the CCL, as follows, and "parts," "components," "accessories," and "attachments" "specially designed" therefor: y.1 [RESERVED]

46. In Supplement No. 1 to part 774, Category 7, ECCN 7A994 is revised to read as follows:

7A994 Other navigation direction finding equipment, airborne communication equipment, all aircraft inertial navigation systems not controlled under 7A003 or 7A103, and other avionic equipment, including "parts" and "components," n.e.s.

License Requirements

Reason for Control: AT

Table with 2 columns: Control(s), Country chart (see Supp. No. 1 to Part 738). Row 1: AT applies to entire entry, AT Column 1

License Requirement Notes: (1) Typically commercially available GPS do not employ decryption or adaptive antenna and are classified as 7A994.

List Based License Exceptions

(See Part 740 for a description of all license exceptions) LVS: N/A GBS: N/A CIV: N/A

List of Items Controlled

Related Controls: See 7A005 and 7A105. Related Definitions: N/A Items: The list of items controlled is contained in the ECCN heading.

\* \* \* \* \*

47. In Supplement No. 1 to part 774, Category 7, add a new ECCN 7B611 between ECCNs 7B103 and 7B994, to read as follows:

7B611 Test, inspection, and production commodities "specially designed" for military fire control, laser, imaging, and guidance and control equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Table with 2 columns: Control(s), Country chart (see Supp. No. 1 to Part 738). Row 1: NS applies to entire entry, NS Column 1. Row 2: RS applies to entire entry, RS Column 1. Row 3: AT applies to entire entry, AT Column 1



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

UN applies to entire entry.                      See § 746.1(b) for UN controls

**List Based License Exceptions**

(See Part 740 for a description of all license exceptions)  
 LVS: \$1500  
 GBS: N/A  
 CIV: 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 7B611.

**List of Items Controlled**

*Related Controls:* N/A  
*Related Definitions:* N/A  
*Items:*

a. Test, inspection, and production end items and equipment “specially designed” for the “development,” “production,” repair, overhaul, or refurbishing of commodities controlled in ECCN 7A611 (except 7A611.y) or commodities in USML Category XII that are not enumerated in USML Category XII or “600 series” ECCN.

b. Environmental test facilities “specially designed” for the certification, qualification, or testing of commodities controlled in ECCN 7A611 (except 7A611.y) or guidance and control equipment in USML Category XII that are not enumerated in USML Category XII or “600 series” ECCN.

c. Field test equipment “specially designed” to evaluate or calibrate the operation of systems described in USML Category XII(a), (b), or (c).

d. to w. [RESERVED]  
 x. “Parts,” “components,” “accessories,” and “attachments” that are “specially designed” for a commodity listed in this entry and that are not enumerated on the USML or controlled by another “600 series” ECCN.

■ 48. In Supplement No. 1 to part 774, Category 7, add a new ECCN 7D611 between ECCNs 7D103 and 7D994, to read as follows:

**7D611 “Software” “specially designed” for commodities controlled by 7A611 or equipment controlled by 7B611, as follows (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to Part 738)</i>
NS applies to entire entry except 7D611.y.	NS Column 1
RS applies to entire entry except 7D611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 7D611.y.	See § 746.1(b) for UN controls

**List Based License Exceptions**

(See Part 740 for a description of all 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 software in 7D611.

**List of Items Controlled**

*Related Controls:* “Software” directly related to articles enumerated in USML Category XII is subject of USML paragraph XII(f).

*Related Definitions:*

*Items:*

a. “Software” “specially designed” for the “development,” “production,” operation, or maintenance of commodities controlled by ECCNs 7A611 (except 7A611.y) or 7B611.

b. to x. [RESERVED]

y. Specific “software” “specially designed” for the “development,” “production,” operation, or maintenance of commodities described in 7A611.y.

■ 49. In Supplement No. 1 to part 774, Category 7, add a new ECCN 7E611 between ECCNs 7E104 and 7E994, to read as follows:

**7E611 “Technology” “required” for the “development,” “production,” operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 7A611, commodities controlled by 7B611, or software controlled by 7D611, as follows (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* NS, RS, AT, UN

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to Part 738)</i>
NS applies to entire entry except 7E611.y.	NS Column 1
RS applies to “development” or “production” “technology” in 7E611.a.	A license is required to export and reexport these items to all countries, including Canada. A column specific to this control does not appear on the Commerce Country Chart. (See § 742.6(a)(8)).

RS applies to entire entry except 7E611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 7E611.y.	See § 746.1(b) for UN controls

**List Based License Exceptions**

(See Part 740 for a description of all license exceptions)  
 CIV: N/A  
 TSR: N/A

**Special Conditions for STA**

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for “development” or “production” “technology” in 7E611.a. (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any technology in 7E611.

**List of Items Controlled**

*Related Controls:* Technical data directly related to articles enumerated in USML Category XII are subject to the control of USML Category XII(f).

*Related Definitions:* N/A

*Items:*

a. “Technology” “required” for the “development” or “production” of commodities controlled by ECCNs 7A611.a–.e.

b. “Technology” “required” for the “development” or “production” of commodities or “software” controlled by ECCNs 7A611 (except 7A611.a–.e or .y), 7B611, or 7D611.

c. “Technology” “required” for the operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or “software” controlled by ECCNs 7A611 (except 7A611.y), 7B611, or 7D611 (except 7D611.y).

d. through x. [RESERVED]

y. Specific “technology” “required” for the “production,” “development,” operation, installation, maintenance, repair, or overhaul of commodities or software controlled by ECCNs 7A611.y or 7D611.y.

■ 50. In Supplement No. 1 to part 774, Category 7, ECCN 7E994 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

**7E994 “Technology,” n.e.s., for the “development,” “production,” or “use” of navigation, airborne communication, and other avionics equipment.**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*  
*Related Controls:* N/A  
 \* \* \* \* \*

■ 51. In Supplement No. 1 to part 774, Category 8, ECCN 8A002 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

**8A002 Marine systems, equipment, “parts” and “components,” as follows (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*

*Related Controls:* (1) See also 8A992 and for underwater communications systems, see Category 5, Part I—Telecommunications. (2) See also 8A992 for self-contained underwater breathing apparatus that is not controlled by 8A002 or released for control by the 8A002.q Note. (3) For electronic imaging systems “specially designed” or

modified for underwater use incorporating image intensifier tubes specified by 6A002.a.2.a or 6A002.a.2.b, see 6A003.b.3. (4) For electronic imaging systems “specially designed” or modified for underwater use incorporating “focal plane arrays” specified by 6A002.a.3.g, see 6A003.b.4.c. (5) Section 744.9 imposes a license requirement on commodities described in 8A002.d.1.c or .d.2 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into an item controlled by ECCN 0A919.

\* \* \* \* \*

- 52. In Supplement No. 1 to part 774, Category 9, ECCN 9A991 is amended by:
- a. Removing the License Requirement Notes paragraph in the License Requirements section, and
  - b. Revising the Related Controls paragraph in the List of Items Controlled section to read as follows:

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and “parts” and “components,” n.e.s. (see List of Items Controlled).**

\* \* \* \* \*

**List of Items Controlled**

\* \* \* \* \*

*Related Controls:* N/A

\* \* \* \* \*

Dated: February 11, 2016.

**Kevin J. Wolf,**

*Assistant Secretary of Commerce for Export Administration.*

[FR Doc. 2016–03182 Filed 2–18–16; 8:45 am]

**BILLING CODE 3510–33–P**

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**DEPARTMENT OF STATE**

**22 CFR Part 121**

[Public Notice: 9445]

RIN 1400–AD32

**Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XII**

**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 Category XII (fire control, laser, imaging, and guidance and control equipment) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control on the USML. The Department also proposes to amend USML Categories VIII, XIII, and XV to reflect that items now described in those Categories will be in the revised Category XII.

**DATES:** The Department of State will accept comments on this proposed rule until April 4, 2016.

**ADDRESSES:** Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- Email: [DDTCPublicComments@state.gov](mailto:DDTCPublicComments@state.gov) with the subject line, “ITAR Amendment—Category XII Second Proposed.”
- Internet: At [www.regulations.gov](http://www.regulations.gov), search for this notice by using this rule’s RIN (1400–AD32).

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 desire to be made public or any information for which a claim of confidentiality is asserted. All comments and transmittal 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.pmdt.state.gov](http://www.pmdt.state.gov). Parties who wish to comment anonymously may do so by submitting their comments via [www.regulations.gov](http://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](http://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](mailto:DDTCPublicComments@state.gov). ATTN: Regulatory Change, USML Category XII.

**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.

The revisions contained in this rule are part of the Department of State’s retrospective plan under E.O. 13563.

All references to the USML in this rule are to the list of defense articles that are controlled for the purpose of export or temporary import pursuant to the ITAR, and not to the defense articles on the USML that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of permanent import under its regulations (see 27 CFR part 447). Pursuant to § 38(a)(1) of the Arms Export Control Act (AECA), all defense articles controlled for export or import are part of the USML under the AECA. For the sake of clarity, the list of defense articles controlled by ATF for the purpose of permanent import is the United States Munitions Import List (USMIL). The transfer of defense articles from the ITAR’s USML to the EAR’s CCL for the purpose of export control does not affect the list of defense articles controlled on the USMIL under the AECA for the purpose of permanent import.

**Revision of Category XII**

The revision of USML Category XII was first published as a proposed rule (RIN 1400–AD32) on May 5, 2015, for public comment (see 80 FR 25821) (first proposed rule). The comment period ended July 6, 2015. One hundred twenty parties submitted public comments, which were reviewed and considered by the Department and other agencies.

The majority of the public comments stated that the proposed controls in USML Category XII included items that are in commercial and civil applications, identifying items that would largely be controlled under paragraphs (b), (c), (d), and (e), and requested that the Department limit the USML controls for most paragraphs to items specially designed for the military. The comments varied in level of detail and specific paragraphs addressed, if any, but the general tenor of the public comments was consistent. These comments led the Department to reevaluate USML Category XII in its entirety and to draft this second proposed rule to allow for public feedback on new proposed changes. Given the thorough redrafting of USML Category XII, the Department does not address each public comment in detail.

This second proposed rule revises USML Category XII, covering fire control, range finder, optical and guidance and control equipment, to advance the national security objectives of the President’s Export Control Reform initiative and to more accurately