

SUBCHAPTER C—CHIPS PROGRAM

PART 231—CLAWBACKS OF CHIPS FUNDING

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Subpart A—Definitions

§ 231.101 Existing facility.

Existing facility means:

(a) Any facility, the current status of which, including its semiconductor manufacturing capacity, is memorialized in the required agreement entered into by the covered entity and the Secretary pursuant to 15 U.S.C. 4652(a)(6)(C) and based on the Secretary's assessments of historical capacity measurements. Only facilities built, equipped, and operating prior to entering into the required agreement are considered to be existing facilities. A facility that undergoes significant renovations not memorialized in the required agreement shall no longer qualify as an existing facility.

(b) Notwithstanding paragraph (a) of this section, in the case of a facility that is being equipped, expanded, or modernized at the time of entering into the required agreement, the Secretary may, at their discretion, memorialize the planned semiconductor manufacturing capacity of that facility or any appropriate lower semiconductor manufacturing capacity in the required agreement and deem such facility an existing facility.

§ 231.102 Foreign country of concern.

The term *foreign country of concern* means:

(a) A country that is a covered nation (as defined in 10 U.S.C. 4872(d)); and

(b) Any country that the Secretary, in consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, determines to be engaged in conduct that is detrimental to the national security or foreign policy of the United States.

§ 231.103 Foreign entity.

Foreign entity, as used in this part:

(a) Means—

- (1) A government of a foreign country or a foreign political party;
- (2) A natural person who is not a lawful permanent resident of the United States, citizen of the United States, or any other protected individual (as such term is defined in section 8 U.S.C. 1324b(a)(3)); or
- (3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; and

(b) Includes—

- (1) Any person owned by, controlled by, or subject to the jurisdiction or direction of an entity listed in paragraph (a) of this section;
- (2) Any person, wherever located, who acts as an agent, representative, or employee of an entity listed in paragraph (a) of this section;
- (3) Any person who acts in any other capacity at the order, request, or under the direction or control of an entity listed in paragraph (a) of this section, or of a person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part by an entity listed in paragraph (a) of this section;
- (4) Any person who directly or indirectly through any contract, arrangement, understanding, relationship, or otherwise, owns 25 percent or more of the equity interests of an entity listed in paragraph (a) of this section;

- (5) Any person with significant responsibility to control, manage, or direct an entity listed in paragraph (a) of this section;
- (6) Any person, wherever located, who is a citizen or resident of a country controlled by an entity listed in paragraph (a) of this section; or
- (7) Any corporation, partnership, association, or other organization organized under the laws of a country controlled by an entity listed in paragraph (a) of this section.

§ 231.104 Foreign entity of concern.

Foreign entity of concern means any foreign entity that is—

(a) Designated as a foreign terrorist organization by the Secretary of State under 8 U.S.C. 1189;

(b) Included on the Department of Treasury's list of Specially Designated Nationals and Blocked Persons (SDN List), or for which one or more individuals or entities included on the SDN list, individually or in the aggregate, directly or indirectly, hold at least 50 percent of the outstanding voting interest;

(c) Owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in 10 U.S.C. 4872(d));

(1) A person is owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country listed in 10 U.S.C. 4872(d) where:

(i) The person is:

(A) a citizen, national, or resident of a foreign country listed in 10 U.S.C. 4872(d); and

(B) located in a foreign country listed in 10 U.S.C. 4872(d);

(ii) The person is organized under the laws of or has its principal place of business in a foreign country listed in 10 U.S.C. 4872(d);

(iii) 25 percent or more of the person's outstanding voting interest, board seats, or equity interest is held directly or indirectly by the government of a foreign country listed in 10 U.S.C. 4872(d); or

(iv) 25 percent or more of the person's outstanding voting interest, board seats, or equity interest is held directly or indirectly by any combination of the persons who fall within subsections (i)–(iii);

(d) Alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(1) The Espionage Act, 18 U.S.C. 792 *et seq.*;

(2) 18 U.S.C. 951;

(3) The Economic Espionage Act of 1996, 18 U.S.C. 1831 *et seq.*;

(4) The Arms Export Control Act, 22 U.S.C. 2751 *et seq.*;

(5) The Atomic Energy Act, 42 U.S.C. 2274, 2275, 2276, 2277, or 2284;

(6) The Export Control Reform Act of 2018, 50 U.S.C. 4801 *et seq.*;

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- (7) The International Economic Emergency Powers Act, 50 U.S.C. 1701 *et seq.*, or
- (8) 18 U.S.C. 1030.
- (e) Included on the Bureau of Industry and Security's Entity List (15 CFR part 744, supplement no. 4);
- (f) Included on the Department of the Treasury's list of Non-SDN Chinese Military-Industrial Complex Companies (NS-CMIC List), or for which one or more individuals or entities included on the NS-CMIC list, individually or in the aggregate, directly or indirectly, hold at least 50 percent of the outstanding voting interest; or
- (g) Determined by the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States under this chapter.

§ 231.105 Joint research.

- (a) *Joint research* means any research and development activity that is jointly undertaken by two or more parties, including any research and development activities undertaken as part of a joint venture as defined at 15 U.S.C. 4301(a)(6).
- (b) Notwithstanding paragraph (a) of this section, the following is not joint research:
 - (1) A standards-related activity (as such term is defined in 15 CFR part 772);
 - (2) Research and development conducted exclusively between and among employees of a covered entity or between and among entities that are related entities to the covered entity;
 - (3) Research, development, or engineering related to a manufacturing process for an existing product solely to enable use of foundry, assembly, test, or packaging services for integrated circuits;
 - (4) Research, development, or engineering involving two or more entities to establish or apply a drawing, design, or related specification for a product to be purchased and sold between or among such entities; and
 - (5) Warranty, service, and customer support performed by a covered entity or an entity that is a related entity of a covered entity.

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§ 231.106 Knowingly.

Knowingly means acting with knowledge that a circumstance exists or is substantially certain to occur, or with an awareness of a high probability of its existence or future occurrence. Such awareness can be inferred from evidence of the conscious disregard of facts known to a person or of a person's willful avoidance of facts.

§ 231.107 Legacy semiconductor.

- (a) *Legacy semiconductor* means:
 - (1) For the purposes of a semiconductor wafer facility:
 - (i) A silicon wafer measuring 8 inches (or 200 millimeters) or smaller in diameter; or
 - (ii) A compound wafer measuring 6 inches (or 150 millimeters) or smaller in diameter.
 - (2) For the purposes of a semiconductor fabrication facility:
 - (i) A digital or analog logic semiconductor that is of the 28-nanometer generation or older (*i.e.*, has a gate length of 28 nanometers or more for a planar transistor);
 - (ii) A memory semiconductor with a half-pitch greater than 18 nanometers for Dynamic Random Access Memory (DRAM) or less than 128 layers for Not AND (NAND) flash that does not utilize emerging memory technologies, such as transition metal oxides, phase-change memory, perovskites, or ferromagnetics relevant to advanced memory fabrication; or
 - (iii) A semiconductor identified by the Secretary in a public notice issued under 15 U.S.C. 4652(a)(6)(A)(ii).
 - (3) For the purposes of a semiconductor packaging facility, a semiconductor that does not utilize advanced three-dimensional (3D) integration packaging, under paragraph (b)(3) of this section.
 - (b) Notwithstanding paragraph (a) of this section, the following are not legacy semiconductors:
 - (1) Semiconductors critical to national security, as defined in § 231.118;
 - (2) A semiconductor with a post-planar transistor architecture (such as fin-shaped field effect transistor (FinFET) or gate all around field-effect transistor); and

(3) A semiconductor utilizing advanced three-dimensional (3D) integration packaging, such as by directly attaching one or more die or wafer, through silicon vias, through mold vias, or other advanced methods.

§ 231.108 Material expansion.

Material expansion means:

(1) with respect to an existing facility, the increase of the semiconductor manufacturing capacity of that facility by more than five percent of the capacity memorialized in the required agreement due to the addition of a cleanroom, production line or other physical space, or a series of such additions; or

(2) any construction of a new facility for semiconductor manufacturing.

[88 FR 89574, Dec. 28, 2023]

§ 231.109 Members of the affiliated group.

Members of the affiliated group includes any entity that is a member of the covered entity's "affiliated group," as that term is defined under 26 U.S.C. 1504(a), without regard to 26 U.S.C. 1504(b)(3).

§ 231.110 Person.

The term *person* includes an individual, partnership, association, corporation, organization, or any other combination of individuals.

§ 231.111 Predominately serves the market.

Predominately serves the market means that at least 85 percent of the output of the semiconductor manufacturing facility (e.g., wafers, semiconductor devices, or packages) by value is incorporated into final products (i.e., not an intermediate product that is used as factor inputs for producing other goods) that are used or consumed in that market.

§ 231.112 Required agreement.

(a) *Required agreement* means the agreement that is entered into by a covered entity and the Secretary on or before the date on which the Secretary awards Federal financial assistance under 15 U.S.C. 4652. The required agreement shall include, *inter alia*, pro-

visions describing the prohibitions on certain expansion transactions and on certain joint research or technology licensing.

(b) The required agreement shall memorialize:

(1) The covered entity's existing facilities in foreign countries of concern; and

(2) Any ongoing joint research or technology licensing activities with foreign entities of concern that relate to technology or products that raise national security concerns as identified by the Secretary.

(c) The required agreement may include additional terms to mitigate national security risks, including as contemplated in § 231.204.

(d) To the extent consistent with the requirements of 15 U.S.C. 4652 and these regulations, the Secretary and the covered entity may amend the required agreement by mutual consent.

§ 231.113 Research and development.

Research and development means theoretical analysis, exploration, or experimentation; or the extension of investigative findings and theories of a scientific or technical nature into practical application, including the experimental production and testing of models, devices, equipment, materials, and processes.

§ 231.114 Secretary.

Secretary means the Secretary of Commerce or the Secretary's designees.

§ 231.115 Semiconductor.

Semiconductor means an integrated electronic device or system most commonly manufactured using materials such as, but not limited to, silicon, silicon carbide, or III-V compounds, and processes such as, but not limited to, lithography, deposition, and etching. Such devices and systems include but are not limited to analog and digital electronics, power electronics, and photonics, for memory, processing, sensing, actuation, and communications applications.

§ 231.116**§ 231.116 Semiconductor manufacturing.**

Semiconductor manufacturing means semiconductor wafer production, semiconductor fabrication or semiconductor packaging. Semiconductor wafer production includes the processes of wafer slicing, polishing, cleaning, epitaxial deposition, and metrology. Semiconductor fabrication includes the process of forming devices such as transistors, poly capacitors, non-metal resistors, and diodes on a wafer of semiconductor material. Semiconductor packaging means the process of enclosing a semiconductor in a protective container (package) and providing external power and signal connectivity for the assembled integrated circuit.

§ 231.117 Semiconductor manufacturing capacity.

Semiconductor manufacturing capacity means the productive capacity of a facility for semiconductor manufacturing. In the case of a wafer production facility, semiconductor manufacturing capacity is measured in wafers per year. In the case of a semiconductor fabrication facility, semiconductor manufacturing capacity is measured in wafer starts per year. In the case of a semiconductor fabrication facility for wafers designed for wafer-to-wafer bonding structure, semiconductor manufacturing capacity is measured in stacked wafers per year. In the case of a packaging facility, semiconductor manufacturing capacity is measured in packages per year.

§ 231.118 Semiconductors critical to national security.

Semiconductors critical to national security means:

- (a) Semiconductors utilizing nanomaterials, including 1D and 2D carbon allotropes such as graphene and carbon nanotubes;
- (b) Compound and wide- and ultrawide bandgap semiconductors;
- (c) Radiation-hardened by process (RHBP) semiconductors;
- (d) Fully depleted silicon on insulator (FD-SOI) semiconductors, other than with regard to semiconductor packaging operations with respect to such semiconductors of a 28-nanometer generation or older;

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- (e) Silicon photonic semiconductors;
- (f) Semiconductors designed for quantum information systems;
- (g) Semiconductors designed for operation in cryogenic environments (at or below 77 Kelvin); and
- (h) Any other semiconductors that the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, determines is critical to national security and issues a public notice of that determination.

§ 231.119 Significant renovations.

Significant renovations means building new cleanroom space or adding a production line or other physical space to an existing facility that, in the aggregate during the applicable term of the required agreement, increases semiconductor manufacturing capacity by 10 percent or more of the capacity memorialized in the required agreement.

231.120 Technology licensing.

Technology licensing means:

- (a) An express or implied contractual agreement in which the rights owned by, licensed to or otherwise lawfully available to one party in any trade secrets or knowhow are sold, licensed or otherwise made available to another party.
- (b) Notwithstanding paragraph (a) of this section, the following is not technology licensing:
 - (1) Licensing of patents, including licenses related to standard essential patents or cross licensing activities;
 - (2) Licensing or transfer agreements conducted exclusively between a covered entity and related entities, or between or among related entities of the covered entity;
 - (3) A standards-related activity (as such term is defined in 15 CFR part 772);
 - (4) Agreements that grant patent rights only with respect to “published information” and no proprietary information is shared;
 - (5) An implied or general intellectual property license relating to the use of a product that is sold by a covered entity or related entities;
 - (6) Technology licensing related to a manufacturing process for an existing

product solely to enable use of assembly, test, or packaging services for integrated circuits;

(7) Technology licensing involving two or more entities to establish or apply a drawing, design, or related specification for a product to be purchased and sold between or among such entities;

(8) Warranty, service, and customer support performed by a covered entity or an entity that is a related entity of a covered entity; and

(9) Disclosures of technical information to a customer solely for the design of integrated circuits to be manufactured by the funding recipient for that customer.

§ 231.121 Technology or product that raises national security concerns.

A technology or product that raises national security concerns means:

(a) Any semiconductor critical to national security;

(b) Any item listed in Category 3 of the Commerce Control List (supplement no. 1 to part 774 of the Export Administration Regulations, 15 CFR part 774) that is controlled for National Security (“NS”) reasons, as described in 15 CFR 742.4, or Regional Stability (“RS”) reasons, as described in 15 CFR 742.6; and

(c) Any other technology or product that the Secretary determines raises national security concerns.

Subpart B—General

§ 231.201 Scope.

This subpart sets forth the prohibitions to be implemented in the required agreements, as well as record retention requirements related to those prohibitions.

§ 231.202 Prohibition on certain expansion transactions. (Expansion Clawback)

(a) During the 10-year period beginning on the date of the award of Federal financial assistance under 15 U.S.C. 4652, the covered entity and members of the affiliated group may not engage in any significant transaction involving the material expansion of semiconductor manufacturing capacity in a foreign country of con-

cern; provided that this prohibition will not apply to—

(1) Existing facilities or equipment of a covered entity or any member of the affiliated group for manufacturing legacy semiconductors; or

(2) Significant transactions involving material expansion of semiconductor manufacturing capacity that—

(i) Produces legacy semiconductors; and

(ii) Predominately serves the market of a foreign country of concern.

(b) No later than the date of the award of Federal financial assistance award under 15 U.S.C. 4652, the covered entity shall enter into a required agreement that contains this prohibition and otherwise implements the requirements of this part.

§ 231.203 Prohibition on certain joint research or technology licensing. (Technology Clawback)

(a) During the applicable term of a Federal financial assistance award under 15 U.S.C. 4652, a covered entity may not knowingly engage in any joint research or technology licensing with a foreign entity of concern that relates to a technology or product that raises national security concerns.

(b) Notwithstanding paragraph (a) of this section, this prohibition will not apply to joint research or technology licensing that relate to technology or products that raise national security concerns that were ongoing prior to the Secretary’s determination that such technology or products raised national security concerns. Any such ongoing joint research or technology licensing shall be memorialized in the required agreement.

§ 231.204 Additional conditions on certain joint research or technology licensing.

(a) In addition to the conditions of the Technology Clawback (§ 231.203), the Secretary will specify, in the required agreement with the covered entity, any additional measures that covered entities must take to mitigate the risk of circumvention of the Technology Clawback, including measures that will allow the Secretary to recover up to the full amount of the Federal financial assistance provided to

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the covered entity, if, during the term applicable to the award, any related entity engages in joint research or technology licensing that would violate the Technology Clawback if engaged in by the covered entity.

(b) For purposes of this rule, 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.

§ 231.205 Retention of records.

(a) During the 10-year period beginning on the date of the Federal financial assistance award under 15 U.S.C. 4652 and for a period of seven years following any significant transaction involving the material expansion of semiconductor manufacturing capacity in a foreign country of concern, a covered entity or member of the affiliated group planning or engaging in any such significant transaction involving the material expansion of semiconductor manufacturing capacity in a foreign country of concern shall maintain records related to the significant transaction in a manner consistent with the recordkeeping practices used in their ordinary course of business for such transactions.

(b) A covered entity that is notified that a transaction is being reviewed by the Secretary shall immediately take steps to retain all records relating to such transaction, including if those records are maintained by a member of the affiliated group or by related entities.

Subpart C—Notification, Review, and Recovery

§ 231.301 Procedures for notifying the Secretary of significant transactions.

During the 10-year period beginning on the date of the Federal financial assistance award under 15 U.S.C. 4652, the covered entity shall submit a notification to the Secretary regarding any planned significant transactions of the covered entity or members of the affiliated group that may involve the material expansion of semiconductor manufacturing capacity in a foreign country of concern, regardless of whether the

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covered entity believes the transaction falls within an exception in 15 U.S.C. 4652(a)(6)(C)(ii). A notification must include the information set forth in § 231.302 and be submitted to notifications@chips.gov.

§ 231.302 Contents of notifications; certifications.

The notification required by § 231.301 shall be certified by the covered entity's chief executive officer, president, or equivalent corporate officer, and shall contain the following information about the parties and the transaction, which must be accurate and complete:

(a) The covered entity and any member of the affiliated group that is party to the transaction, including for each a primary point of contact, telephone number, and email address.

(b) The identity and location(s) of all other parties to the transaction.

(c) Information, including organizational chart(s), on the ownership structure of parties to the transactions.

(d) A description of any other significant foreign involvement, *e.g.*, through financing, in the transaction.

(e) The name(s) and location(s) of any entity in a foreign country of concern where or at which semiconductor manufacturing capacity may be materially expanded by the transaction.

(f) A description of the transaction, including the specific types of semiconductors currently produced at the facility planned for expansion, the current production technology node (or equivalent information) and semiconductor manufacturing capacity, as well as the specific types of semiconductors planned for manufacture, the planned production technology node, and planned semiconductor manufacturing capacity.

(g) If the covered entity asserts that the transaction involves the material expansion of semiconductor manufacturing capacity that produces legacy semiconductors that will predominantly serve the market of a foreign country of concern, documentation as to where the final products incorporating the legacy semiconductors are to be used or consumed, including the percent of semiconductor manufacturing capacity or percent of sales revenue that will be accounted for by use

or consumption of the final goods in the foreign country of concern.

(h) If applicable, an explanation of how the transaction meets the requirements, set forth in 15 U.S.C. 4652(a)(6)(C)(ii), for an exception to the prohibition on significant transactions that involve the material expansion of semiconductor manufacturing capacity, including details on the calculations for semiconductor manufacturing capacity and/or sales revenue by the market in which the final goods will be consumed.

§ 231.303 Response to notifications.

The Secretary will review the notification provided pursuant to § 231.301 for completeness, and may:

(a) Reject the notification, and, if so, inform the covered entity promptly in writing, if:

(1) The notification does not meet the requirements of § 231.302; or

(2) The notification contains apparently false or misleading information;

(b) Request additional information from the covered entity to complete the notification; or

(c) Accept the notification and initiate a review under § 231.304, and, if so, inform the covered entity promptly in writing.

§ 231.304 Initiation of review.

(a) The Secretary may initiate a review of a transaction:

(1) After accepting a notification pursuant to § 231.303(c); or

(2) Upon the Secretary's own initiative, where the Secretary believes that a transaction may be prohibited. In determining whether to initiate a review, the Secretary may consider all available information, including information submitted by persons other than the covered entity to *notifications@chips.gov*.

(b) Where the Secretary initiates review of a transaction under paragraph (a)(2) of this section, the Secretary will notify the covered entity promptly in writing.

(c) The Secretary will consult with the Secretary of Defense and the Director of National Intelligence upon the initiation of a review of any transaction.

§ 231.305 Procedures for review.

(a) During the review, the Secretary may request additional information from the covered entity. The covered entity shall promptly provide any additional information. The Secretary will determine whether the additional information is sufficient for the Secretary to complete the review, and may seek additional information from the covered entity if necessary. Where the Secretary has determined that the additional information is sufficient to allow the Secretary to complete the review, the Secretary will inform the covered entity in writing. The time periods for any determinations by the Secretary under this section will be tolled from the date on which the request for additional information is sent to the covered entity until the Secretary determines that the response is sufficient to complete the review.

(b) Not later than 90 days after a notification is accepted by the Secretary, or after the Secretary initiates a review under § 231.304(a)(2), and subject to any tolling pursuant to § paragraph (a) of this section, the Secretary will provide the covered entity an initial determination in writing as to whether the transaction would violate § 231.202. The initial determination may include a finding that the covered entity or a member of the affiliated group has violated § 231.202.

(c) If the Secretary's initial determination is that the transaction would violate § 231.202 or that the covered entity or a member of the affiliated group has violated § 231.202 by engaging in a prohibited significant transaction, then:

(1) The covered entity may within 14 days of receipt of the initial determination request that the Secretary reevaluate the initial determination, including by submitting additional information.

(2) If the covered entity does not make such a request within 14 days of receipt of the initial determination, the initial determination will become final. If the covered entity recipient does request a reconsideration of the initial determination, the Secretary

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will issue the final determination within 60 days after the receipt by the Secretary of the request for reconsideration.

(3) Upon the issuance of a final determination that a transaction would violate § 231.202 or that the covered entity or a member of the affiliated group has violated § 231.202 by engaging in a prohibited significant transaction, the covered entity must cease or abandon the transaction (or, if applicable, ensure that the member of the affiliated group ceases or abandons the transaction), and the covered entity's chief executive officer, president, or equivalent corporate official, must provide a signed letter electronically to *notifications@chips.gov* within 45 days of the final determination certifying that the transaction has ceased or been abandoned. Such letter must certify, under the penalties provided in the False Statements Accountability Act of 1996, as amended (18 U.S.C. 1001), that the information in the letter is accurate and complete.

(d) Unless recovery is waived pursuant to § 231.306, a violation of § 231.202 for engaging in a prohibited significant transaction or failing to cease or abandon a planned significant transaction that the Secretary has determined would be in violation of § 231.202 will result in the recovery of the full amount of the Federal financial assistance provided to the covered entity, which amount will be a debt owed to the U.S. Government.

(e) The running of any deadline or time limitation for the Secretary will be suspended during a lapse in appropriations.

§ 231.306 Mitigation of national security risks.

If the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, determines that a covered entity or member of the affiliated group is planning to undertake or has undertaken a significant transaction that violates or would violate § 231.202, the Secretary may seek to take measures in connection with the transaction to mitigate the risk to national security. Such measures may include the negotiation of an amendment to the required agreement

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(a) ("mitigation agreement") with the covered entity to mitigate the risk to national security in connection with the transaction. The Secretary has discretion to waive, in whole or part, recovery of the Federal financial assistance provided to the covered entity for violation of § 231.305(d) in circumstances where an appropriate mitigation agreement has been entered into and complied with by the covered entity. If a covered entity fails to comply with the mitigation agreement or if other conditions in the mitigation agreement are violated, the Secretary may recover the full amount of the Federal financial assistance provided to the covered entity.

§ 231.307 Review of actions that may violate the prohibition on certain joint research or technology licensing.

(a) The Secretary may initiate a review of any joint research or technology licensing the Secretary believes may be prohibited by § 231.203. In determining whether to initiate a review, the Secretary may consider all available information, including information submitted by persons other than a covered entity to *notifications@chips.gov*.

(b) If the Secretary opens an initial review, the Secretary will notify the covered entity in writing and may request additional information from the covered entity. The covered entity shall provide the additional information to the Secretary within three business days, or within a longer time frame if the covered entity requests in writing and the Secretary grants that request in writing.

(c) The Secretary may make an initial determination as to whether the covered entity violated § 231.203.

(d) If the Secretary's initial determination is that the covered entity did not violate § 231.203, the Secretary shall inform the covered entity in writing and close the review.

(e) If the Secretary's initial determination is that the covered entity violated § 231.203, the Secretary will provide that initial determination to the covered entity in writing.

(1) The covered entity may within 14 days of receipt of the initial determination request that the Secretary reevaluate the initial determination, including by submitting additional information.

(2) If the covered entity does not make such a request within 14 days of receipt of the initial determination, the initial determination will become final. If the covered entity does request a reconsideration of the initial determination, the Secretary will issue the final determination within 45 days of the initial determination.

If the Secretary makes a final determination that an action violated § 231.203, the Secretary will recover the full amount of the Federal financial assistance provided to the covered entity, which will be a debt owed to the U.S. Government.

§ 231.308 Recovery and other remedies.

(a) Interest on a debt under § 231.305 or § 231.307 will be calculated from the date on which the Secretary provides a final notification that an action violated § 231.202 or § 231.203.

(b) The Secretary may take action to collect a debt under § 231.305 or § 231.307 if such debt is not paid within the time prescribed by the Secretary in the required agreement or mitigation agreement. In addition or instead, the matter may be referred to the Department of Justice for appropriate action.

(c) If the Secretary makes an initial determination that § 231.202 or § 231.203

have been violated, the Secretary may suspend Federal financial assistance.

(d) The recoveries and remedies available under this section are without prejudice to other available remedies, including remedies articulated in the required agreement or civil or criminal penalties.

Subpart D—Other Provisions

§ 231.401 Amendment.

Not later than August 9, 2024, and not less frequently than once every two years thereafter for the eight-year period after the last award of Federal financial assistance under 15 U.S.C. 4652 is made, the Secretary, after public notice and an opportunity for comment, if applicable and necessary, will issue a public notice identifying any additional semiconductors included in the meaning of the term “legacy semiconductor.”

§ 231.402 Submission of false information.

Section 1001 of 18 U.S.C., as amended, shall apply to all information provided to the Secretary under 15 U.S.C. 4652 or under the regulations found in this part.

§ 231.403 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice shall not be affected thereby.