

# Industry Applauds New Dual-Use Rule

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Like any other aerospace company that relies on exporting, Aero Gear in Windsor has to have a firm grasp on whether the parts it uses are found in civilian or military applications. But it's not always so black and white.



*Anne Evans, district director of the U.S. Commercial Service, U.S. Department of Commerce*

"We've been having to assure [customers] our civilian products won't be classified as military," said Douglas Rose, president of the 26-year-old company that manufactures gears and gearboxes for jet engines and helicopter drive systems. "A lot of jet engine parts are interchangeable."

Aero Gear, which generates about one-third of its business from exports, will be among Connecticut's many aerospace companies standing to benefit from a State Department ruling last month that will loosen regulations on some items and potentially reduce by months the time it takes to gain approval for selling civil aviation items internationally.

"Whenever we get something to clarify what we can or can't do, it's obviously a good thing for us, and it's a good thing for the aerospace business around Hartford," Rose said.

The ruling clarifies the distinction between civilian and military aircraft parts, both of which undergo unique export approval processes through two different channels.

Military parts follow much stricter guidelines due to security concerns. The Commerce Department monitors civilian parts through Export Administration regulations, and the State Department monitors military items through International Traffic in Arms Regulations, or ITAR.

### **Lines Had Blurred**

The line distinguishing civilian and military parts has become blurred over the past few years, especially as more technology previously used in military planes has been converted for civilian use, said Remy Nathan, Aerospace Industries Association assistant vice president for international affairs.

“Over the years, things have migrated from the military side for the commercial side in aviation, and you start dealing with situations on whose rule you’re looking at,” Nathan said. “Over the last couple of years, you’ve had a disagreement between State and Commerce on how to interpret that rule.”

The clarified regulation states that any “component, part, accessory, attachment and associated equipment” built exclusively for nonmilitary aircraft falls under the Commerce Department’s jurisdiction, as well as any part — even if it has been used in a military application — considered standard equipment and covered by a Federal Aviation Administration civil aircraft type certificate.

But if even a single part on an airplane is on the Significant Military Equipment list, the whole plane falls under the jurisdiction of the State Department. With that comes stricter export regulations, including which countries can purchase that plane and which countries the buyer can resell the plane to.

“You can have a \$200 ITAR part in a \$200 million aircraft and, guess what, before it leaves the U.S. that aircraft needs an ITAR license,” said John

Reynolds, former chairman of the American Bar Association's Export Control and Economic Sanctions Committee.

For dual-use items — those used in both civilian and military aircraft — manufacturers must apply for a commodity jurisdiction export license. The State and Commerce departments then decide the classification. That process alone can take up to three months, and if the item is deemed to have military use, it must go through another application process through the State Department.

### **Europeans Shy Away**

Many countries, especially in Europe, have become hesitant to buy American aviation products because of the lengthy review process, Reynolds said.

“They have aggressively sought to use non-U.S. parts in their products, sometimes asking suppliers to certify that their goods contain no U.S.-origin parts or components,” Reynolds said. That really hurts our industry, which is both highly competitive and highly export-oriented.”

In Connecticut last year, exports of aircraft, spacecraft and related parts accounted for \$1.4 billion, the state's third most profitable commodity sector. The clarification will provide welcome relief to smaller companies that do not have the capability to engage in a lengthy evaluation process to determine whether a product falls under a civilian or military classification, said Anne Evans, district director of the U.S. Commercial Service.

“Particularly for the smaller companies to have to spend time and resources deciding if a part has to have an export license or doesn't, being able to not have to deal with some of that and the rules getting more simplified is a really good thing,” Evans said.

### **Ambiguity Remains**

John Kornegay, president of Bloomfield-based Kamatics Corp., which manufactures mechanical products for aviation, said he has two full-time

employees who work with marketing and engineering staff to prepare for export applications.

“There’s a lot of paperwork to be taken care of,” said Kornegay. Though Kornegay said Kamatics will not be affected, he said he noticed there has been industry-wide ambiguity regarding export guidelines.

“I think there’s no question it took a while for the government to get the clarity, and the rules have changed a bit since 9/11,” Kornegay said.

Airlines often ask suppliers to guarantee in contracts they are not selling any military items on the plane. For smaller companies, this becomes difficult to guarantee, Nathan said.