

Government Contracts Blog

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BIS Issues New Export Controls on Millimeter Wave Security Equipment, Software and Technology

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On March 25, 2010, the Bureau of Industry and Security ("BIS") created three new Export Control Classification Numbers ("ECCNs") to control security equipment using specified types of millimeter wave technology, including related software and technology, for regional stability and anti-terrorist reasons. New ECCN 2A984 has been added to the Commerce Control List to control concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution of 0.5 milliradian up to and including 1 milliradian at a standoff distance of 100 meters. A Technical Note to the new ECCN indicates that the range of frequencies covered is what is generally referred to as the millimeter-wave, submillimeter-wave and terahertz frequency regions.

New ECCN 2D984 controls software required for the development, production or use of concealed object detection equipment controlled by 2A984. New ECCN 2E984 controls technology required for the development, production or use of equipment controlled by 2A984 or for the development of software controlled by 2D984. Conforming amendments have been made in prior ECCNs 2E001 and 2E002.

These new ECCNs are controlled for export to countries subject to AT1 and RS2 controls, which means that a license or license exception is required for export or reexport to any destination other than the NATO countries, Australia, Japan or New Zealand.

Section 740.2(a)(8) of the EAR has also been amended to add 2A984, 2D984 and 2E984 to the list of ECCNs for which only limited license exceptions are available.

Section 742.6 has also been amended to provide for a general presumption of license approval for exports and reexports of 2A984, 2D984 and 2E984 items to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden. Amendments have also been made in Supplement 2 to Part 748 to require an end-user statement in support of specified license applications for these items.

The new rules include explanatory text indicating that concealed object detection equipment

operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution less than 0.5 milliradian at a standoff distance of 100 meters is subject to ITAR, and that such equipment having a spatial resolution greater than 1 milliradian at a standoff distance of 100 meters is EAR99.

These new rules provide clarification in an area where export controls were known to be under review. At the same time, some questions of interpretation are likely to arise with respect to components, software and technologies related to this detection equipment that BIS has previously sought to control through Category 3 ECCNs such as 3A001, 3D001 and 3E001.

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