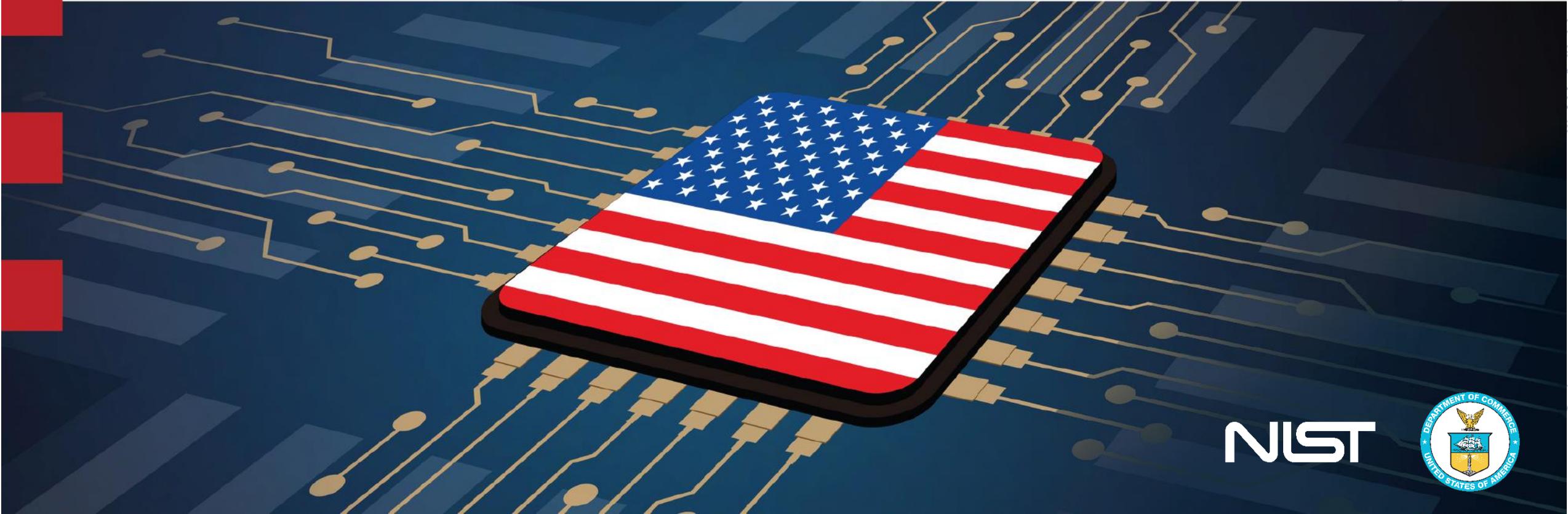
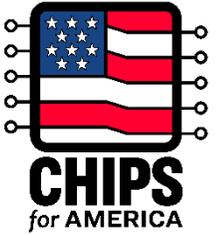


CHIPS for America Preventing the Improper Use of CHIPS Act Funding

Notice of Proposed Rulemaking

March 30, 2023



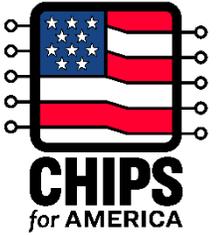
NIST



AGENDA

- Purpose of national security guardrails
- Key parts of CHIPS Act related to national security guardrails
- Proposed Rule deep dive
- How to submit public comment
- For any questions, please contact askchips@chips.gov

Today's CHIPS Program Office Speakers



Morgan Dwyer
Chief Strategy Officer

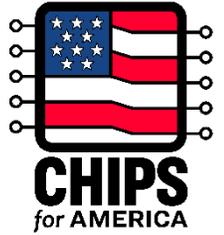


Sam Marullo
Director of Policy



Jesse Stoneman
Public Engagement

CHIPS for America Vision



Economic Security

The CHIPS Act will strengthen supply chain security and increase economic resilience in critical sectors.



National Security

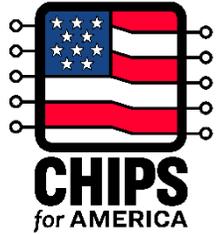
The CHIPS Act will ensure that the U.S. can manufacture advanced technologies, including secure chips for the U.S. military.



Future Innovation

The CHIPS Act will spur innovation, increase competitiveness, and ensure long-term U.S. leadership in the sector.

Funding Opportunities



February 28, 2023

1st Notice of Funding Opportunity

For commercial leading-edge, current, and mature node fabrication facilities

Late Spring 2023

2nd Notice of Funding Opportunity

For material suppliers and equipment manufacturers

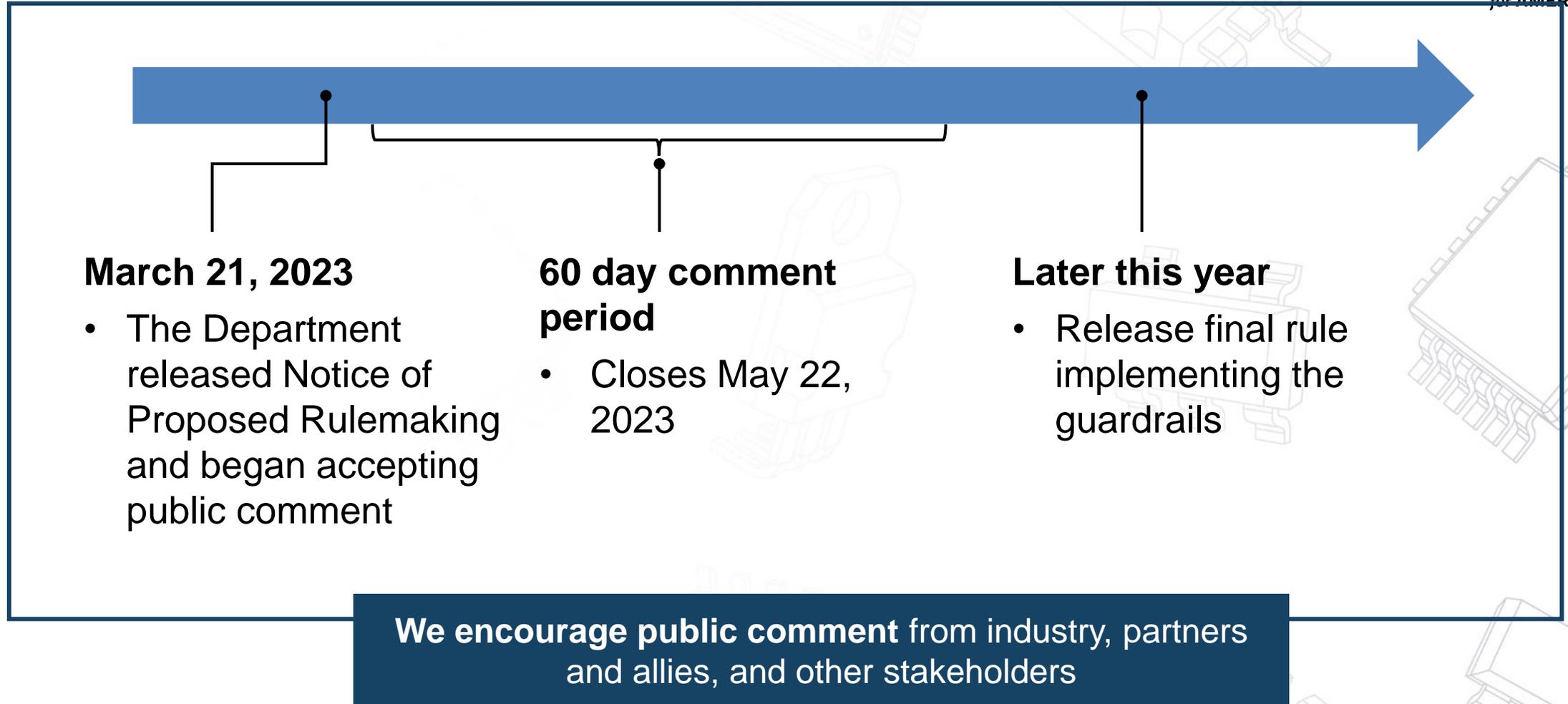
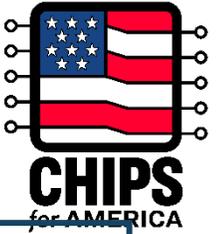
Fall 2023

3rd Notice of Funding Opportunity

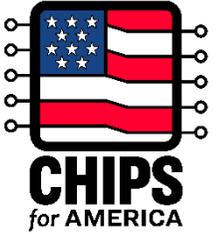
To support the construction of semiconductor R&D facilities

Proposed Guardrails apply to all funding opportunities in the CHIPS Incentives Program

Proposed Rule Timeline

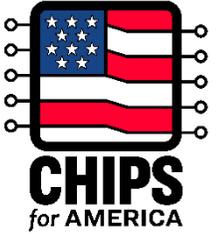


Preventing the Improper Use of CHIPS Act Funding



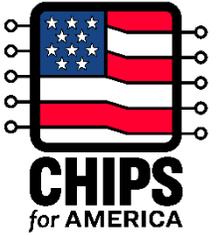
- The national security guardrails are intended to ensure that funding provided through this program does not directly or indirectly benefit foreign countries of concern.
- Strong national security guardrails will help protect the national security of America and our partners and allies.
- We will continue coordinating with allies and partners to ensure these guardrails advance shared goals, strengthen global supply chains, and enhance our collective security.

Proposed Rule Overview



- The Notice of Proposed Rulemaking contains two separate guardrails from the CHIPS Act: the **expansion guardrail** and the **technology guardrail**
- Both rules apply to CHIPS Incentive Program recipients for **10 years after an award** is made and permit the Department to recover an award if violated.
- The proposed rule details how both guardrails will work and the process for evaluating and mitigating possible violations through clawbacks.

The proposed rule...



1

Establishes the scope of restrictions on **expansion of semiconductor manufacturing capacity** in foreign countries of concern

2

Defines the scope of exceptions, including for facilities producing legacy semiconductors

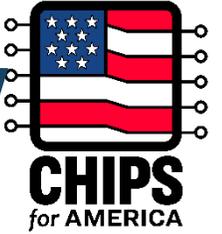
3

Details restrictions on **joint research and technology licensing efforts**

Expansion
Guardrail

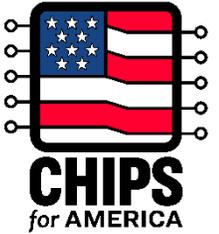
Technology
Guardrail

Expansion Guardrail Proposed Rule Overview



- Companies receiving CHIPS funding are subject to restrictions on building new facilities or expanding existing facilities in foreign countries of concern for 10 years.
 - To allow existing facilities to continue ordinary operations (such as tool upgrades and replacements), they may upgrade manufacturing capacity by 5%.
 - Existing facilities manufacturing legacy semiconductors are excepted; however, such a facility may not increase capacity by 10% or more.
- Existing facilities may upgrade their technology, but export controls may still apply.
- The exception for new legacy facilities that predominantly serve the country of concern requires that the final products containing the chips be used or consumed in that country.

Expansion Guardrail



CHIPS Act

A covered entity may not engage in any *significant transaction involving the material expansion of semiconductor manufacturing capacity in a foreign country of concern for 10 years following an award*. Violations of this prohibition may trigger full claw back of the CHIPS award.

Exceptions:

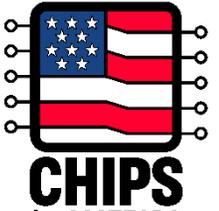
- *Existing facilities for producing legacy semiconductors*
- *Facilities for producing legacy semiconductors that predominantly serve the domestic market of the foreign country of concern.*

Foreign country of concern

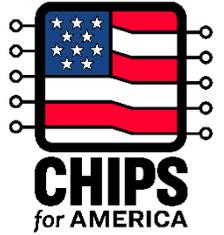
China, Russia, North Korea, Iran.

The Secretary may add other countries she determines to be engaged in conduct that is detrimental to the national security or foreign policy of the United States.

Expansion Guardrail Proposed Rule



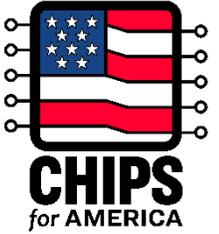
CHIPS Act	Proposed Rule
<p>A covered entity may not engage in any <u>significant transaction</u> involving the <u>material expansion of semiconductor manufacturing capacity in a foreign country of concern</u> for 10 years following an award. Violations of this prohibition may trigger full claw back of the CHIPS award.</p>	<ul style="list-style-type: none">• Significant transaction: Any investment (or series of investments) valued at \$100,000 or more.• Material expansion: Addition of physical space or equipment that increases semiconductor manufacturing capacity by more than 5%.• Semiconductor manufacturing capacity: Semiconductor fabrication (i.e., fabs) or packaging.
<p>Exceptions:</p> <ul style="list-style-type: none">• <i>Existing facilities</i> for producing <i>legacy semiconductors</i>• Facilities for producing legacy semiconductors that <i>predominantly serve the domestic market</i> of the foreign country of concern.	<ul style="list-style-type: none">• Existing facilities: A facility that was built, equipped, and operating prior to an award. A facility that has undergone a significant renovation increasing capacity by 10% or more is no longer an existing facility.• Legacy semiconductor: For logic, 28nm or older (from statute). For DRAM, half-pitch >18nm. For NAND, <128 layers. However, does not include any semiconductor packaged with 3D integration, post-FinFET chip, or semiconductor critical to national security.• Predominantly serves the market: At least 85% of a facility's output is incorporated into final products that are used or consumed within the market.



Technology Guardrail Proposed Rule Overview

Companies may not generally undertake joint research or enter into technology licensing agreements related to products that raise national security concerns (i.e., certain export-controlled semiconductors or semiconductors critical to national security) with foreign entities of concern for 10 years.

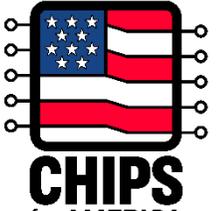
Technology Guardrail



CHIPS Act

A covered entity may not knowingly engage in *any joint research or technology licensing effort with a foreign entity of concern that relates to a technology or product that raises national security concerns.* **Violations of this prohibition may trigger full claw back of the CHIPS award.**

Technology Guardrail Proposed Rule



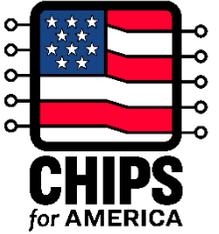
CHIPS Act

A covered entity may not knowingly engage in any joint research or technology licensing effort with a foreign entity of concern that relates to a technology or product that raises national security concerns. Violations of this prohibition may trigger full claw back of the CHIPS award.

Proposed Rule

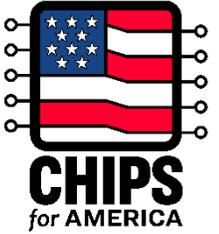
- **Applicable term:** The prohibition applies for 10 years, mirroring the expansion clawback.
- **Joint research:** Any R&D jointly undertaken by two or more people, including R&D undertaken as part of a joint venture.
- **Technology licensing:** An agreement to make patents, trade secrets, or know-how available to another party.
- **Foreign entity of concern:** Includes entities on sanctions lists and adds BIS's Entity List, Treasury's Chinese Military-Industrial Complex Companies (NS-CMIC) list, and FCC's Secure Networks Act covered list. The term also includes companies organized or with a principal place of business in a foreign country of concern as well as individuals resident in those countries.
- **Technology or product that raises national security concerns:** A semiconductor critical to national security or electronics which are export controlled for national security or regional stability reasons (including items controlled as part of the October 7 rules).
 - **Semiconductor critical to national security:** Includes chips used for quantum computing, in radiation-intensive environments, and for other specialized military capabilities. The list was developed with input from DOD and the IC.

Coordinating with Allies and Partners



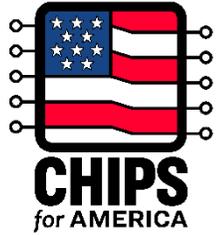
- The Department of Commerce has appreciated input from partners and allies while developing these proposed guardrails, and we look forward to further public comment.
- We will continue coordinating with allies and partners to support a healthy global semiconductor ecosystem that drives innovation and is resilient to cybersecurity threats, natural disasters, pandemics, geopolitical conflict, and more.
- As semiconductors and technologies continue to evolve, the U.S. will work with allies and partners to ensure the latest technology cannot be used by malign actors to undermine our collective economic and national security.
- We will continue coordinating closely with U.S. partners and allies to advance these shared goals, advance our collective security, and strengthen global supply chains.

How to Submit Comments



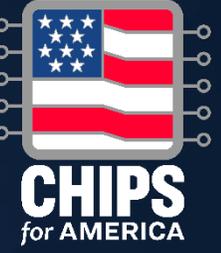
- Federal eRulemaking Portal: <https://www.regulations.gov>. Search for regulations.gov docket number NIST-2023-0001
- Email: guardrails@chips.gov with RIN 0693-AB70 in the subject line
- The Department will consider all comments received before the close of the comment period. Filers should name their files using the name of the person or entity submitting the comments except where comments are intended to be anonymous.
- The Department will accept anonymous comments or comments containing business confidential information (BCI). Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission.
- Further details available on the [Federal Register](#).

The public comment period closes on May 22, 2023.



Next Steps

- Review Proposed Rule in detail
- Consider submitting a comment
- Visit [CHIPS.gov](https://www.chips.gov) for additional resources, including:
 - Applicant guides and templates
 - FAQs and fact sheets
 - Future webinars
- Join our mailing list
- Contact us
 - askchips@chips.gov – general inquiries
 - [apply@chips.gov](https://www.chips.gov/apply) – application-related inquiries



Thank you