



*****ALERT*****

**ATF Publishes Interim Final Rule Removing
Articles from the U.S. Munitions Imports List That No Longer Warrant
Import Control**

On March 27, 2014, the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) published an interim final rule removing certain defense articles from the U.S. Munitions Import List (USMIL) that ATF has determined no longer warrant import control under the Arms Export Control Act. The rule is effective **April 28, 2014**.

These amendments to the USMIL are part of the Administration's Export Control Reform Initiative that began in 2009 and are intended to improve the domestic import control system by enhancing national security and focus resources on protecting items for import that warrant more stringent controls under the AECA. The Department of State and the Department of Defense have concurred on this interim final rule amending the USMIL.

Below is a summary of the changes made to Categories in the USMIL at 27 C.F.R. §447.21.

CATEGORY I -- FIREARMS

Riflescopes and components removed

The interim final rule removes paragraph (e) "Riflescopes manufactured to military specifications and specifically designed or modified components therefor" as these articles are readily available through domestic commercial sources and do not present a significant concern for trafficking or diversion into illicit channels.

CATEGORY III--AMMUNITION

Ammunition belting/linking machines and ammunition manufacturing equipment removed

The rule removes paragraphs (c), "Ammunition belting and linking machines," and (d) "Ammunition manufacturing machines and ammunition loading machines (except handloading ones)." ATF cites as the justification the cost and difficult maintenance of such equipment, as well as the weight, which prevents easy transport. The equipment is also readily available from domestic vendors in the U.S.

CATEGORY IV--LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS AND MINES

Ablative materials removed

ATF removed from this category paragraph (f), "Ablative materials fabricated or semi-fabricated from advanced composites (*e.g.*, silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category that are derived directly from or specifically developed or modified for defense articles." ATF noted these materials are a low threat to domestic security and are readily available in the domestic market.

CATEGORY VI--VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

Controls limited to vessels armed with weapons; mine sweeping equipment, harbor entrance detection devices, and components removed

The language in paragraph (a) has been revised to limit import controls over vessels of war to those armed and equipped with offensive or defensive weapons only. Prior to this revision, all vessels of war required an import permit from ATF, irrespective of armament.

Paragraph (b) has been revised by (1) retaining the controls over turrets and gun mounts, special weapons systems, and protective systems; (2) revising the controls over components, parts, attachments, and accessories to those specifically designed or modified for such articles on combatant vessels. The underlined language is new, and it appears to restrict the licensing requirements to those components/parts/accessories for the articles specified in the first part of the paragraph., *e.g.*, turrets/gun mounts, special weapons systems, and protective systems; and (3) removing references and controls for "arresting gear," "submarine storage batteries," and "catapults."

Paragraphs (c) and (d) have been removed from Category VI. These paragraphs imposed import controls on mine sweeping equipment, harbor entrance detection devices, and related components. ATF noted that these articles have numerous domestic suppliers and present a low threat to domestic security.

CATEGORY VII--TANKS AND MILITARY VEHICLES

Engines removed and parts regulated in positive list

The rule removes paragraph (g), which required import licenses for engines specifically designed or modified for certain vehicles listed in the category. This means the importation of engines for military vehicles, tanks, howitzers, and amphibious vehicles will no longer require authorization from ATF.

Paragraph (h) has undergone extensive revision. The rule currently in effect is a broad catch-all provision, requiring an ATF import permit for all components, parts,

accessories, and attachments for tanks and military vehicles. The new language of paragraph (h) applies to "Tank and military vehicle parts, components, accessories, attachments, and associated equipment for offensive or defensive systems for the articles in this category, as follows:...." (Emphasis added.) The new language appears to broaden the licensing requirements of Category VII to include parts and components for "offensive or defensive systems" for tanks and military vehicles. The good news is that paragraph (h) sets forth a positive list of the parts, components, and accessories that are regulated (whether they are "offensive or defensive systems" or other parts and components of regulated articles). The list is comprised of 11 types of components and devices, including active protection systems, certain specified types of armor and components, remote or autonomous steering, gun mounts and turret drives, and kits designed to convert a vehicle into an unmanned vehicle. Importers should review the list to determine the impact on your business.

Significantly, ATF added a new note to the end of Cat. VII, explaining that engines and engine parts are not covered by paragraph (h). Another new note adds a definition of "amphibious vehicle." This is a welcome addition to the regulations, providing clarity to a nebulous term.

A new paragraph (i) has been added to Category VII, which ATF explains was necessary to clarify that this category includes other ground vehicles that meet four technical parameters in the Wassenaar Arrangement's Munitions List Category 6. A note has been added to the end of Cat. VII stating that this paragraph does not apply to civil vehicles designed or modified for transporting money or valuables. This is very good news for the private armored car industry.

As ATF characterizes the addition of paragraph (i) as a "clarification," the vehicles captured in this new paragraph should already be regulated under the existing language of Cat. VII. If this is not the case, importers affected may wish to submit comments to ATF on this language.

CATEGORY XIV--TOXICOLOGICAL AGENTS AND EQUIPMENT AND RADIOLOGICAL EQUIPMENT

Biological agents and nuclear radiation equipment removed

ATF removed paragraph (b), biological agents, noting that the Departments of Health and Human Services and Agriculture already regulate the import and use of these substances. Consistent with this change, language regulating equipment for disseminating, detecting, and identifying biological agents was removed from paragraph (c). As revised, paragraph (c) applies only to such equipment, including components, parts, accessories, and attachments for disseminating chemical agents. The rule removes paragraph (d), nuclear radiation equipment detection and measuring devices manufactured to military specifications, and (e) components, parts, accessories, attachments, and associated equipment for the articles in paragraphs (c) and (d). ATF removed these paragraphs

because this equipment is available in the domestic market and presents little threat to domestic security.

CATEGORY XVI--NUCLEAR WEAPONS DESIGN AND TEST EQUIPMENT

Nuclear weapons manufacturing equipment and nuclear explosives devices removed

ATF removed paragraph (a) of this category, which controlled any article, material, equipment, or device which is specifically designed or modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosives devices. Duplicative controls by the Department of Energy under the Atomic Energy Act were cited as the reason for removal. Consistent with this approach, a note has been added to the end stating that this category does not include equipment, technical data, or services controlled by the Department of Energy.

Paragraph (b) has been significantly revised by this rule. The existing language controls any article, material, equipment, or device which is specifically designed or modified for use in the devising, carrying out, or evaluating of nuclear weapons tests or any other nuclear explosions. The new language of paragraph (b) is limited to "modeling or simulation tools that model or simulate the environments generated by nuclear detonations or the effects of these environments on systems, subsystems, components, structures, or humans."

Comment Period

ATF is soliciting comments on the interim final rule. Comments must be postmarked and electronic comments must be submitted on or before June 25, 2014.

The complete text of the interim final rule can be found in the Federal Register here:

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-27/pdf/2014-06778.pdf>

The above analysis is for informational purposes only and is not intended to be construed or used as legal advice. It does not anticipate all areas in which the proposed revisions could affect a business. Questions about this information can be directed to

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