



## Steps to Comply with the Export Administration Regulations (EAR)

November 2018

There are two primary regulatory bodies that administer US export control laws for defense or military-related products and services.

1. The Department of State via the Directorate of Defense Trade Controls (DDTC) administers the **International Traffic in Arms Regulations (ITAR)**, which controls items considered defense articles and services.
2. The Department of Commerce via that Bureau of Industry and Security (BIS) administers the **Export Administration Regulations (EAR)**, which controls purely civilian items, items with both civil and military, terrorism or potential WMD-related applications, and items that are exclusively used for military applications but that do not warrant control under the ITAR.

Licensing and other export certification requirements for exporting a military-related product (or service), are dependent upon the item's technical characteristics, the destination, the end-user, and the end-use. You, as the exporter, must determine whether your export requires a license. When making that determination consider:

*What are you exporting? Where are you exporting? Who will receive your item? What will your item be used for?*

It is important to note that a defense product, service, or related technical data cannot be regulated both by the DDTC and the BIS. However, it is possible for a product or service to be regulated under the DDTC or the BIS and under another agency like the Treasury Department, the U.S. Nuclear Regulatory Commission, the Department of Energy, the Patent and Trademark Office, or the Department of Defense.

### **To fully comply with the BIS under the EAR, complete the following steps:**

1. You can use the [Commerce Control List](#) (CCL) to determine whether your products or services are regulated under the EAR. If your products or services are listed on the CCL, then you are required to use the applicable Export Control Classification Number (ECCN) and the [Commerce Country Chart](#) to determine whether your product or service needs a license based on the product and the destination country (see step #2).
  - a. If your product or service is not on the CCL it may still fall under EAR jurisdiction, but due to the type of product or service, it does not require a license. These products and services are classified as EAR 99; products and services that typically receive this type of classification are commercial goods and purely civilian goods and services.
  - b. If your product or service is not on the CCL and is not classified as EAR 99, it may still require a license based on the country, company, or individual that you are doing business with or who ends up with the products.

- i. The Department of the Treasury via the Office of Foreign Assets Control (OFAC) administers and enforces sanctions against foreign countries, people, and organizations. A license from the Department of Treasury may be required if you are exporting to an OFAC restricted country. For more information visit the [OFAC Resource Center](#) page.
    - ii. Several agencies publish lists that identify persons, businesses, organizations, and other groups to which trade is restricted or prohibited. To determine whether your product or service requires a license based on who will receive your item or who the end-user is, it is recommended that you visit the [BIS How Do I Avoid Dealing with Unauthorized Parties](#) page for more information.
  - c. If you are unable to determine whether your product or service is on the Commerce Control List, you can submit a commodity classification request online through the [Simplified Network Application Process - Redesign \(SNAP-R\)](#). You must obtain a Company Identification Number (CIN) before accessing the online SNAP-R system and submitting your request.
  - d. Guidance on Reexports and Transfers (in-country) of U.S. Origin Items or Non-U.S. made Items subject to the EAR can be found on the "[Guidance on Reexports](#)" page of the BIS website.
2. If your product or service is classified under an ECCN on the CCL, then you must use the Commerce Country Chart to determine whether your product or service requires a license.
  - a. A description of an ECCN on the CCL will include a list of controls that apply to the export of the specific product or service. These controls are for one or more of the following: Chemical & Biological Weapons (CB), Nuclear Nonproliferation (NP), National Security (NS), Missile Technology (MT), Regional Stability (RS), Firearms Convention (FC), Crime Control (CC), or Anti-Terrorism (AT). Once you identify the controls listed in the description of the ECCN for your product or service, then you use the Commerce Country Chart to determine whether the controls apply to your destination country.
  - b. Listed on the Commerce Country Chart are all possible destination countries. Next to a specific country, there are several boxes and each box represents a possible control that restricts exports to that country. If an "X" is found in a box, then exports are controlled by the BIS to that country based on the corresponding reason for the control. You must check the boxes for your destination country that correspond to the reasons for controls listed in the description of the ECCN for your product or service. If an "X" is found in at least one of the boxes, then an export license is required.
  - c. License exceptions may be applicable based on the product and the destination country. It is recommended that you review the license exceptions in [Part 740](#) of the EAR to ensure you meet all of the criteria for an exception.
3. Once you have determined that the export of your product or service is regulated under the EAR and requires a license, you can use [SNAP-R](#) to submit an export license application.



- a. To better serve the exporting community, BIS has launched an on-line version of its System for Tracking Export License Applications (STELA). You may now check the status of your export/reexport license applications, classification requests, and other notifications using the [STELA Tracking](#) page. Applicants must input their BIS assigned application control number(s) (ACN).
4. If you or your company fails to comply with the EAR and the BIS, there can be serious consequences. Some possibilities are:
    - Civil penalties per violation up to \$1M and imprisonment for up to 20 years
    - Administrative penalties can reach the greater of \$250,000 per violation
    - Denial of export privileges

It is highly recommended that you consult with an international trade attorney to ensure compliance with ITAR and the DDTC. A trade attorney can help you navigate the specifics of the ITAR and help you develop a company compliance plan for future defense trade transactions.

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Defense Industry Maine and the Maine International Trade Center are here to help you on your defense trade endeavors! We can research defense markets, help you navigate the EAR and BIS process, and put you in touch with the right people to help your Maine company succeed. Contact us today for more information!