



Public Comments

November 23, 2022

Comments submitted via the Federal eRulemaking Portal: <http://www.regulations.gov>

Eileen Albanese  
Director  
Office of National Security and Technology Transfer Controls  
Bureau of Industry and Security  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, D.C. 20230

Subject: Implementation of Additional Export Controls on Semiconductor Manufacturing and Advanced Computing Comments

Reference: RIN 0694–AI94

Dear Ms. Albanese:

Nexcel Electronics Technology Inc (NETI) appreciates the opportunity to provide comments on the interim final rule published by BIS on advance computing, semiconductor manufacturing and end-use. The regulatory changes implemented by BIS on October 7, 2022 will have a catastrophic impact on NETI. These regulations will result in the shutdown of the company and the termination of all of the company's employees.

NETI provides design and engineering services for 3B991.b.1.c crystal pullers to its affiliate companies in the People's Republic of China. NETI's entire business operations are negatively affected by this interim final rule under the new §744.23 "Supercomputer" and semiconductor manufacturing end use regulations. §744.23(a)(2)(v) prohibits exports of any "parts," "components," or "equipment for the "development" or "production" in the PRC specified under 3B001, 3B002, 3B090, 3B611, 3B991 and 3B992. Because all of NETI's services and products are for the "development" and "production" in the PRC of 3B991 crystal pullers – NETI's entire operation now requires an export license, and the current BIS policy is one of denial. NETI has applied for a license to continue its operations, but it is unclear whether a license will be reviewed and granted prior to NETI's shutdown plan.

In addition, NETI possesses a valid BIS export license (D1283128) to sell 2B230 (NP1-controlled) items to an end user in China for the end use of "development" or "production" in the PRC of equipment classified under 3D991. Under the new §744.23(a)(2)(v) regulations, this would be prohibited. NETI repeatedly reached out to BIS, specifically the Office of Exporter Services (OES), requesting confirmation that the license was still valid and did not receive confirmation that the license was valid until November 2, 2022. This resulted in 27 days of delayed sales and immeasurable customer satisfaction concerns.

**NEXCEL ELECTRONIC TECHNOLOGY, INC.**  
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The confirmation that NETI's license was valid referred to BIS "FAQ V. Licensing and License Review Policy":

V.Q1 Do previously issued EAR license authorizations for items that are now captured under the parameters of one of the new ECCNs remain valid for the export, reexport, or transfer (incountry) of such items?

V.A1: Yes, licenses previously issued for such items are valid until their expiration dates absent license-specific action by BIS to suspend, revoke, or impose additional conditions on the previously issued licenses.

NETI's license has nothing to do with "items that are now captured under the parameters of one of the new ECCNs." The FAQ should be updated to state "Do previously issued EAR license authorizations ~~for items that are now captured under the parameters of one of the new ECCNs~~ remain valid for the export.

NETI believes that it was not BIS' intention to catch our business operations in the Additional Export Controls on Semiconductor Manufacturing and Advanced Computing. NETI, respectfully suggests that BIS amend amending 744.23(a)(2)(v) to read "The "development" or "production" in the PRC of any "parts," "components," or "equipment" specified under ECCN 3B001, 3B002, 3B090, 3B611, 3B991, or 3B992 that meet any of the criteria in paragraphs (a)(2)(iii)(A) through (C) of this section."

The financial impact of these new regulations to NETI is massive. At this time, all of the NETI Engineering team have been advised to cease all operations. In addition, the NETI Supply Chain team has no work because all exports have been put on hold. NETI's parent company has advised that they will only fund NETI's operating expenses for a limited period. At this point, NETI has approximately one- and one-half weeks until the company must cease operations and close the company. The effect will be the loss of jobs of each and every NETI employee.

NETI's very existence depends on receiving authorization from BIS for NETI to export parts, software, and technology for the development and production of 3B991.b.1.c crystal pullers which produce ingots and wafers to the People's Republic of China (PRC).

Your urgent attention in the matter is greatly appreciated.

Sincerely,

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