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UPDATE CONFERENCE ON EXPORT CONTROLS AND POLICY

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Connected Vehicles Final Rule

Office of Information and Communications Technology and Services (OICTS)

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Connected Vehicle (CV) Final Rule




PURPOSE: OICTS seeks to *reduce the national security risk posed by connected vehicle technologies* when designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of the PRC or Russia.



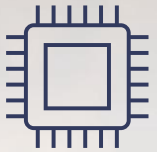
SCOPE: *Connected vehicle passenger market* (GVWR less than 10,001 lbs.) and is limited to Vehicle Connectivity Systems (VCS) Hardware, Covered Software (VCS software and Autonomous Driving Systems [ADS]), and CVs sold by PRC or Russian entities.

Covered Systems

 **Vehicle Connectivity System (VCS):** Hardware or Software that enables offboard communication above 450 MHz. Does **not** include hardware or software items that exclusively enable automotive sensing, ultrawideband for vehicle access, unidirectional radiofrequency bands, or power management/supply.

 **Automated Driving System (ADS):** Software directly enabling L3 and above systems as found in SAE J3016, irrespective of ODD (valet parking, etc.).

CV Prohibitions



HARDWARE: *VCS hardware importers* are prohibited from knowingly *importing* into the United States VCS hardware with a PRC/Russian nexus.



COVERED SOFTWARE: *Connected vehicle manufacturers* are prohibited from knowingly *importing or selling* into the United States completed connected vehicles that incorporate VCS or ADS software with a PRC/Russian nexus.



PLATFORM: *Connected vehicle manufacturers that are themselves owned by, controlled by, or subject to the jurisdiction or direction of the PRC or Russia,* are prohibited from knowingly *selling* in the United States completed connected vehicles that incorporate any VCS hardware or covered software.

Key Features of the Rule



Declarations of Conformity

Annual certifications that the regulated entity does not engage in prohibited transactions



Specific Authorizations

Individualized authorization granted by Commerce at a party's request to engage in prohibited transactions



General Authorizations

Broad authorizations for industry regarding low risk prohibited transactions



Advisory Opinions

A request-based review and advisement for regulated entities

*Regulated entities are VCS hardware importers and connected vehicle manufacturers

Declaration of Conformity

- If you are a VCS hardware importer or a connected vehicle manufacturer engaging in a transaction that is **not prohibited but has a foreign interest**,* you must submit a Declaration of Conformity to OICTS at least 60 days prior to importing VCS hardware, or importing or selling in the U.S. completed connected vehicles that incorporate covered software, and annually thereafter.
- Declarations will be used as a mechanism for industry to build compliance into their corporate governance and strengthen due diligence into the automotive supply chain.
- You do not need a response from OICTS to proceed with your transaction.

*A declaration is not required when the only foreign interest arises from a person's non-controlling ownership of equity.

Declarations of Conformity include...

- Transaction information(including the make/model, if applicable)
- Certifications:
 1. The VCS hardware or covered software is not designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of the PRC or Russia;
 2. The declarant has conducted proper due diligence to support this certification; and
 3. The declarant has taken all possible measures to ensure any necessary documentation from suppliers will be furnished to OICTS upon request.

Declaration of Conformity Tips

- You may rely on third-party assessments to assist with and prepare the declaration, though such assessments are not required.
- If a previously submitted declaration remains accurate, declarants may submit a confirmation of accuracy that associates the relevant new model year of vehicles to an existing declaration.

Specific Authorization

- If you are a VCS hardware importer or connected vehicle manufacturer seeking to engage in an otherwise prohibited transaction, you must submit an application for a specific authorization to OICTS and await a decision prior to engaging in the transaction.
- Specific authorizations are for entities who do not otherwise qualify for a general authorization.
- OICTS will provide you with a decision on your application package within 90 days of receipt unless we notify you within the 90-day period that additional time is required.

Specific Authorization Applications Include...

- Identifying information of the parties proposed to engage in the otherwise prohibited transaction(s).
- Transaction information (including the make/model of the connected vehicle, if applicable).
- Nature of the PRC/Russian nexus.
- Internal controls and security standards used.

Submitting supporting documentation with your specific authorization application can streamline OICTS' review.

Specific Authorization Review

- Applications for specific authorizations will be reviewed on a case-by-case basis. OICTS may require unique terms as a condition to granting a specific authorization to mitigate any risk arising from the otherwise prohibited transaction.
- This review will include an evaluation of the risks and potential mitigation measures proposed by the applicant. Mitigation may include the applicant's ability to limit PRC or Russian government access to, or influence over, the design, development, manufacture or supply of the VCS hardware or covered software; security standards used by the applicant and if such standards can be validated by OICTS or a third-party; and other actions or proposals the applicant intends to take to mitigate undue or unacceptable risk.
- OICTS may consider risks including, but not limited to, risks of data exfiltration from, and remote manipulation or operation of, the connected vehicle and the extent and nature of foreign adversary involvement in the design, development, manufacture, or supply of the VCS hardware or covered software.

Specific Authorization Application Tips

- Documentation that companies should consider submitting in support of an application:
 1. *For documentation to further describe ownership* – joint venture agreements, company bylaws, investor rights agreements, etc.
 2. *For background on manufacturing* – licensing or collaboration agreements, third-party manufacturing agreements, hardware bill of materials (HBOMs), etc.
 3. *For due diligence* – technology control plans, supplier or internal audits, risk assessments, internal compliance program policies, etc.
 4. *For software development and management* – cloud management security standards, operations and maintenance service contracts, software bill of materials (SBOMs), etc.

You can find more suggested supporting documentation at:

<https://www.bis.gov/oicts/connected-vehicles/specific-authorizations>.

Specific Authorization Application Tips

- You may rely on third-party assessments to assist with and prepare the application, though such assessments are not required.
- You do not need to re-submit supporting documentation previously provided to OICTS if you are applying for a separate specific authorization.
- Do not submit multiple applications for one prohibited transaction; doing so may result in processing delays.
- OICTS will not grant specific authorizations for transactions that are otherwise permitted under a general authorization.

Short-Term Specific Authorizations

- There may be instances where OICTS may consider issuing a short-term specific authorization, including:
 1. 2027 model years that include covered software and are actively being sold or imported as of the effective date of this rule;
 2. Covered software and VCS hardware supply chains that are affected by force majeure events;
 3. As a result of a corporate merger, investment, acquisition, joint venture, or conversion of equity (such as from debt) that occurs during model year production; or
 4. As a result of the closure or relocation of facilities involved in the production of covered software or VCS hardware.

Specific Authorization Possible Conditions

- Types of mitigation conditions for specific authorizations may include:
 1. Board resolution
 2. ICTS compliance officer
 3. Standstills (governance & ownership)
 4. Company-sponsored supply chain assessments
 5. Inventory disclosures
 6. Restrictions on technical collaboration with PRC/Russian companies
 7. Corporate security policies
 8. Third-party audits and monitors
 9. Access and inspections
 10. Annual reporting

General Authorization

- General authorizations will be issued by OICTS and available on the OICTS website and in the *Federal Register*.
- Permits otherwise prohibited transactions if you meet the stated requirements or conditions identified in the general authorization.
- Must not be subject to one, or more, of the following restrictions:
 1. OICTS has notified, either directly or through an Advisory Opinion, that you are not eligible for a general authorization; or
 2. You are owned by, controlled by, or subject to the jurisdiction or direction of the PRC or Russia.

<https://www.bis.gov/oicts/connected-vehicles/general-authorizations>

General Authorization Tips

- You must keep all primary business records related to the execution of each transaction undertaken pursuant to a general authorization. Primary business records include contracts, import records, commercial invoices, bills of sale, corporate policy documentation, and reports produced by third parties created for the purposes of compliance. You are required to retain records demonstrating compliance for 10 years.
- You do not need to submit a Declaration of Conformity for transactions authorized by a general authorization.

Advisory Opinion Request

- If you do not know whether a transaction is subject to a prohibition or requirement under the Connected Vehicles Rule, you can request that OICTS provide an Advisory Opinion.
- OICTS will issue an Advisory Opinion within 60 days of the original request unless it notifies the requestor within that 60-day period that more time is required through a notice of extension.
- *Note: Advisory Opinions differ from general questions about the rule. Any general questions can be sent directly to:*

CV-Intake@bis.doc.gov

Advisory Opinion Requests Include...

- Information identifying the parties to the prospective transaction.
- Information regarding the VCS hardware and or/covered software, including any descriptive literature, brochures, or technical specifications.
- Other transaction information.
(including the make/model of connected vehicle, if applicable)

Advisory Opinion Request Tips

- OICTS will consider third-party material on a case-by-case basis as part of its review of an Advisory Opinion request.
- If OICTS receives a general question at CV-Intake@bis.doc.gov that would warrant an official Advisory Opinion, OICTS may request that the sender submit an official Advisory Opinion request.
- OICTS may anonymize Advisory Opinions and post them on the CV website. Industry should check the website periodically for updates.

Additional information and FAQs can be found at:
<https://www.bis.gov/connected-vehicles>

Contact us at:
CV-Intake@bis.doc.gov