

U.S. Export Control Reforms to Become Effective

May 10, 2013

The first significant reforms to the U.S. export control regulations in International Traffic in Arms Regulations (ITAR) and U.S. Export Administration Regulations (EAR) are about to take effect.

With the 30-day Congressional notification period concluding on April 7, 2013, the initial changes to the USML, comprised of (1) revisions to USML Category VIII (Aircraft and Related Articles), and (2) the establishment of a new USML Category XIX (Gas Turbine Engines), were published by the U.S. State Department on April 16, 2013 in the form of a final rule (ITAR Initial Reform Rule). The ITAR Initial Reform Rule is effective 180 days after publication or October 15, 2013.

No other congressional or presidential approval or action is needed for this rule, and this initial step in export control reform will now take place.

Impending Transfer of Certain USML Items to CCL

Certain items formerly listed on the USML (and controlled under ITAR export controls) will be moved to the Commerce Control List (and controlled under lesser EAR export controls). The ITAR Initial Reform Rule also includes final versions of the "Specially Designed" definition and "Transition" rules, which are important parts of ITAR export control reform.

For items moved to the CCL that will be governed by EAR export controls, there is also a corresponding "EAR Initial Reform Rule."

Presently, the U.S. State Department grants export licenses for entire systems listed on the USML. These systems include accompanying items such as spare parts, accessories, and attachments. Under export control reform, many of these accompanying items are moving to the CCL, creating a potential double-licensing requirement (i.e., from the U.S. State and Commerce Departments). On March 8, 2013, President Obama amended Executive Order 13222, allowing the U.S. State Department to grant export licenses for items migrated to the CCL, avoiding the potential double-licensing requirement.

The items and technology affected by the ITAR and EAR Initial Reform Rules are extremely important to the aerospace industry and represent more than \$20 billion in annual exports.

Both rules are likely to prove complicated in their implementation for companies. Miller Canfield's Export Control Team has thoroughly researched these rules and knows them well.

For further information please contact Miller Canfield's Export Control Team. Visit our Export Controls webpage for prior articles and alerts, as well as subsequent updates on U.S. Export Control Reform and other export control articles.

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