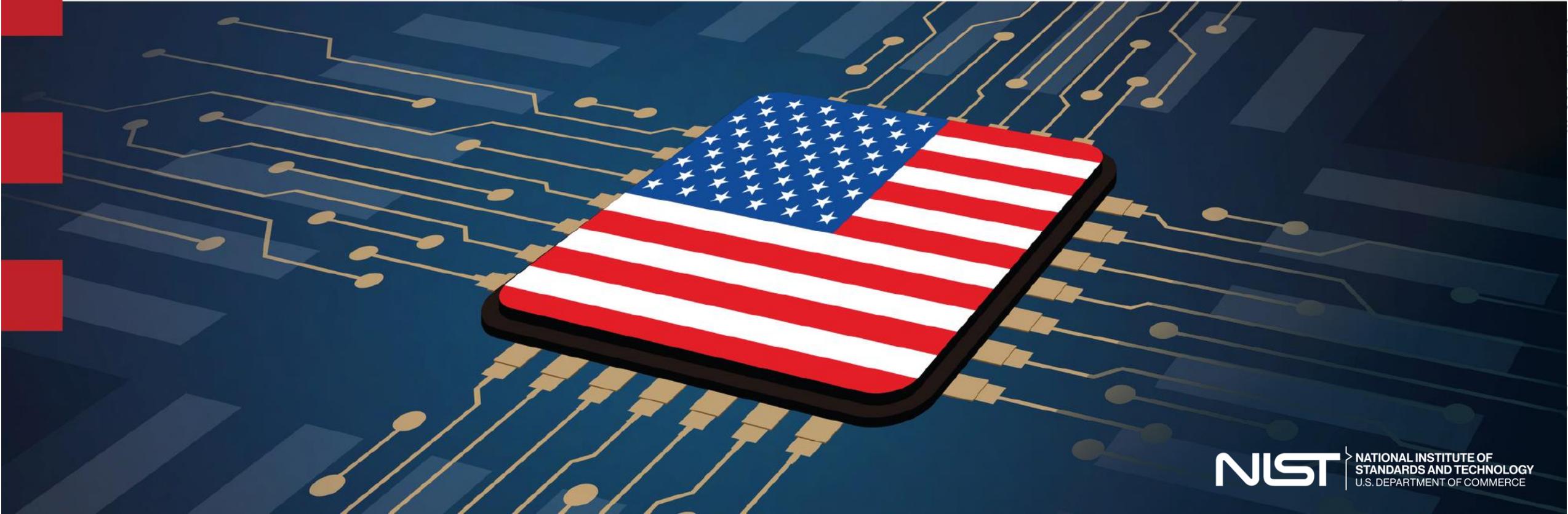


CHIPS for America

Preventing the Improper Use of CHIPS Act Funding

Final Rule

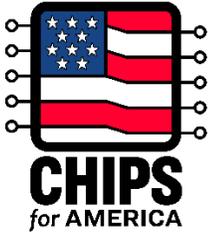
September 22, 2023



AGENDA

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

Today's Speakers



Morgan Dwyer
Chief Strategy
Officer CHIPS Program
Office

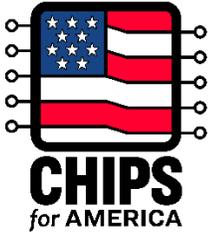


Vikram Viswanathan
Director of Policy
CHIPS Program Office



Sophia Rubio
Public
Engagement CHIPS
Program Office

CHIPS for America Vision



Economic Security

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



National Security

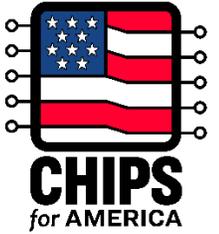
The CHIPS Act will ensure that the U.S. can manufacture advanced technologies, including secure chips for the U.S. military.



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

June 23, 2023

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

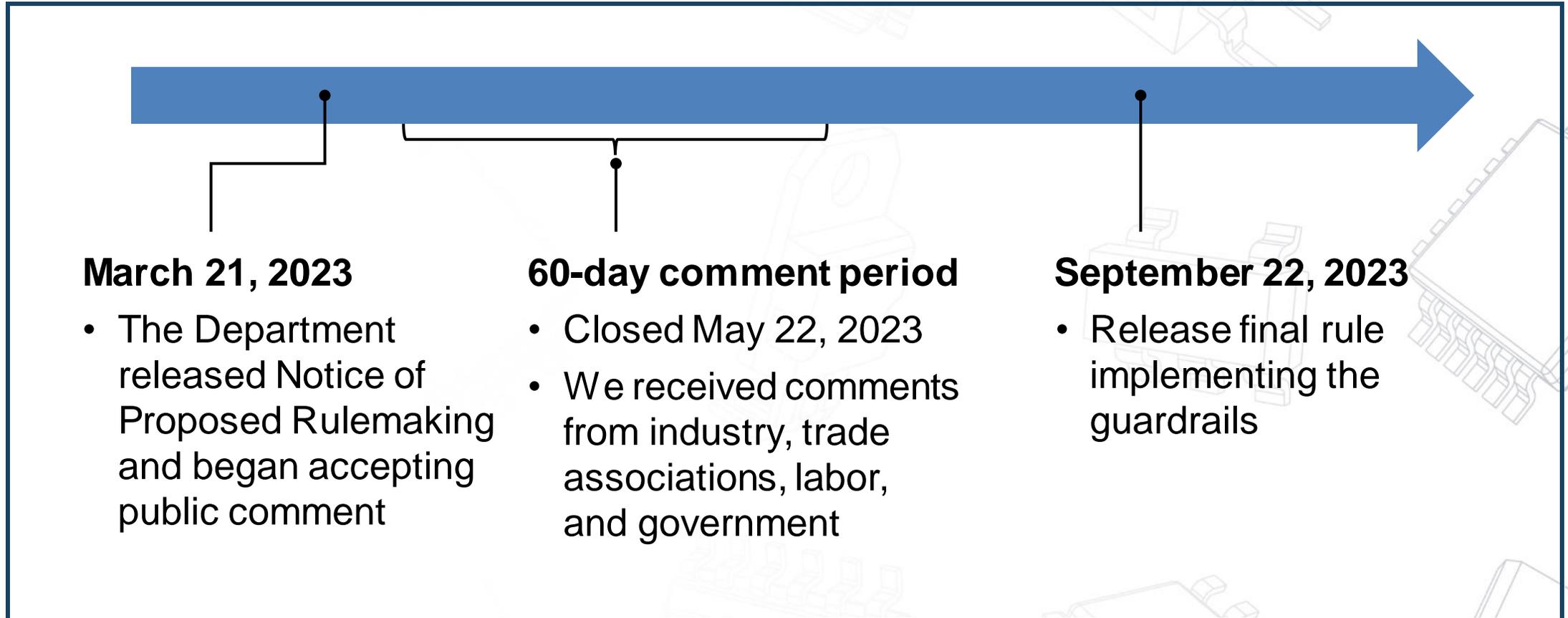
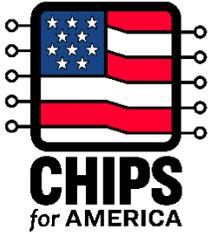
For large semiconductor materials and equipment facility projects \$300M+

For smaller semiconductor materials and equipment facility projects under \$300M

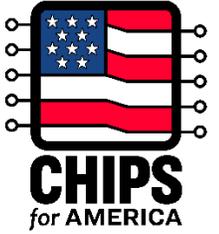
To support the construction of semiconductor R&D facilities

The CHIPS Program Office has received over 500 statements of interest and 100 pre-applications and applications

Guardrails Rule Timeline

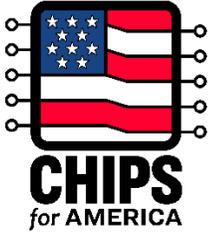


Preventing the Improper Use of CHIPS Act Funding



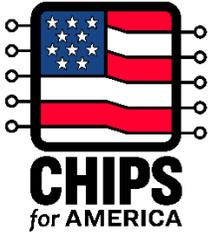
- The national security guardrails are intended to ensure that funding provided through this program does not directly or indirectly benefit foreign countries of concern.
- Strong national security guardrails will help protect the national security of America and our partners and allies.
- We will continue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

Final Rule Overview



- The Final Rule addresses two separate guardrails from the CHIPS Act: the **expansion guardrail** and the **technology guardrail**
- Both guardrails permit the Department to recover the entire award if violated.
- The final rule details how both guardrails will work and the process for evaluating and mitigating possible violations.

The final 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**

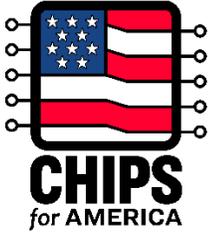
4

Details additional conditions to prevent circumvention of the technology clawback by entities related to the funding recipient

Expansion
Guardrail

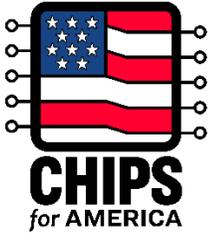
Technology
Guardrail

Significant Changes



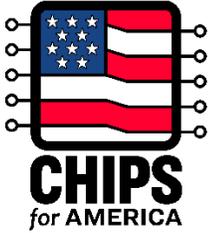
- **We appreciate the detailed comments we received**, including from government entities, industry associations, and multinational semiconductor companies, and have made several significant changes in response to those thoughtful comments.
 - The final rule ties expansion of semiconductor manufacturing capacity to the addition of cleanroom space, which allows for equipment upgrades and efficiency improvements within existing space.
 - The final rule includes several exceptions for the joint research and technology licensing clawback that are not a threat to national security, such as certain pre-existing activities, activities related to international standards, and those involving patent licensing.
 - The final rule includes semiconductor wafer manufacturing within the definition of semiconductor manufacturing.

Expansion Guardrail Final Rule Overview



- Companies receiving CHIPS funding, as well as members of their affiliated group, may not build new facilities or expand 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 85 percent of the final products containing the chips be used or consumed in that country.

Expansion Guardrail



CHIPS Act

A covered entity and its affiliated group 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

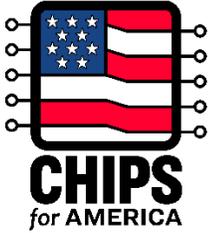
China, Russia, North Korea, Iran.

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.

Affiliated group

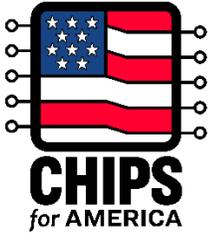
The CHIPS Act defines affiliated group to generally mean an entity that has 80% common ownership with the covered entity.

Expansion Guardrail Final Rule



CHIPS Act	Final Rule
<p>A covered entity and its affiliated group may not engage in any <u>significant transaction</u> involving the <u>material expansion of semiconductor manufacturing capacity</u> 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.</p>	<ul style="list-style-type: none">• Significant transaction: Will be defined in each individual award agreement.• Material expansion: Increase in semiconductor manufacturing capacity by more than 5% through the addition of cleanroom, production line, or other physical space.• Semiconductor manufacturing capacity: Wafer production, semiconductor fabrication, 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 award or, at the Secretary's discretion, a facility being equipped or expanded at the time of 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 Final Rule Overview

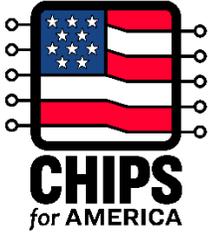


Companies may not generally engage in joint research or technology licensing related to technology or products that the Secretary has determined raise national security concerns (i.e., certain export-controlled semiconductors or semiconductors critical to national security) with foreign entities of concern.

The final rule articulates those categories of technology or products that raise national security concerns. The Technology Guardrail does not apply to joint research or technology licensing that was ongoing prior to the issuance of the final rule. Such “grandfathered” activities must be memorialized in the agreement between the covered entity and the Department.

The final rule includes additional conditions to prevent circumvention of the Technology Guardrail.

Technology Guardrail



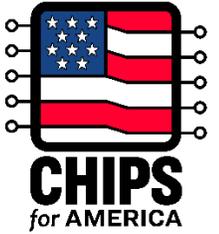
CHIPS Act

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.*

This prohibition does not apply to joint research or technology licensing that was ongoing prior to the issuance of the final rule.

Violations of this prohibition will result in the mandatory recovery of the entire CHIPS award.

Technology Guardrail Final 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.*

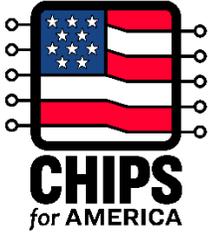
This prohibition does not apply to joint research or technology licensing that was ongoing prior to the issuance of the final rule.

Violations of this prohibition will result in the mandatory recovery of the entire CHIPS award.

Final Rule

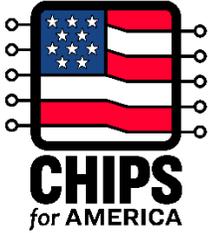
- **Applicable term:** Defined in each award agreement.
- **Joint research:** Any R&D jointly undertaken by two or more people, including R&D undertaken as part of a joint venture. Exempts 5 categories, including standards work, engineering related to using a foundry, and warranty services.
- **Technology licensing:** An agreement to make trade secrets or know-how available to another party. Exempts the same categories above, as well as patent licensing.
- **Foreign entity of concern:** Includes entities on sanctions lists and adds BIS's Entity List and Treasury's Chinese Military-Industrial Complex Companies (NS-CMIC) 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.

Additional conditions on certain joint research or technology licensing

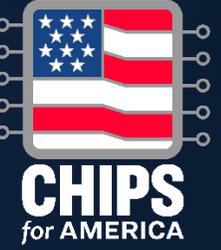


- The Technology Guardrail applies only to the covered entity and, if triggered, results in the mandatory recovery of the entire award.
- To prevent circumvention of the Technology Guardrail, the final rule establishes that the Secretary may take appropriate remedial measures, where any related entity of a covered entity engages in joint research or technology licensing that would violate the Technology Guardrail if engaged in by the covered entity.
- A related entity is any entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the covered entity.
- Appropriate remedial measures include requiring a mitigation agreement, partial recovery of an award, and full recovery of an award.

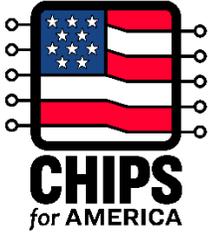
Coordinating with Allies and Partners



- The Department of Commerce has appreciated input from partners and allies while developing the guardrails.
- 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.

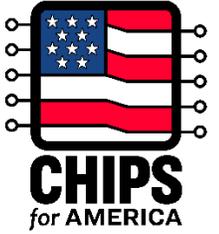


Question and Answers



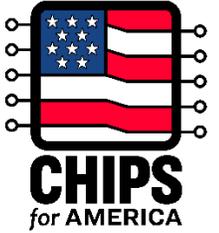
How will this affect companies with existing operations in foreign countries of concern? Will they still be able to apply?

The CHIPS Program Office strongly encourages applications from companies outside the United States. Companies with existing operations in foreign countries of concern may apply for and receive CHIPS funding. All funding recipients will be subject to our guardrails to protect national security. The guardrails were designed to prevent future investment in countries of concern, and to allow existing facilities to continue viably operating to avoid disrupting existing supply chains, consistent with any applicable U.S. export control regulations.



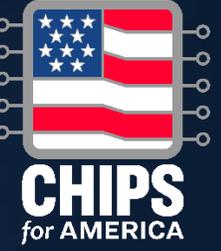
Do the guardrails require CHIPS funding recipients to cease manufacturing in foreign countries of concern?

No, with some exceptions, the guardrails will not affect the existing operations of CHIPS funding recipients in foreign countries of concern. The rule allows for these facilities to continue operations and undergo reasonable upgrades consistent with any applicable U.S. export control regulations. The guardrails are focused on the expansion of semiconductor manufacturing capacity and joint research or technology efforts related to technology and products that raise national security concerns. The guardrails do not generally regulate all technology.



Next Steps

- Visit [CHIPS.gov](https://chips.gov) for resources to share, including:
 - Notice of Funding Opportunity
 - Vision for Success
 - Applicant guides and templates
 - **Newly Released: National Security Guidebook**
 - FAQs and fact sheets
 - Webinar schedule (and recordings of prior webinars)
- Join our mailing list
- Contact us
 - askchips@chips.gov – general inquiries
 - apply@chips.gov – application-related inquiries



Thank you