Brain Computer Interface (BCI) Advanced Notice of Proposed Rulemaking

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At the Beginning

• How did it start
• Preliminary exchanges
• It was determined that further assessment for more inputs was necessary
Timeline for publication

- **Draft of NOI or ANPRM**: 9 to 10 months
- **Clearance from OCC and OGC**: 1 to 2 months
- **Publication in Fed Reg**

BCI—Procedure Overview

- Draft of Advanced Notice of Proposed Rulemaking (ANPRM)
- Input from the TACS-ETTAC and METAC
- Consolidate the comments and suggestions for the final draft
- Regulatory Policy Division revision of the document
- Circulate interagency for clearance e.g., State, DOD and DOE
- More revisions based on their inputs
- Forward to the Office of Chief Counsel for their preview and clearance
- Forward it to Office of General Counsel for OMB (Office of Management and Budget)
- Publication in the *Federal Register*
- Review comments submitted by the public
Federal Register Notice for BCI

- 86 FR 59070 (Oct. 26, 2021)
- Comments were due before December 10, 2021
- 18 comments were received with one after Dec 10, 2021
- Over 90% recommended EAR99 for medical BCI
- Currently the United States has the most innovations for BCI
- Non-medical use of BCI is mainly for entertainment and gaming

BCI Current Status

- Comments were received

- BIS is reviewing the comments submitted to determine if a proposal should be made to the multilateral regimes
Proposals to Multilateral Regimes

- On the basis of public input and review of technical specifications from SMEs, proposals drafted by BIS to the multilateral regimes for consideration
- Proposals have to be cleared by the interagency before presentation to the various multilateral regimes e.g., Australia Group (AG), Wassenaar Arrangement (WA), Missile Technology Control Regime (MTCR)
- Members will vote on these proposals
- If the Regimes adopt the proposals, the control will be added to the lists
- BIS will publish the final rule in the Federal Register
- The new item or technology will then be added to the Commerce Control List (CCL)

Unilateral Controls

- A temporary unilateral control while the U.S. Government works to adopt a control through the relevant multilateral regime(s)
- ECCN 0Y521-series in a final rule published April 13, 2012 (72 FR 22191)
- That ECCN identifies items that warrant control on the Commerce Control List (CCL) but are not yet identified in an existing ECCN
- It enables more time for review while the original proposal can be revised to either make it more specific or narrow in scope
- It can then be presented for another round of discussion with the multilateral regimes during an annual meeting
- BIS may extend an item's ECCN 0Y521 classification for two one-year periods, provided that the U.S. Government has submitted a proposal to the relevant multilateral regime(s)
- Extension beyond three years may occur only if the Under Secretary for BIS makes a determination that such extension is in the national security or foreign policy interest of the United States
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