



JAN 13 2014

MEMORANDUM FOR: NOAA Employees

FROM: Edward C. Horton 
Chief Administrative Officer

SUBJECT: Guidance for Shipping Government Property outside
the U.S.

Federal employees are subject to U.S. export laws when their work requires them to ship government property outside the country. The responsibility to comply with export laws applies to the shipper (program representative) regardless of whether you are shipping out of the country directly or using an agent (FedEx, UPS, etc.). This memorandum discusses the basic requirements and provides references to assist those engaged in export activities.

WHAT IS AN EXPORT?

Any item sent from the U.S. to a foreign destination is an export. "Items" include commodities and technology. Export laws apply regardless of the means of transportation. For example, items can be "transported" by regular mail, driven across borders, or hand-carried on a plane; schematics can be sent via fax; technology can be transmitted via e-mail or telephone. An item is considered an export even if it is leaving the U.S. temporarily or if it is leaving the U.S. but not for sale (e.g., a gift).

DOES THIS E-MAIL APPLY TO YOU?

Export control laws apply to all NOAA employees but most directly affect those employees who: (1) ship or send items (i.e., NOAA property) outside the borders of the U.S. for NOAA programmatic purposes (e.g., research, NOAA projects, etc.), even if temporarily; (2) share property with, or transfer surplus property to, foreign countries in accordance with other agreements; (3) assist NOAA employees with shipping documentation and paperwork for items subject to U.S. export controls; or (4) assist NOAA employees with export control matters (e.g., Controlled Technology Coordinators and Deemed Export Points of Contact).

Regardless of the purpose or intention, shipping items outside of the U.S. constitutes an export and *may* require a license. Each NOAA employee is



responsible for ensuring shipments, even for property surplus purposes, are completed in accordance with applicable U.S laws and regulations.

In addition, NOAA property shipped outside of the U.S must be documented in accordance with NOAA Property Management Official (PMO) Bulletin #001, "Recordkeeping and Accounting for Accountable Personal Property." Policy for the recording and the accountability of assets is located on the PPMB website <http://www.pps.noaa.gov/>

WHAT ARE THE REGULATIONS?

Federal laws governing export controls include, but are not limited to, the Export Administration Regulations (EAR) administered by the Department of Commerce (DOC), the International Traffic in Arms Regulations (ITAR) administered by the Department of State, and embargoes administered by the Department of Treasury Office of Foreign Assets Control (OFAC).

1. The DOC Bureau of Industry and Security (BIS) (<http://www.bis.doc.gov/index.htm>) implements U.S. export control policy for dual-use commodities, software, and technology. Dual-use items (found on the Commerce Control List) have primarily commercial uses, but may have military applications. The EAR governing dual-use items are found in 15 Code of Federal Regulations, Chapter 7. <http://www.bis.doc.gov/policiesandregulations/index.htm>
2. The Department of State implements the International Traffic in Arms Regulations (ITAR) <http://www.pmdtfc.state.gov/> (United States Munitions List- missile and satellite technologies)
3. The Department of Treasury implements the Office of Foreign Assets Control (OFAC) policies. <http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

LICENSE EXCEPTIONS or "NO LICENSE REQUIRED"

Only a small percentage of U.S. exports require a BIS license. License requirements are based on the: a) technical characteristics of an item; b) destination; c) end-user; and c) end-use.

Most NOAA exports will be "subject to the EAR" but will fall under either a License Exception (**15 C.F.R. Part 740**) (http://www.bis.doc.gov/index.php/forms-documents/doc_download/743-740), or under a determination that no license is required (NLR). A shipper must know the rationale supporting the applicable License Exception or the reason the export is classified NLR. The country to which an item will be exported factors into the applicability of any License Exceptions and NLR. Manufacturers often classify their items; however, items modified after they were obtained from



the manufacturer will not automatically retain their original Export Control Classification Number (ECCN).

If your item falls under U.S. Department of Commerce jurisdiction and is not on the Commerce Control List (CCL), it is designated as **EAR99** and likely requires no license. However, a license may be required to export an EAR99 item to an embargoed country or to an end-user of concern.

WHO CAN HELP?

1. If you need to ship an EAR/CCL item out of the U.S, please refer to the following link for information on whether you need an export license or qualify for a License Exception or “No License Required.” This link also contains links for ITAR and OFAC guidance.

[http://deemedexports.noaa.gov/resources/Guidance for Shipping Government Property out of the U.S.docx](http://deemedexports.noaa.gov/resources/Guidance%20for%20Shipping%20Government%20Property%20out%20of%20the%20U.S.docx)

2. BIS: <https://www.bis.doc.gov/index.php/about-bis/contact-bis>
Outreach and Educational Services Division at [\(202-482-4811\)](tel:202-482-4811) or the Western Regional Office at [\(949-660-0144\)](tel:949-660-0144)

3. NOAA Line Office and Corporate Office Controlled Technology Coordinators
<http://deemedexports.noaa.gov/contact.html>

This memorandum and the information in it do not constitute legal advice. It also is not a substitute for legal or other professional advice. Users should seek appropriate advice and guidance regarding the application of the law.

