

# BIS Publishes Revisions to Export Administration Regulations, Loosening Restrictions on Certain Cameras and Imposing Controls on Others

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February 23, 2024

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On February 23, 2024, the Department of Commerce Bureau of Industry and Security (BIS) published revisions to the Export Administration Regulations (EAR), loosening restrictions on the export of certain cameras, optical systems and related components. The revisions also create a new export control classification number (ECCN) and related controls for certain high-speed cameras that pose nuclear proliferation risks.

While the revised regulations will eliminate the licensing requirement for exports to certain military end users, the new ECCN will require companies to reassess the licensing requirements for their products, as well as update their deemed export analysis to ensure that non-U.S. person employees do not require access to controlled technology related to the newly controlled cameras. The revised regulations will take effect on March 8, 2024.

## Relaxed End-User Restrictions

In addition to the reasons for control associated with various ECCNs, the EAR also imposes certain end-use and end-user restrictions. In particular, the EAR imposes these restrictions on certain cameras, systems and related components through 15 C.F.R. § 744.9. The revised regulations restructure Section 744.9(a) into three parts to improve its readability and make it more understandable.

Most importantly, however, the revision also lifts the military end-user restriction for certain items classified under ECCNs 0A504, 6A002, 6A003, 6A993.a and 8A002.d for Country Group A:1 countries. The revised regulations do not otherwise change the licensing requirements of Section 744.9(a).

## New ECCN

BIS has also established new controls under ECCN 6A293 for certain high-speed cameras that pose a nuclear proliferation risk. The new ECCN covers cameras not classified under ECCNs 6A003 or 6A203 that have (i) a minimum exposure time of 1 microsecond or faster *and* (ii) a throughput of 13.43 Giga Pixels per second or greater when taken at 205,000 frames per second.

Cameras controlled under ECCN 6A293 are controlled for nonproliferation (NP Column 1) and antiterrorism (AT Column 1) and are not eligible for License Exception STA. In addition to evaluations of the licensing requirements for their physical products, companies that develop or produce cameras classified under ECCN 6A293 will need to evaluate whether the new ECCN and the resulting expansion of Category 6 Group E technology creates deemed export issues for their non-U.S. person employees. Given the March 8 effective date of the new rules, this could cause significant problems for companies depending on the nationality of their employees.

## Key Takeaways

These revisions to the EAR are another example of the Biden administration creating higher fences around a smaller yard of sensitive technologies. BIS has lowered the fence of Section 744.9, recognizing that such items are currently produced — and broadly available — outside the U.S., along with the large number of license applications for export of such items to Country Group A:1 countries and the absence of denials of such requests. At the same time, BIS has erected heightened restrictions around a newly identified class of cameras that can be used to facilitate nuclear proliferation. While these changes do not presage a wholesale overhaul of existing export controls, it does show that BIS is continuing to reevaluate the necessity and sufficiency of existing controls.

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## Country Group A:1 Countries

Argentina	Finland	Latvia	Slovakia
Australia	France	Lithuania	Slovenia
Austria	Germany	Luxembourg	South Africa
Belgium	Greece	Mexico	South Korea
Bulgaria	Hungary	Netherlands	Spain
Canada	Iceland	New Zealand	Sweden
Croatia	India	Norway	Switzerland
Czech Republic	Ireland	Poland	Turkey
Denmark	Italy	Portugal	United Kingdom
Estonia	Japan	Romania	