




April 20, 2006

MEMORANDUM TO: Deputy Assistant Administrators/Corporate Office Directors
FROM: 
William F. Broglie
SUBJECT: Deemed Export Compliance Program --
Annual Certification of Compliance

Background

The Office of the Inspector General (OIG) Report, "Deemed Export Controls May Not Stop the Transfer of Sensitive Technology to Foreign Nationals in the U.S.," IPE-16176 (Mar. 2004), concluded, "NOAA lacks an overall deemed export control policy to effectively monitor foreign national access to controlled technology." NOAA responded to the OIG report by implementing procedures to identify and track controlled technology and any possible access to this technology by a foreign national. As a result of the effort and hard work across NOAA, we have made great strides in identifying and assessing export controlled technology at facilities with foreign nationals and NOAA critical infrastructure sites. In our review so far, NOAA has found no instances where foreign national access to controlled technology is required to conduct the Agency's business, and therefore no deemed export license applications have been submitted. Unauthorized access has been prevented through physical and IT security measures.

Annual Certification – Beginning October 2006

The National Oceanic and Atmospheric Administration (NOAA) action plan for responding to the 2004 OIG Report depends upon the continued support of all Line and Corporate Offices. The next step in the process is to institutionalize internal control procedures that will demonstrate and ensure ongoing adherence to deemed export policies and requirements. The attached certification statements are to be submitted on an annual basis to certify accurate and timely completion of required inventories and assessments related to deemed exports.

The first certification statement is to be used at the Line Office/Corporate Office level to report to the CAO. The Deputy Assistant Administrator or Corporate Office Director will sign the certification on behalf of the entire Line or Corporate Office and forward the statement to the CAO. The certification statement and its attachments will reflect data for the previous fiscal year and must be submitted to the CAO by the third week in October. The 2006 deadline is October 20, 2006. A point of contact must be listed for each facility covered by the certification statement. This point of contact is the person responsible for the individual facility assessment.



You are requested to work with your respective Deemed Export Steering Committee representatives to develop an internal reporting structure so that all facilities under your jurisdiction may report to you the status of your foreign national lists and controlled technology assessments accurately and in a timely manner.

To assist you in this effort, the second certification statement provided to you with this memorandum is designed to be used by your contact person at individual facilities. This statement requires more attachments and will assist you in your documentation and record keeping for NOAA's compliance program. These certification statements will be submitted to the Deputy Assistant Administrator or Corporate Office Director to verify compliance.

Facilities Covered by Certification

As stated above, in 2005, NOAA was required to identify and assess export controlled technology at facilities with foreign nationals and at NOAA national critical infrastructure sites (Priority One sites). For the purposes of the 2006 certification statements, facilities identified in your 2005 foreign national list and controlled technology inventory will serve as the minimum baseline requirement. However, if you conducted controlled technology inventories at additional facilities in 2006 or if you had foreign nationals working at additional facilities in FY06, you are required to include this information in your FY06 certification and your FY06 certification should cover these additional facilities.

If you or your staff have questions, please have them contact Ann Murphy (ann.murphy@noaa.gov) at 202-482-2905 or Melanie Caesar (Melanie.caesar@noaa.gov) at 301-713-9808 ext. 158.

Thank you for your support and assistance.

Attachments

Line and Corporate Office Certification Statements

Facilities List

Deemed Export License List

Line and Corporate Office Certification: Submit to the CAO

Based on my personal knowledge and the information provided to me by others, I certify the following NOAA export control requirements have been completed:

Foreign National List

A list of foreign nationals guests in all [Line/Corporate Office] facilities for fiscal year [Fiscal Year] has been maintained and routinely updated.

Reminder: While each office is not required to provide the CAO with a record of foreign national visitors, each office **is** required to ensure that visitors are properly escorted at all times and to ensure that unauthorized release of technology to visiting foreign nationals does not occur.

Controlled Technology Inventory

All technology at facilities with foreign national guests, NOAA critical infrastructure sites, and other facilities specified in the attached Facilities List has been assessed for applicable deemed export regulatory requirements. Inventories of controlled technology reflecting this assessment have been completed for the specified [Line/Corporate Office] facilities for [Fiscal year].

Deemed Exports License List

The Foreign National List has been cross-checked with the Controlled Technology Inventories to determine whether any deemed export licenses are needed. No foreign nationals have been granted access to controlled technology for which the CFR § 730-774, the Export Administration Regulations, require a license unless the requisite license has been obtained. The attached Deemed Export License List identifies the foreign nationals and the controlled technology for which licenses have been obtained. The list also indicates foreign nationals and technology for which licenses are being, or will be, sought.

Access Control Plans

Access Control Plans have been developed and are kept updated for the [Line/Corporate Office] facilities specified in the attachment.

Signature

Date

Name

Title

Line Office/Corporate Office

The certification will be maintained by this office for five years from the date on which it is signed.¹

Attachments

- Facilities List
- Deemed Export License List

¹The 5 year record retention period is under review and pending approval by the Archivist of the United States.

Facility Certification: Internal LO submission to DAA

Based on my personal knowledge and the information provided to me by others, I certify the following NOAA export control requirements have been completed:

Foreign National List

A list of foreign national guests in [Facility name] for fiscal year [Fiscal Year] has been maintained and routinely updated.

Reminder: While each office is not required to provide the CAO with a record of foreign national visitors, each office **is** required to ensure that visitors are properly escorted at all times and to ensure that unauthorized release of technology to visiting foreign nationals does not occur.

Controlled Technology Inventory

All technology at [Facility name] has been assessed for applicable deemed export regulatory requirements. Inventories of controlled technology reflecting this assessment have been completed for the specified for [Fiscal year].

Deemed Exports License List

The Foreign National List has been cross-checked with the Controlled Technology Inventory to determine whether any deemed export licenses are needed. No foreign nationals have been granted access to controlled technology for which the CFR § 730-774, the Export Administration Regulations require a license unless the requisite license has been obtained. The attached Deemed Export License List identifies the foreign nationals and the controlled technology for which licenses have been obtained. The list also indicates foreign nationals and technology for which licenses are being, or will be, sought.

Access Control Plans

An Access Control Plan has been developed for this facility and is attached.

Signature

Date

Name

Title

Line Office/Corporate Office

The certification will be maintained by this office for five years from the date on which it is signed.²
Attachments

- Foreign National List
- Controlled Technology Inventory
- Deemed Export License List
- Access Control Plan

²The 5 year record retention period is under review and pending approval by the Archivist of the United States.

Facilities List [Line or Corporate Office Name]

The list of facilities specifies which facilities have been assessed for possible deemed export regulatory requirements. A point of contact must be provided for each facility covered by the certification statement. This point of contact is the person responsible for the individual facility assessment. Please use their common names to identify facilities.

National Critical Infrastructure Sites and/or Sites with Foreign National Guests

Example: NOAA Facility (John Doe)

Other NOAA Facilities

Deemed Exports License List

	Line/Staff Office	
	Date Updated:	

Instructions: Columns A -F correspond with the information requested on the BIS- Multipurpose Application Form BIS748P. This form must be completed to obtain a deemed exports license.

Columns G-I should match the information about the controlled technology on the controlled technology inventory list.

Columns J-0 should match the information listed on the foreign national list for the specific foreign national on whose behalf NOAA is obtaining a deemed exports license.

* If the Application has not been applied for, please list anticipated date of application

Please list on a separate row each foreign national on whose behalf NOAA is obtaining a deemed exports license.

Block 1 Contact Person	Block 2 Telephone	Block 3 Facsimile	Block 4* Date of Application	Block 5* Type of Application	Block 22 a) ECCN (please list all on license application)	Location City	Location State	Building Name	Foreign National Last Name	Foreign National First Name	Which Foreign National Is Working at NOAA	Home Country	Employee Sponsor Name	Phone Number xxx-xxx-
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