



U.S. Export Licenses Navigating Issues & Resources

An export license is a government document that authorizes or grants permission to conduct a specific export transaction (including the export of technology).



U.S. Export Licenses: Navigating Issues and Resources

Export licenses are issued by the appropriate licensing agency after a careful review of the facts surrounding the given export transaction.

Do I Need a License?

- This is one of the most frequently asked questions of trade experts with the U.S. Commercial Service's office network. The answer is usually "no" because about 95 percent of all items exported from the United States don't require an export license. As such, only a small percentage of all U.S. export transactions require licenses from the U.S. government.
- These laws and regulations determine whether or not you can sell your product to an international buyer, which countries you can export it to, and to which buyers you can sell. However, just because your product is among the 95 percent that don't require a license doesn't mean that you can sell it anywhere and to anyone.
- It is up to the exporter to determine whether the product requires a license and to research the end use of the product, in other words, to perform "due diligence" regarding the transaction.
- For the majority of U.S. exports, the Bureau of Industry and Security or the U.S. Department of State's Directorate of Defense Trade Controls are the licensing agencies. Exporters should learn which federal department or agency has jurisdiction over the item they are planning to export in order to find out if a license is required.

Export Administration Regulations and the Bureau of Industry and Security

- Most U.S.-sourced items and some internationally-sourced items that are considered dual-use (items that have both commercial and military or proliferation applications), as well as certain purely commercial or purely munitions items, are subject to the Export Administration Regulations (EAR), administered by the [Bureau of Industry and Security](#) (BIS). The EAR controls exports for reasons including national security, foreign policy, short supply, nuclear nonproliferation, missile technology, chemical and biological weapons, regional stability, crime control, and anti-terrorism.
- Items in the United States, certain items located outside the U.S., and certain activities of U.S. persons are subject to the EAR. To determine whether your item (commodity, software or technology) is subject to the EAR, refer to the [EAR's Commerce Control List \(CCL\)](#) to see if it has an Export Control Classification Number (ECCN). If your item falls under the jurisdiction of the U.S. Department of Commerce and is not

listed on the CCL, it is designated as EAR99. Most EAR99 commercial products will not require a license to be exported. Depending on the destination, end user, or end use of the item, however, even an EAR99 item may require a BIS export license.

How do you find the right ECCN?

- You can ask the manufacture or supplier. If you are obtaining classification information from your suppliers, work closely with them to understand how they determine the ECCN.
- Do a self-classification by looking at the CCL, and make sure to get input from your technical staff.
- Use BIS's free service to request a Commodity Classification for your item. Note that this may take several weeks. Apply online at www.bis.doc.gov for your commodity classification using SNAP-R, found under the Licensing tab.
- View [how to determine your ECCN](#) on this website.

Management and Compliance

- To ensure compliance with the EAR and manage export-related decisions and transactions, you can establish an Export Compliance Program (ECP). An ECP lets you analyze pieces of information and individual decisions, and build them into an organized, integrated system. The BIS website has information on the core elements of an effective ECP. In particular, note the EAR's mandate for sufficient record keeping.
- Consider creating a written compliance plan. In addition to studying the online BIS videos and publications, the person responsible for managing your company's plan should consider attending specific EAR and export-control seminars. Visit the BIS website's "Compliance and Training" tab. You can also contact BIS for guidance on developing the plan and to review the final document.

Strategy

- An item subject to the EAR will either have a specific ECCN or be designated EAR99. Remember that as the exporter, you are ultimately responsible for obtaining any necessary licenses.
- Export classification and any license numbers you receive must appear on export documentation, such as the Commercial Invoice and the Electronic Export Filing in the [Automated Export System \(AES\)](#). For certain types of exports listed in Section 758.1 of the EAR, BIS requires the filing of electronic export information in AES, regardless of value or destination. When completing forms (on paper or online), the U.S. Postal Service and major freight carriers may require you to enter "NLR"—which means "No License Required"—for certain EAR shipments. Details on EAR99 can be found in the "ECCN Questions and Answers" section of the [Bureau of Industry and Security](#) website.
- It's a good idea to establish a company-wide rule emphasizing the importance of classification under the EAR. If possible, adapt your inventory management software to flag problematic orders. Also, be especially careful with items that are subject to the EAR, whether the items have ECCNs or are

EAR99—you don't want to inadvertently violate the EAR.

- To ensure compliance with U.S. export licensing regulations, check to see if you are barred from doing business with the individuals and entities you are shipping to. The fastest way to do this is to make sure your party or entity is not included on the U.S. Government's [Consolidated Screening List](#) (CSL). The CSL includes list of parties for which the United States Government maintains restrictions on certain exports, reexports or transfers of items. Also, check the CSL when looking to meet other possible license requirements that fall outside of the EAR, as listed below.

Submitting a License Application

- If you need an export license from BIS for your transaction, the SNAP-R on-line electronic licensing system allows registered users to submit export or re-export license applications or commodity classification requests. You must first register and obtain a CIN (company identification number) prior to submitting an electronic license application or commodity classification request. Registration is free.

Other Possible License Requirements Outside of the EAR

- Although relatively few items subject to the EAR require export licenses, other agencies require licenses in certain situations:
- The International Traffic in Arms Regulations (ITAR) control the sale of defense items and defense services. If you produce these items, learn more about ITAR, and potential requirements to register with the [U.S. Department of State's Directorate of Defense Trade Controls](#).
- The U.S. Department of Treasury's [Office of Foreign Assets Control \(OFAC\)](#) administers and enforces financial sanctions against certain foreign countries, companies, and individuals based on U.S. foreign policy and national security goals. OFAC maintains lists of persons, entities and corporations that are subject to trade restrictions; these lists are included in the BIS [Consolidated Screening List](#).
- In addition, the [Nuclear Regulatory Commission](#) (nuclear materials) and U.S. Food and Drug Administration also have export control requirements.