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Export Control Reform and the University Community

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• **DDTC Mission**: Advance U.S. National Security and Foreign Policy through export licensing for defense articles, and the development and enforcement of export control laws, regulations, and policies.
Licenses Submitted to DDTC by Calendar Year

- 2010: 82,473
- 2011: 83,653
- 2012: 86,188
- 2013: 78,387
- 2014: 59,527
- 2015: 44,607
Cases Received

2013 Total Cases: 78,810
- 5.2% DSP-5
- 9.5% DSP-61
- 6.1% DSP-73
- 8.7% DSP-85
- 67.6% AGs
- 0.7% Amend.
- 2.1% GC/BL

2015 Total Cases: 44,607
- 6.3% DSP-5
- 11.7% DSP-61
- 7.7% DSP-73
- 7.7% DSP-85
- 63.3% AGs
- 1.0% Amend.
- 2.3% GC/BL
Cat VIII & XIX Trends

New caseload average – 512.5/mo. (66.1% decline)
Pre-ECR RWA average – 12.8%
ECR RWA (last 12 mos.) average – 17.5%

Rule in effect (15 Oct ‘13)
Cat VI, VII, XIII, XX Trends

New caseload average – 279.4mo. (42.2% decline)
Pre-ECR RWA average – 13.5%
ECR RWA (last 12 mos.) average – 16.3%

Rule in effect (6 Jan '14)

No. of cases received (by month)
Percentage RWA'd
Cat IV, V, IX, X, XVI Trends

New caseload average – 324.0/mo.
(35.2% decline)
Pre-ECR RWA average – 13.9%
ECR RWA (last 12 mos.)
average – 20.8%
Cat XV Trends

New caseload average – 67.2/mo. (81.6% decline)
Pre-ECR RWA average – 11.5%
ECR RWA (last 12 mos.) average – 22.5%

Rule partially in effect (27 Jun)  Rule full effect (10 Nov)
Cat XI Trends

New caseload average – 606.12/mo. (53.2% decline)
Pre-ECR RWA average – 13.7%
ECR RWA (last 12 mos.) average – 14.8%

No. of cases received (by month)
Percentage RWA'd
Rule full effect (30 Dec)
ECR: What’s Next?

- Remaining USML category rules

  - Cats I, II, III (firearms, guns, ammunition) – TBD
  - Cat XII (fire control/sensors/night vision)
    - 2nd Proposed Rule published February 19, 2016; estimated date of publication (final rule): Mid-August 2016
  - Cats XIV (toxicological agents) and XIX (directed energy weapons)
    - Proposed rule published June 17, 2015; estimated date of publication (final rule) Mid-July 2016
“Definitions” Rule (proposed) published June 3, 2015

- Over 12K public comments
- Decision to split up parts of rule during interagency review
- New “Definitions” I estimated date of publication (interim final): this week
  - Export, reexport, retransfer, release
- “Definitions” II estimated date of publication: Early 2017
  - Public domain, technical data, defense service, fundamental research, etc. Will likely go out proposed again.

Destination Control Statement harmonization (123.9)

- Proposed rule published May 22, 2015 – final rule in development
Ongoing Revisions/NOIs

- Rolling Category Reviews
  - Categories VIII (aircraft and related articles) and XIX (gas turbine engines and associated equipment)
    - Notice of Inquiry (2nd review of rule) published March 2, 2015; proposed rule published February 9, 2016; estimated date of publication final rule September 1, 2016
    - Notice of Inquiry requesting comments on Cat VI Vessels, VII Ground Vehicles, XIII Materials, and XX Submersibles published October 9, 2015.
      - Reviewing public comments (closed 8 Dec 2015)
  - Other revised categories will be reviewed in turn
Transition Rules

- **ECR Transition Timelines**
  - Timelines were extended in a DDTC web notice of 9 Oct 2015
  - All licenses are now valid until expiration
  - General Correspondence approvals have no expiration date unless otherwise indicated
  - Agreements are now valid:
    - Until expiration if they are not affected by ECR
    - For three years from the effective date if they contain items that have transitioned (amendment/BIS authorization needed)

- **Paragraph (x) allows for DDTC licensing of EAR items used “in or with” ITAR items**
Process and IT Modernization

• IT modernization
  – Single licensing form (FRN forthcoming)
  – New Case Management System
  – Data analytics/visualization

• Process improvements
  – Commodity Jurisdiction
    • Faster processing and fewer escalations
  – New Advisory Opinion process
• Current: ITAR 120.11 (a)(8) (Public Domain) “…basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly…”

• Proposed: 120.49 (“Technical data that arises during or results from fundamental research”)
  - More specific
  - Attempts to clarify circumstances and requirements
  - 120.49 (b) Pre-publication review
Fundamental Research

- Extensive University and Scientific Research

Community Comments:
- “U.S. only” jurisdiction too limited
- Harmonize 120.49 with 120.6 (i.e., “information” and “software”)
- 120.49 (b) “pre-publication review” excessively restrictive, inconsistent with NSDD-189 and current rules

- National Security controls and NSDD-189: some inherent tension
  - Also evident in Defense Services concerns, some USML categories
Concluding Thoughts

- USML revisions nearly complete but ECR goes on
  - New, dynamic ITAR and export control regime
  - Work in progress

- Munitions export licensing volume down nearly 50%

- Comments and inquiries from research community and defense industry are critical element of ECR
  - Public comments, Commodity Jurisdictions, Advisory Opinions
  - More than “one bite at the apple”
Questions?

- DDTC’s website:  www.pmddtc.state.gov (lots of resources)

- Generic Questions:  DDTC Response Team, 202-663-1282
  DDTCResponseTeam@state.gov.

- DTC IT Issues:  DDTC Help Desk, 202-663-2838
  dtradehelpdesk@state.gov.

- Case status:  http://elisa.dtsa.mil/