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U.S. Commerce Department Revises License Review Policy for Exports of Certain Advanced Computing Commodities to China and Macau

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The U.S. Commerce Department, Bureau of Industry and Security (BIS) has issued a final rule, titled Revision to License Review Policy for Advanced Computing Commodities¹ (the BIS Rule), that implements a more favorable license application review policy for exports from the United States of certain advanced computing commodities, including NVIDIA H200 and AMD MI325X chips, to China and Macau, provided that certain requirements are met. Those requirements include, among other things, conducting independent lab testing in the United States of the advanced

computing commodities prior to export. Notably, applications for reexports, exports from abroad, and transfers of these same commodities to or within China or Macau remain subject to a presumption of denial.

In parallel, President Trump issued a Presidential Proclamation² imposing a 25 percent *ad valorem* duty rate on the import into the United States of certain advanced computing chips and related derivative products identified by similar, but not identical, performance parameters as items eligible for the more favorable license review policy announced in the BIS Rule, when such importation does not contribute to the buildout of the United States technology supply chain and the strengthening of domestic manufacturing capacity for derivatives of semiconductors.

Accordingly, foreign-produced advanced computing commodities that would be eligible for the more favorable export license review policy when exported from

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Exports

the United States would presumably first be subject to a 25 percent tariff upon import into the United States for required lab testing. Both the BIS Rule and the tariff are effective January 15, 2026.

EXPORTS ELIGIBLE FOR CASE-BY-CASE LICENSE REVIEW POLICY

Since 2022, BIS has issued several rounds of rules that expanded U.S. export controls on advanced integrated circuits (ICs) and related commodities that could contribute to the development and deployment of advanced AI platforms and other emerging technology, with a particular focus on restricting China's and Chinese companies' access to such advanced ICs. On December 8, 2025, President Trump announced³ an easing of this policy that would allow the shipment of NVIDIA H200 chips and similar products to approved customers in China under a revenue sharing agreement that would result in a 25 percent payment to the United States. Steps to implement that announcement by identifying the items and export transactions that are now eligible for a case-by-case license application review policy are subject to the conditions discussed in the next section.

Items subject to the Export Administration Regulations (EAR) and controlled under Export Control Classification Numbers (ECCNs) 3A090.a, 4A090.a, and related ".z.a" paragraphs, as well as ECCNs for related software and technology remain subject to a worldwide license requirement for Regional Stability (RS) reasons pursuant to EAR § 742.6(a)(6)(iii)(A). On May 15, 2025, the Trump Administration announced⁴ that it would no longer enforce this worldwide license requirement; however, the Administration continues to enforce the license requirement for exports, reexports, and transfers of these items to or within the EAR's Country Groups D:1, D:4, and D:5, as well as a separate end-user license requirement at § 744.23(a)(3)(i)(A) for exports, reexports, and transfers outside of Country Groups D:1, D:4, or D:5 to entities that are headquartered in, or whose ultimate parent companies are headquartered in, China, Macau, or other destinations specified in Country Group D:5. License applications for these items will in most circumstances continue to be reviewed under a presumption of denial when destined to or within China, Macau, or other destinations specified in Country Group D:5, or to an entity headquartered in, or whose ultimate parent company is headquartered in, China, Macau, or a destination specified in Country Group D:5.

Now, however, exports from the United States of such commodities that have a total processing performance (TPP) (as defined in Technical Note 2⁵ to 3A090.a and

3A090.b) of less than 21,000, and a total dynamic random access memory bandwidth (total DRAM bandwidth) (as defined in the notes to paragraph (dd)(1) in supplement no. 2 to part 748)⁶ of less than 6,500 GB/s, are eligible for case-by-case review when destined to end users in China or Macau, provided that the items are not for a restricted end use or end user and the conditions set forth in the next section are met.

Additionally, exports from the United States to China or Macau of commodities that are eligible for the more favorable licensing policy under the destination-based license requirements remain eligible for the case-by-case review policy when also subject to the EAR § 744.23 end-use license requirements, provided that the conditions in the following section are met.

REQUIREMENTS FOR CASE-BY-CASE LICENSE APPLICATION REVIEW

In addition to the requirement that commodities meet the technical specifications discussed above and be for export from the United States to China or Macau, applicants must submit certifications that they meet the following requirements, which are set forth at paragraph (dd) to supplement no. 2 to part 748 of the EAR, in order to receive case-by-case review rather than a presumption of denial for their license applications:

- First, license applicants must certify that the commodities to be exported are commercially available within the United States and provide the number of units of those commodities that have been shipped commercially to U.S. customers for end use within the United States at the time of the license application's submission. This certification should include detailed technical specifications of the commodities to be exported under a license, including the TPP, DRAM bandwidth, interconnect bandwidth, copackaged DRAM capacity, and peak power consumption when operating at maximum TPP of those commodities, as well as any changes to the item's specifications since that product was launched or previously shipped.
- Second, applicants must demonstrate that sufficient domestic supplies of commodities to be exported pursuant to a license exist within the United States to avoid delays in the fulfillment of new or existing orders for those commodities by U.S. customers for end use within the United States. Applicants must also establish that exports of items to China and Macau pursuant to a license will not divert global semiconductor foundry capacity for the production

of similar or more advanced commodities to meet the needs of U.S. end users.

- Third, applicants must show that the aggregate TPP of advanced ICs exported under the license to China and Macau will not exceed 50 percent of the aggregate TPP capacity of the units of the identical advanced ICs shipped to U.S. customers for end use within the United States, measured from when the exporter began shipping these advanced ICs commercially for end use within the United States.
- Fourth, license applicants must affirm to BIS that any AI-related items to be exported under a license are not for a military, military-intelligence, nuclear, missile, or chemical or biological weapons end use or end user, as those terms are defined in the EAR; that the transaction does not involve any parties covered by export restrictions in EAR § 744.8 and § 744.11, which include certain parties subject to property-blocking sanctions imposed by the U.S. Treasury Department, Office of Foreign Assets Control (OFAC), as well as entities included on the Entity List maintained by BIS; and that no parties subject to the EAR § 744.8 and § 744.11 restrictions, or any military or military-intelligence end users will be granted remote access to the commodities.
- Fifth, applicants must show, through a description provided to BIS, that ultimate consignees who will receive AI-related items under a license have put in place Know Your Customer (KYC) procedures that are sufficiently robust to prevent those items from being utilized for prohibited end uses or by prohibited end users via remote access.
- Sixth, applicants must identify, based on information from the exported items' ultimate consignee or other parties to the transaction with appropriate knowledge, any intended remote Infrastructure as a Service (IaaS) end users of the products for export who are located in specified jurisdictions (Belarus, China, Cuba, Iran, Macau, North Korea, Russia, and Venezuela) or who have a parent company located in one of these countries.
- Seventh, in the event that the end user or ultimate consignee of AI-related items exported under a license offer IaaS services, license applicants must certify that the end user or consignee is compliant with the end-user restrictions listed above, will not transfer any AI model weights to an end user not included in the license or other authorization

from BIS, and will not provide remote access to any algorithm trained on the AI-related items to entities within any of the prohibited categories of end users.

- Eighth, applicants must provide a description of the physical security measures used by the ultimate consignee of any AI-related items.
- Finally, applicants must certify that all commodities to be exported under a license, or a representative subset of those items, will be provided to an independent third-party testing facility to confirm their functional and technical specifications prior to export and identify the name and address of the facility in the certification. This facility must have sufficient expertise to accurately verify the technical specifications of tested items, be independent of any party to a transaction (e.g., the exporter, a consignee, or end user), not be controlled by an entity headquartered in, or have a parent company headquartered in, a country within BIS Country Group D:5 (including China) or Macau, and must be headquartered and located in the United States.

CHINA'S RESPONSE

Separately, the Chinese government has indicated that it disfavors the import of U.S.-origin advanced ICs and similar items. The Chinese government reportedly indicated to multiple Chinese companies that it would not approve imports of H200 semiconductors outside of specific exceptions, such as for academic and other research institutions. If this policy persists, it is possible that many of the exports that would otherwise end up being licensed under this rule may be blocked by Chinese, rather than American, regulators, greatly reducing the impact of case-by-case license review by BIS.

Notes

1. <https://www.federalregister.gov/documents/2026/01/15/2026-00789/revision-to-license-review-policy-for-advanced-computing-commodities>.
2. <https://www.whitehouse.gov/presidential-actions/2026/01/adjusting-imports-of-semiconductors-semiconductor-manufacturing-equipment-and-their-derivative-products-in-to-the-united-states/>.
3. <https://x.com/TrumpTruthOnX/status/1998146190152728999>.
4. <https://media.bis.gov/sites/default/files/documents/05.07%20Recission%20of%20AI%20Diffusion%20Press%20Release.pdf>.
5. <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-774>.
6. <https://media.bis.gov/regulations/ear/748#supplement-2-748>.

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