

# BIS Proposed Expansion of Export Controls of Spraying and Fogging Systems Could Affect Agriculture Industry and Spray Equipment Used in Other Industries

[Eric McClafferty](#)

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Earlier this week, the Bureau of Industry and Security (“BIS”) published a [request for public comment](#) regarding a proposed expansion of export controls under the Export Administration Regulations (“EAR”) for certain spraying or fogging systems, which are controlled under Export Control Classification Number (“ECCN”) 2B352.i. Currently, the ECCN controls only spraying or fogging equipment that is specially designed or modified for use on certain aircraft that also meet certain technical specifications related to droplet size and flow rate.<sup>[1]</sup>

BIS is considering expanding the rule by including ground-based systems, eliminating the performance specifications related to droplet size, and reducing the specification related to flow rate, among other potential changes. This would significantly increase export compliance burdens on manufacturers of agricultural products and spray equipment used in other industries, which currently are subjected to relatively low levels of export licensing requirements and related compliance exposure. The products controlled under this ECCN would require specific authorization – an export license from BIS – to most destinations outside the U.S. Implementation of the rules would also create controls over international transfers of development, production, and certain use information and also limit releases of that information to foreign persons (including employees) in the U.S., unless a specific BIS license for release of information to that employee is in place.

BIS is seeking public comment on these proposed changes, including the extent to which the proposed expansion describes items in normal commercial use. Comments are due to BIS on October 12, 2018. If you would like more information on how to comment or what to include in comments, please contact Eric McClafferty at 202-342-8400.

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<sup>[1]</sup> Specifically, the ECCN controls, “Spraying or fogging systems and “parts” and “components” therefor, as follows:

- i.1. Complete spraying or fogging systems, “specially designed” or modified for fitting to aircraft, “lighter than air vehicles,” or “UAVs,” capable of delivering, from a liquid suspension, an initial droplet “VMD” of less than 50 microns at a flow rate of greater than 2 liters per minute;
- i.2. Spray booms or arrays of aerosol generating units, “specially designed” or modified for fitting to

aircraft, "lighter than air vehicles," or "UAVs," capable of delivering, from a liquid suspension, an initial droplet "VMD" of less than 50 microns at a flow rate of greater than 2 liters per minute;

i.3. Aerosol generating units "specially designed" for fitting to the systems as specified in paragraphs i.1 and i.2 of this ECCN.