

## **Frequently Asked Questions on *Revision of Firearms License Requirements***

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**Comments Due: July 1, 2024**

**FAQ Date: April 30, 2024**

### **What new Export Control Classification Numbers (ECCNs) are created by the *Revision of Firearms License Requirements* rule (“April 2024 firearms rule”)?**

To better track the export, reexport, and transfer (in-country) of certain firearms and related items, this IFR adds four new ECCNs to the Commerce Control List [part 774 of the Export Administration Regulations (15 CFR 730 – 774)(EAR)](CCL). ECCN 0A506 controls certain semi-automatic rifles, ECCN 0A507 controls certain semi-automatic pistols, ECCN 0A508 controls certain semi-automatic shotguns, and ECCN 0A509 controls certain “parts,” “components,” devices, “accessories,” and “attachments” for items controlled under ECCNs 0A506, 0A507, and 0A508. The creation of these four new ECCNs will enable BIS to better track and more readily identify exports of semi-automatic firearms and shotguns and certain related “parts,” “components,” “accessories,” devices, and “attachments.”

### **Why did BIS create new ECCNs for firearms?**

Prior to the April 2024 firearms rule, ECCN 0A501 controlled rifles, pistols, and related “parts,” “components,” and certain “attachments,” and “accessories” on the CCL, while ECCN 0A502 controlled shotguns and related “parts,” “components,” and certain “attachments,” and “accessories.” Neither ECCN distinguished between non-automatic and semi-automatic firearms. As a result, BIS was unable to readily identify which types of firearms were being exported to which countries. For example, because many types of firearms were controlled under the same item paragraph of ECCN 0A501, it was difficult for BIS to determine what share of firearms exported to a country under ECCN 0A501 were semi-automatic rifles versus non-automatic pistols. The new ECCNs will allow BIS to understand and track exports of firearms to individual countries, thereby enabling BIS to adjudicate license applications and to conduct post-shipment verifications and other post-licensing activities more effectively.

### **Can I still export items with my existing license and the old ECCN?**

Yes. Under Section 750.7(c)(1)(viii) of the EAR, a change to an ECCN that conforms with an official revision of the EAR is a non-material change to existing licenses and does not require a submission of a new or replacement license application. Exporters with existing licenses that authorize the exports of firearms previously controlled under ECCNs 0A501 and 0A502 but now controlled under new ECCNs may want to consider submitting applications for new or replacement licenses to ensure clarity in both recordkeeping and export processing. In all circumstances, BIS recommends careful review of license terms and conditions prior to

shipment. Before the effective date of the April 2024 firearms rule, BIS will provide additional guidance on how information should be entered into the Automated Export System for existing licenses having old ECCNs.

Note also that on July 1, 2024, BIS will revoke a number of currently valid firearms licenses, in full or in part, for the export or reexport of firearms and related items. If your license is revoked in full, you may not export or reexport under its authorization. If it is revoked in part, you may only export or reexport the remaining items on the license. BIS also plans to modify the validity period of a number of currently valid firearms licenses that are not subject to revocation. If the validity period of your license is modified, you may only export or reexport under that license for the duration of its modified validity period.

### **How do I get my item classified under the new ECCNs?**

There are several options available for the classification of items subject to the EAR:

- 1) You can self-classify the item that you want to export or reexport using the guidance in the EAR (see: Section 734.3 and Supplement No. 4 to part 774 of the EAR);
- 2) You can contact the manufacturer of your item and request the item's classification (some companies list ECCNs for their products on their websites); or
- 3) You may request BIS to classify your item by submitting a commodity classification request pursuant to the guidance in Section 748.3 of the EAR.

### **Licensing policy:**

#### **How will BIS assess applications under its new policy?**

In reviewing applications for firearms and related items, BIS will consider the following risks in the recipient destination: firearms trafficking or diversion, terrorism, corruption, human rights concerns and political violence, state fragility, organized crime or gang-related activity, and drug trafficking. BIS will also consider prior instances of diversion or misuse; the capabilities, potential uses, and lethality of the item; the nature of the end user; and other factors as appropriate.

Applications destined for government end users will be reviewed on a case-by-case basis to determine whether there is a risk of diversion or misuse of the items in a manner that would adversely impact U.S. national security or foreign policy interests. Applications destined for non-government end users will be reviewed on a case-by-case basis, unless one of the following apply, in which case they will be subject to a presumption of denial: (1) the application involves a destination identified in Supplement No. 3 to Part 742 of the EAR ("High-Risk Destinations for Firearms and Related Items"), or (2) BIS determines that the application presents a substantial risk of diversion or misuse in a manner that would adversely impact U.S. national security or foreign policy.

Additionally, applications destined for government or non-government end users in a country in Country Group D:5 will be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR.

### **Can I request a license term longer than 1 year?**

Under the April 2024 firearms rule, licenses for the export or reexport of firearms and related items controlled under ECCNs 0A501, 0A502, 0A504, 0A505, 0A506, 0A507, 0A508, and 0A509 will generally be limited to a validity period of 12 months. BIS may grant licenses with validity periods greater than 12 months for these firearms and related items in certain limited circumstances, such as transactions involving intra-company transfers of items (e.g., from a subsidiary to a parent company) or contracts with government end-users that require a period of performance longer than 12 months.

If you believe that the circumstances of your export or reexport require a validity period of greater than 12 months, you should include that information in the ‘additional information’ section of your license application or in your letter of explanation, including the validity period that you are requesting and a detailed explanation of why a longer validity period is necessary. The maximum validity period that BIS will grant for a license for the export or reexport of these firearms and related items is four years.

### **I am seeking a license for export to my subsidiary company. May I request that my license be issued for a validity period longer than a year?**

Yes. Licenses extending beyond 12 months for firearms and related items may still be granted in certain limited circumstances, such as transactions involving intra-company transfers of items (e.g., from a subsidiary to a parent company). See the FAQ directly above for additional information.

### **How does this rule affect license exceptions?**

License Exceptions Limited Value Shipments (LVS) (Section 740.3 of the EAR) and Baggage (BAG)(Section 740.14 of the EAR), remain available for use, with certain additional restrictions and specified support documentation required. Specifically, LVS is no longer available for commodities controlled under ECCNs 0A501, 0A502, 0A504 (except 0A504.g), 0A505, 0A506, 0A507, 0A508, and 0A509 when they are destined for destinations in “CARICOM”<sup>1</sup> or destinations specified in both Country Group B and D:5. Additionally, the destination eligibility under License Exception BAG for items controlled under ECCNs 0A501, 0A502, 0A504, 0A505, 0A506, 0A507, 0A508, and 0A509 is limited to destinations other than those specified in Country Group D:5 (except for Zimbabwe) or destinations in “CARICOM.”

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<sup>1</sup> An intergovernmental organization that consists of the following (1) member states Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Lucia, Suriname, St. Kitts and Nevis, St. Vincent and the Grenadines, and Trinidad and Tobago; (2) associate members Anguilla, Bermuda, British Virgin Islands, Cayman Islands, and Turks and Caicos; and (3) any other state or associate member that has acceded to membership in accordance with Article 3 or Article 231 of the Treaty of Chaguaramas

A new paragraph in Section 740.2(a) of the EAR, Section 740.2(a)(24), requires exporters and reexporters to obtain a copy of an import certificate or equivalent document (if required by the government of the importing country) before the exporter can use any license exception for items controlled under ECCNs 0A501, 0A502, 0A504, 0A505, 0A506, 0A507, 0A508, or 0A509.

**Is the pause continuing until the rule goes into effect?**

Yes. The pause will be lifted the date the April 2024 firearms rule goes into effect (May 30, 2024), at which point BIS will begin processing applications consistent with the updated policy set forth in the April 2024 firearms rule.

**How will applications for named government, military, and police end users be reviewed?**

Applications involving named government, military, and police end users will be reviewed on a case-by-case basis, consistent with the updated policy set forth in the April 2024 firearms rule.

Applicants are encouraged to provide documentation including, but not limited to, copies of contracts or purchase orders with the end users identified in the applications, government tenders, and any other documentation confirming that the transaction has been identified and authorized by the importing end user on the application.

**Will all firearms impacted by the April 2024 firearms rule be treated the same under the rule? What about other items like optical sights or ammunition?**

When reviewing an application for any firearm or related item listed on the CCL, BIS will consider the capabilities, potential uses, and lethality of the item as a factor. The capabilities, potential uses, and lethality of firearms and related items, including optical sights and ammunition, have numerous implications for U.S. national security and foreign policy interests. For instance, certain items under BIS jurisdiction have characteristics that may render them either more or less dangerous in criminals', terrorists', or other adversaries' hands. Likewise, the capabilities, potential uses, and lethality of firearms and related items can affect the risk that such items will be diverted to unauthorized end users or end uses.

**Documents required for application:**

**What new documents do I need when submitting my license application under the revised BIS licensing policy?**

For firearms license applications involving end users in non-A:1 destinations, applicants must submit purchase orders for certain items controlled under ECCNs 0A501 (except 0A501.y), 0A502, 0A505 (except 0A505.c), 0A505.d, and 0A505.e), 0A506, 0A507, and 0A508, and 0A509.

Further, for firearms license applications involving destinations that require an import certificate or equivalent official document for the importation of firearms, applicants must submit an import certificate or equivalent official document.

Finally, for firearms license applications for exports, reexports, or transfers (in-country) to natural persons located in destinations other than in Country Group A:1, applicants must submit passports or national identity cards for those persons.

**Does the purchase order need to exactly match the type of firearm on my export license?**

The purchase order should specify the firearm(s) being purchased in sufficient detail (e.g., manufacturer, model number) for BIS to verify that the order is for items controlled under the ECCNs on your license application.

**Are exporters required to name specific end users on a license application?**

Yes. For government end users, exporters must name specific end users on license applications. An application involving unnamed government, military, and police end users will be returned without action explaining to the exporter that specific named end users are required.

**Revocations:**

**Why is BIS revoking my license?**

In a guidance memorandum provided to BIS, the State Department has identified certain destinations in which there is a substantial risk that firearms and related items sold to non-government end users will be diverted or misused in a manner contrary to U.S. national security and foreign policy. Those destinations are listed in Supplement No. 3 to Part 742 of the EAR (“High-Risk Destinations for Firearms and Related Items”). BIS is revoking currently valid licenses that authorize the export of firearms or related items to non-government end users in destinations on that list because those licenses have not been reviewed under the updated policy that applies to such exports. Accordingly, continued exports under those licenses could create a substantial risk of diversion or misuse in a manner contrary to U.S. national security and foreign policy.

**If my license has been incorrectly scheduled for revocation, how do I get in touch with BIS officials?**

Sixty days in advance of revocation, on or shortly after the day that the April 2024 firearms rule is published, BIS will provide a notification letter to license holders whose licenses are set to be revoked. In addition to specifying which license(s) will be revoked, instructions on how to contact BIS will be included in the notification letter.

**If BIS revokes my license, can I appeal that decision?**

Yes. For any license that is revoked, the license holder may appeal a revocation to the Under Secretary for Industry and Security pursuant to Part 756 of the EAR. Procedures for filing such an appeal are described in detail in § 756.2(c) of the EAR and will be included in the notification letters that BIS will send to license holders whose licenses are set to be revoked. License holders whose licenses are revoked by BIS may also reapply to export or reexport the items covered by the revoked licenses without prejudice under BIS’s new licensing policy, as described in the

April 2024 firearms rule. The timeline for resolving a new license application has previously been shorter than the timeline for resolving an appeal of an administrative action.

### **What is the process for appealing BIS's decision?**

Procedures for filing such an appeal are described in detail in § 756.2(c) of the EAR. Any such appeal must be received no later than 45 days after the date that the revocation of your license becomes effective, and must include a written supporting statement of why BIS should reverse or modify the revocation. Appeals must be sent to the Office of the Under Secretary for Industry and Security, 14th Street and Pennsylvania Avenue, N.W., Room H-3898, U.S. Department of Commerce, Washington, D.C. 20230. Submission may also be made via email to [AppealsCoordinator@bis.doc.gov](mailto:AppealsCoordinator@bis.doc.gov). A license holder may also reapply for a license under BIS's new licensing review policy.

BIS plans to revoke the identified licenses on July 1, 2024. The 45 day deadline to submit an appeal of the revocation is August 15, 2024.

### **I have a shipment that is already in process under an existing license that is set to be revoked. What should I do?**

Licenses set for revocation remain valid until the date of revocation on July 1, 2024. If an exporter ships an item under a license that is set to be revoked and the shipment is complete by the date the license is revoked, that shipment will not be affected by the revocation. However, if an exporter ships an item under a license that is set to be revoked and the shipment is not complete by the date the license is revoked, that shipment may not be lawfully completed (unless otherwise authorized by BIS).

### **Can I continue to export under my license prior to the date of revocation?**

Licenses set for revocation remain valid until the date of revocation. However, exporters should exercise caution, as shipments that are in process after the date of revocation (July 1, 2024) may no longer be lawful.

### **Can I reapply for the same transaction even if my license is revoked?**

Exporters can reapply under BIS's new licensing review policy. Those applications will be reviewed without prejudice.

### **How can I obtain an update on the status of my license?**

Please consult BIS' System for Tracking Export License Applications (STELA) ([BIS SNAP-R STELA Web \(doc.gov\)](#))

And/or BIS' counseling desks, as follows:

Washington, DC Office: (202) 482-4811

Irvine, CA Office: (949) 660-0144

Northern CA Office: (408) 998-8806