

On January 18, 2011, in [Executive Order 13563](#), the President directed each agency to review its “existing significant regulations, and consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” In response to this directive, the Department of Commerce published the [preliminary plan](#) for review of its regulations on May 26, 2011. Two major components of the plan included regulatory modifications by the Bureau of Industry and Security (BIS), and the U.S. Patent and Trademark Office (PTO). On January 13, 2013 Commerce published its latest [progress report](#) for retrospective review. According to this report, the BIS and USPTO made efforts to achieve their respective goals outlined in Commerce’s preliminary plan.

In an effort to strengthen national security and the competitiveness of key U.S. manufacturing and technology sectors, President Obama directed a broad-based interagency review of the U.S. export control system. The Export Control Reform Initiative, sponsored by BIS, includes 1) new license exception “Strategic Trade Authorization;” 2) making the Commerce Control List more objective; 3) “tiering;” and 4) more flexible, tailored controls for less significant defense articles. The Administration estimated that as many as 30,000 of the licenses for basic defense articles handled in 2010 by the State Department under the less flexible International Traffic in Arms Regulations would be transferred to the Commerce Department to be administered under the authority of the more flexible, tailored Export Administration Regulations. The U.S. export control system would become more interoperable with the nation’s close allies and the defense industrial base would be strengthened because of the reduction in unnecessary barriers to trade.

To address these goals, BIS has revised 23 regulations, which it estimates will “reduce the burden on exporters due to more flexible Commerce licensing regime; ease interoperability with close allies; enhance defense industrial base; and give greater clarity with respect to jurisdiction.” BIS expects additional benefits from the reforms, including reducing the administrative burdens of submitting a license application for certain exporters and making the Commerce Control List more objective.

Commerce also committed in its plan to modify PTO’s patent regulation to streamline the process by which individuals and companies obtain patents in the United States. PTO’s preliminary plan “anticipated that its regulatory review would result in reduced burdens on patent applicants, and reduced costs for applicants where processes could be simplified,” and result in improved and more cost-efficient operations at PTO. It committed to “solicitation of



input from employees” on how regulations could be revised in order to streamline the processes by which it promotes innovation.

Commerce’s latest progress report includes only one final reform, however. According to its final rule ([RIN 0651-AC54](#)), the PTO reduced fees that it estimates would “provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of patent operations, while helping the Office implement a sustainable funding model, reduce the current patent application backlog, decrease patent application pendency, improve patent quality, and upgrade the Office’s patent business information technology (IT) capability and infrastructure.”

The Department of Commerce and other agencies’ retrospective review plans and activity reports are available at <http://open.commerce.gov>.

