



U.S. DEPARTMENT OF STATE
DIRECTORATE OF DEFENSE TRADE CONTROLS



U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

Export Control Reform Spacecraft/Satellites

Note: This presentation is merely a summary of official statements and final rules published by the Departments of Commerce and State. Final rules, as well as the Export Administration Regulations and International Traffic in Arms Regulations, must be reviewed to determine the full scope of any applicable requirements.

Date of

Last Revision: September 2015



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ECR: The Start of a Good Thing



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- In August 2009, President Obama directed U.S. export control system agencies to conduct a broad-based review of export controls to identify additional ways to enhance U.S. national security
- The National Security Council (NSC) and the National Economic Council (NEC) were directed to jointly review the existing controls, structure, and policy and recommend a way forward

“The United States is thought to have one of the most stringent export regimes in the world. But stringent is not the same as effective.” – SecDef Gates

“He who defends everything defends nothing.” – Frederick the Great



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Guiding Principles



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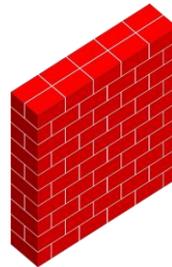
The administration determined that the U.S. export control system needed to be reformed to:

- Increase interoperability with NATO and other allies;
- Reduce current incentives for companies in non-embargoed countries to design out or avoid US-origin content; and
- Allow the U.S. Government (USG) to focus its resources on the transactions of greater concern



**International Traffic
in
Arms Regulations
(ITAR)**

**United States
Munitions
List (USML)**



**Commerce
Control
List (CCL)**



**Export
Administration
Regulations (EAR)**



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Space Export Controls Update



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- May 13, 2014: Interim Final Rule
- June 27, 2014: Effective date for certain microelectronics
- November 10, 2014: Effective date for State and Commerce Final Rules
- July 13, 2015: Final Rule making certain clarifications and corrections to the EAR



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Summary of Spacecraft Controls



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Cat XV Before ECR

CCL Before ECR

Revised USML

Revised CCL

Cat XV

Other

New ECCN 9x515

Existing ECCNs

Military Satellites

Military Ground equip

Parts critical for military functions

Services for USML and CCL satellites (IV and XV)

Military GPS Rcvrs (XV now; future XII)

Worldwide license, except Canada.

25% *de minimis*, except 0% for China and other D:5 countries.

STA eligible for A:5, except for certain software and technology

Review

microelectronic circuit ECCNs, 7A004, 7A104, ECCNs using "space qualified" prior to using the catch-all control in 9A515.x.

Sats and Ground equip not in USML

Rad Hard ICs

Parts not on USML or other CCL

New sat related item or tech

Helix tubes, solar cells, atomic freq standards, optical detectors and sensors, cryocoolers, radar, microwave amps and assemblies, and TWTs



Items that Remain on the USML



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- **Spacecraft**
 - Military Satellites
 - Remote Sensing Satellites that Exceed Certain Thresholds
 - Sub-orbital Vehicles
- **Related systems including**
 - Ground control systems or training simulators specially designed for telemetry, tracking, and control (TT&C) of spacecraft in paragraph (a)
 - Global Positioning System (GPS) receiving equipment specially designed for military application, or GPS receiving equipment meeting certain thresholds
- **Parts and components**
 - Specific list of parts
- **Technical data and defense services**
 - Furnishing of assistance (including training) in the integration of a satellite or spacecraft to a launch vehicle
 - Furnishing of assistance (including training) in the launch failure analysis of a satellite or spacecraft



Grandfathering/Terminating State Approvals



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	Consisting of Only Items Transitioning to the CCL	Contains Both Transitioning and Non-transitioning Items
DSP-5	May use for up to 3 years after effective date of transition unless license expires or returned. May amend via DSP-6 after effective date on case-by-case basis.	Valid for all items until expiration. May amend via DSP-6 after effective date on case-by-case basis.
DSP-61 DSP-73	Valid until expiration. May amend via DSP-62 and DSP-74 after effective date on case-by-case basis.	
TAA MLA WDA	May use for up to 3 years after effective date of transition unless agreement expires. May amend after effective date on a case-by case basis.	May use for up to 3 years after effective date of transition unless agreement expires. Agreement may be kept valid beyond the 3-year period by submitting amendment to authorize transitioning items under § 120.S(b).



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Paragraph x



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- Executive Order 13222 authorizes State to approve licenses containing items controlled by the EAR
 - Created due to public comments about “dual licensing”
 - Provides “one stop shopping” for applicants
- Has specific limitations
 - The PO/LOI/EUS cites all items on the license;
 - Articles subject to the EAR are for end-use **in or with** the USML defense article proposed for export;
 - EAR-controlled items identified on USML application as “(x)”
 - Paragraph (x) items licensed by DDTC remain subject to the jurisdiction of the EAR
 - Generally used with USML items in the same category
 - May be used for retransfer requests



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Transition FAQ



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- 2-year validity from November 10, 2014, unless
 - It expires
 - You have a change in scope requiring a new license
 - You choose to get a Commerce license now
- State-imposed conditions and provisos remain
- Retransfers can be accomplished in multiple ways
- Foreign companies may self-determine that an item has transitioned from USML to CCL



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Items Transferred to the CCL



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- **Satellites**
 - Commercial Communication Satellites
 - Lower-Performance Remote Sensing Satellites
 - Planetary Rovers
 - Planetary and Interplanetary Probes
- **Related systems for the above:**
 - Ground control systems
 - Training simulators
 - Test, inspection, and production equipment
 - Non-critical software for production, operation or maintenance
 - Non-critical technology for development, production, installation, operation or maintenance
 - Radiation hardened microelectronics
- **Parts and components of satellite bus and payloads not listed on USML**
 - Thousands of *types* of parts and subsystems
 - Hundreds of thousands of specific parts



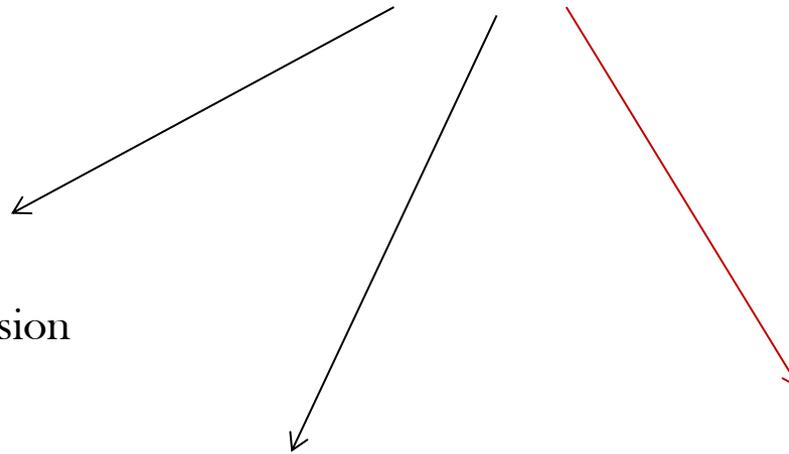
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Anatomy of the New "500-Series" ECCN



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9x515



CCL Category

9=Aerospace and Propulsion

Product Group

- A. Systems, Equipment and Components
- B. Test, Inspection and Production Equipment
- C. Material
- D. Software
- E. Technology

The "500-series" derives its name from the 3rd character of the ECCN

5=Civil Spacecraft transferred from the USML to the CCL



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Order of Review - Spacecraft (Supp. No. 4 to part 774)



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- Review USML Category XV
 - Specifically enumerated items
 - “Catch-all” controls and ITAR definition of “specially designed”
- If not on the USML, review the CCL
 - Review applicable 9x515 ECCN
 - Specifically enumerated items
 - “Catch-all” controls and EAR definition of “specially designed”
 - Note: the following ECCNs supersede 9A515.x:
 - ECCNs for microelectronic circuits and discrete electronic components
 - 3A001.b.4, 3A001.b.8, 7A004, 7A104, 9A004
 - ECCNs containing “space qualified” as a control criterion
 - Review other applicable non-9x515 ECCNs



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Commodity Classification Process



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- Anyone can submit a Commodity Classification Request (*e.g.*, manufacturer, distributor, exporter, etc.)
 - Go to WWW.BIS.DOC.GOV
 - Click on “Exporter Portal”
 - Click on “Export Control Basics”
 - Click on “How to Request an Export Control Classification Number (ECCN)”
- Submitted and issued electronically via the Simplified Network Application Process Redesign (SNAP-R) on the BIS website
 - Registration to use SNAP-R, at no charge, is required prior to submission



9x515 ECCN Framework

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- Subject to same scope of controls as 600 series items
 - NS1, RS1, and AT1 generally
 - MT for some items; RS2 for some items
- License applications for Country Group D:5 reviewed consistent with ITAR §126.1
 - Policy of denial for Country Group E:1 and China



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“Specially Designed”



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- A definition of “specially designed” was crafted to provide objective criteria that government agencies, industry, and organizations can apply
- Two paragraph “catch-and-release” construct:



License Exceptions

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- 9x515 generally eligible for many license exceptions (e.g., LVS, TMP, RPL, GOV, TSU, STA)
 - Restrictions apply in § 740.2, including 9x515 items subject to MT control
 - However, 9A515 items controlled for MT reasons are eligible for certain provisions of TMP, RPL, TSU, or AVS if exported as part of a spacecraft in quantities appropriate for replacement parts (§ 740.2(a)(5)(i))



License Exception STA



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- 9x515 generally eligible for STA for Country Group A:5
 - Certain spacecraft in 9A515.a require eligibility request
 - Software in 9D515.b, .d, or .e and technology in 9E515.b, .d, or .e are not eligible for STA



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Some Differences at Commerce



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- No registration requirements
- No cost for licenses
- No authorization needed for marketing
- No purchase orders required to submit a license application
- No brokering requirements
- No import requirements
- Conditions review prior to license issue



Notes on Jurisdiction

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- Hosted payloads do not flip jurisdiction
- Spacecraft passenger experience is neither ITAR nor EAR
- Telemetry data is neither ITAR nor EAR



Ongoing Discussions

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- Aperture Size
- Integrated Propulsion
- Autonomous Tracking...in real time
- Plasma Thrusters

***NOTE: When Proposed Rules are published, please provide your comments within the time specified in each rule.**



Department of Commerce Contact Information

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Technical and Licensing Questions on Satellites: Office of National Security and Technology Transfer Controls

- Mark Jaso; mark.jaso@bis.doc.gov
- Reynaldo Garcia; reynaldo.garcia@bis.doc.gov
- Dennis Krepp; dennis.krepp@bis.doc.gov

Regulatory Interpretation and Transition Guidance

- Regulatory Policy Division: rpd2@bis.doc.gov; +1-202-482-2440

Web: www.bis.doc.gov www.export.gov/ecr



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Department of State Contact Information



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Technical and Licensing Questions on Satellites: Space, Missile, and Sensor System Technology Division

- Yolanda Gantlin; gantlinyp@state.gov
- Jonathan Dennis; dennisjm@state.gov
- Catherine Hamilton; hamiltonce@state.gov

Generic Questions and Transition Guidance

- Response Team: DDTCResponseTeam@state.gov; +1-202-663-1282

Web: www.pmdtct.state.gov www.export.gov/ecr