



DEPARTMENT OF THE NAVY

NAVAL POSTGRADUATE SCHOOL

1 UNIVERSITY CIR

MONTEREY, CA 93943-5000

IN REPLY REFER TO:

NAVPGSCOLINST 5230.5

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NAVPGSCOL INSTRUCTION 5230.5

Subj: NAVAL POSTGRADUATE SCHOOL EXPORT CONTROL PROGRAM

- Ref:
- (a) Code of Federal Regulations (CFR), Title 22 Foreign Relations, Chapter 1, Department of State, Subchapter M - International Traffic in Arms Regulations, Parts 120-130
 - (b) DODD 2040.2
 - (c) DODD 3200.12
 - (d) DODD 5200.2-R
 - (e) DODD 5230.11
 - (f) DODD 5230.20
 - (g) DODD 5230.24
 - (h) DODD 5230.25
 - (i) SECNAVINST 5510.34A
 - (j) Department of the Navy Foreign Disclosure Manual
 - (k) CFR, Title 31 Money and Finance: Treasury, Chapter 3 Office of Foreign Assets Control, Department of the Treasury, Subtitle B - Regulations Relating to Money and Finance, Parts 500-585
 - (l) CFR, Title 15 Commerce and Foreign Trade, Chapter VII, Bureau of Industry and Security, Department of Commerce, Subchapter C - Export Administration Regulations, Parts 730-774
 - (m) CFR, Title 10 Commerce and Foreign Trade, Chapter I Nuclear Regulatory Commission, Subpart A - General Provisions, Part 110 Export and Import of Nuclear Equipment and Material
 - (n) CFR, Title 10 Commerce and Foreign Trade, Chapter III Department of Energy, Subchapter I - Sales Regulations, Part 810 Assistance to Foreign Atomic Energy Activities
 - (o) ASN (RDA) ltr of 10 Nov 2003

Encl: (1) Naval Postgraduate School Export Control Program

1. Purpose. To establish an export control program at Naval Postgraduate School (NPS) that will delineate and enforce export control policies, organization, and procedures. This program will support NPS personnel (to included management contractors, students, and employees) by providing them with sufficient

information and training as to their responsibilities and obligations to comply with all laws and regulations concerning export control. This includes technology collaborations and/or transfers involving foreign entities as they pertain to unclassified technical information.

2. Discussion. All NPS personnel who work with information or technology collaborations and transfers involving foreign entities have a legal obligation to be familiar with the laws, regulations, and guidelines which will aid them in ensuring this process is conducted properly. These requirements include, but are not limited to, the information in references (a) through (o). These references and additional resources are described in appendix E of enclosure (1) of this instruction. This instruction incorporates directives, instructions, regulations and guidelines from the Department of Defense (DOD), Department of the Navy (DON), and other government organizations and prescribes policies and procedures governing the proper procedures involving export control and technology collaborations and/or transfers with foreign entities.

3. Action. All NPS personnel who are involved with technology collaborations and transfers involving foreign entities must understand and comply with the requirements delineated in enclosure (1) of this instruction. Specific responsibilities of individuals and organizations/groups at NPS in regards to export control at NPS are described in chapter 3 of enclosure (1) of this instruction.



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Naval Postgraduate School Export Control Program

Enclosure (1)

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Chapter 1

INTRODUCTION

1.1. Overview

a. This enclosure has been prepared to provide Naval Postgraduate School (NPS) personnel with information in regards to the NPS Export Control Program and to provide them with information and resources available to ensure compliance with all guidelines and procedures concerning export control are met. It is important all NPS personnel whose responsibilities include any aspect of export control become familiar with the contents of this document.

b. Export controls are applied for a variety of economic, political, and/or national defense reasons and are subject to frequent revision, both in technological content and application. NPS recognizes a formal organization is required to address an entire range of pertinent export issues to ensure NPS is in compliance with all regulations and procedures.

c. A main component of the NPS Export Control Program is to provide NPS personnel with training and education in proper export control procedures to include document handling and transfer, visits and assignments of foreign nationals, employee overseas travel, and any required licensing of technology transfer or use.

1.2. Naval Postgraduate School Export Control Policy Statement. This policy statement can be found in appendix B of this enclosure.

1.3. Export Control Working Group (ECWG). Oversight of the NPS Export Control Program is the responsibility of the Export Control Working Group (ECWG). As the oversight agency for NPS's Export Control program, the ECWG's commitment to effectively coordinate all elements of export control for full compliance with focus to the letter and spirit of the laws involved, and with a goal for NPS to serve as the first among its sister institutions by example and intent. Specific responsibilities of the ECWG are described in chapter 2 of this enclosure.

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1.4. Definition of Export Control Per reference (a), Section 124.1.

a. Export

(1) Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or

(2) Transferring registration, control or ownership to a foreign person of any aircraft, vessel, or satellite covered by the U.S. Munitions List, whether in the United States or abroad; or

(3) Disclosing (including oral or visual disclosure) or transferring in the United States any defense article to an embassy, any agency or subdivision of a foreign government (e.g., diplomatic missions); or

(4) Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad; or

(5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.

(6) A launch vehicle or payload shall not, by reason of the launching of such vehicle, be considered an export for purposes of this subchapter. However, for certain limited purposes (see reference (a), section 126.1 of this subchapter), the controls of this subchapter may apply to any sale, transfer or proposal to sell or transfer defense articles or defense services.

1.5. References and Resources. As a matter of high priority, NPS is fully committed to complying with all applicable federal and Department of Defense (DOD) Controlled Unclassified Information (CUI) instructions, laws, regulations, and orders which restrict or regulate the transfer of certain information or technologies from the United States to other countries or foreign entities. This includes, but is not restricted to, references (a) through (o) of this instruction. Appendix E of enclosure (1) describes all references cited in this instruction and additional resources which are available to aid in the understanding of export control.

1.6. NPS Export Control Website. In addition to the references and resources mentioned in paragraph above, NPS will maintain a user friendly website that provides guidance on export control. It can be accessed at: <http://mccain/research/exportcontrol/>.

1.7. Acronyms. Acronyms are listed and defined in appendix A of this enclosure to aid in the understanding of this document.

1.8. Questions/Comments. Any questions or comments concerning the Export Control Program at NPS should be addressed to the appropriate personnel highlighted in chapter 2 of this enclosure.

Chapter 2

RESPONSIBILITIES

2.1. Overview of Responsibilities. Various individuals and organizations/groups at NPS have responsibilities with respect to export control. This chapter highlights these responsibilities.

2.2. NPS Export Control Officer. The NPS Export Control Officer, assisted by the Export Control Working Group and Export Control Office staff, is responsible for assessing and communicating the requirements of U.S. Export Controls on NPS activities. In addition, the Export Control Officer serves as the primary point of contact on Export Control issues, both internally and to external government agencies. The Export Control Officer is also responsible for advising NPS management on the status and effectiveness of NPS's Export Control Program, and for providing recommendations to improve the program. Additional responsibilities include possible Export Licensing with Departments of State, Commerce, Commerce Letters of Assurance, and State Letters of Exemption.

2.3. Export Control Working Group (ECWG). Responsibility for the coordination and oversight of export compliance at NPS resides with the designated Export Control Officer and the ECWG. The ECWG currently has a team of personnel from various NPS scientific and professional backgrounds, with supporting assistance from the Export Control staff and ad hoc subject matter technical contacts throughout the NPS and DOD complex. The ECWG reports to the Dean of Research.

a. ECWG Membership Responsibilities. Members of the Export Control Working Group are responsible for assisting the NPS Export Control Officer in coordinating and integrating NPS's implementation of U.S. export control laws and regulations. The panel is chaired by the NPS Export Control Officer or his designee, and meets as necessary.

b. ECWG Membership. The ECWG consists of the following nine members:

- NPS Export Control Officer
- NPS Dean of Research
- NPS Deputy Export Control Officer
- NPS Export Legal Counsel
- NPS Security Manager

- NPS Comptroller's Office Representative
- NCIS Counterintelligence Support Program (CISP) Representative
- NPS Property Shipping
- NASA-Ames Export Control Officer

2.4. NPS Export Control Office (ECO). The NPS Export Control Office, including the NPS Deputy Export Control Officer and Admin assists the NPS ECO in assessing and communicating the requirements of U.S. Export Controls on NPS activities. In addition, the Export Control Office serves as the point of contact on internal Export Control issues.

2.5. NPS Export Control Legal Counsel. The NPS Export Legal Council provides legal guidance to the Export Control Officer and ECWG members in reviewing specific exports and transfers. Responsibilities of the NPS Export Legal Council include the following:

a. Providing advice and facilitating the resolution of legal issues on a variety of general law topics, such as labor relations, employment law, environmental law, copyright law, software licensing law, contract law, business law, export control, work-for-other agreements, cooperative agreements, memorandums of understanding, bid protests, security matters, state and federal law enforcement matters, occupational and construction safety matters, contract indentification and insurance matters, audit and investigation matters, and compliance with NPS and DOD requirements.

b. Conducting or assisting in litigation and arbitration of claims brought by or against NPS.

c. Representing NPS before federal and state agencies.

d. Drafting and reviewing documents as to legal form.

2.6. NPS Intellectual Property Office. The NPS Intellectual Property Group is primarily responsible for the following:

a. Writing and prosecuting U.S. and foreign patent applications, including representing NPS before the U.S. Patent and Trademark Office.

b. Providing legal advice to NPS management and staff on all aspects of intellectual property law (patent, copyright, trademark, trade secret, technology transfer, and contract law).

c. Performing invention identifications, evaluations, patent searches and opinions, patent validity and infringement studies, and evaluations of technology.

d. Providing dispute support in-house and to the Department of Defense and Navy.

2.7. NPS Security Managers Office/Foreign Visits.

a. The Foreign Visits Office is a section of the NPS Security Manager's Office. Its responsibilities include coordinating approvals for foreign visits and assignments to NPS ensuring full awareness of U.S. government, DOD, and NPS classification, security, and export control policies, guidance, and regulations.

b. The Foreign Visits Office is also responsible for administering the Unclassified Foreign Visitor and Assignment Program. This includes establishing policies, monitoring use of the Visitor Tracking System, ensuring foreign national visitors and assignees have been vetted according to DOD and Navy Policy which includes an Export Control review conducted by designated NPS staff, developing security plans, and registering the final approval on all unclassified visits and assignments.

2.8. NPS Base Property Office. NPS Base Property Office responsibilities include providing guidance on managing and controlling government-owned property at NPS in order to advance the national security objectives of the U.S. government. The NPS Base Property Office are that part of Navy Region South West's (NRSW's) Property Management Divisions tasked with:

a. Obtaining DOD/Navy approval for disposition of any items that meet the criteria of "Especially-Designed or Prepared Property," and those that meet the Trigger List or Munitions List Requirements.

b. Determining method of destruction or modifications of property that meet the criteria of "Especially-Designed or Prepared Property" and those that meet the Trigger, or Munitions List criteria as deemed appropriate in the DOD Demilitarization Manual.

c. Providing written confirmation that an Export Restriction Notice be part of, or added to, the agreement or disposition documentation that provides NPS/Navy/DOD property to a recipient.

(1) Property Shipments.

(a) Requesters must provide detailed information on the property Shipment so the NPS Base Property Managers can make a knowledgeable determination as to whether the release of the equipment will pose an environmental or proliferation risk to NPS.

(b) The NPS Base Property Managers must review all property items against the Dual Use List (INFCIRC/254/Rev.3/Pt.2) and the Department of State Munitions List prior to disposition.

(c) An Export Restriction Notice must be included in agreements (e.g., loans, subcontracts), disposition (i.e., donation, transfer, sales receipts, etc.), and shipping documents as described in CFR 109-1.5303.

(d) A signed acknowledgement of receipt of the Export Restriction Notice is required from the recipient of the property whenever property is to be provided under an agreement or dispositioned.

(e) All Munitions List items must be destroyed or handled in accordance with the DOD Demilitarization Manual.

2.9. NPS Industrial Partnerships Office (IPO). IPO provides guidance in identifying key issues for the transfer of NPS-developed technology to industry. IPO manages industrial partnering and technology transfer for NPS. It is responsible for collaborative research agreements; technology commercial; and contractual tools available to tailor partnership agreements to the needs of the company and the NPS stakeholders (to include Licenses, Cooperative Research and Development Agreements (CRADAs), and Work for Others agreements).

a. IPO supports and chairs meetings to review their respective invention disclosures. The attendees include the head of the Patent Group and the appropriate IPO Business Lead. In addition, the IPO person responsible for review of NPS generated technical literature, and a representative from NPS Library services, knowledgeable in outside literature and patent literature searching, also are present. This group decides what to do with each invention case.

b. IPO is responsible for valuation and marketing of NPS technology. IPO manages the process for and negotiates the terms and conditions of Cooperative Research and Development Agreements (CRADAs), Licensing Agreements, among other technology transfer agreements. IPO also manages the compliance requirements and obligations for executed agreements.

c. IPO Mission at NPS. IPO's mission at NPS is to:

(1) Enhance U.S. economic competitiveness in world markets, promote economic development both locally and throughout the U.S., and help improve the quality of life for all Americans by transferring NPS-developed technology to industry.

(2) Achieve NPS's programmatic objectives in the highest quality and most cost effective way by jointly developing technology with industry. This includes:

(a) Partnering opportunities are advertised as Federal Business Opportunity (FBO) announcements. Interested companies must respond in writing.

(b) Depending on the technology, the company may require further information. A nondisclosure agreement may be required.

(c) IPO works with NPS stake-holders to down-select prospective partners.

(d) A company demonstrates interest in a license through the submission of a commercialization plan.

(e) IPO evaluates company's technical, management, and financial capabilities.

(f) Set a negotiation goal that is beneficial to all parties.

2.10. NPS Counterintelligence Support Program (CISP). NPS CISP responsibilities include providing guidance in identifying and countering foreign intelligence threats against NPS personnel, information, and technologies. The program also is concerned with the growing threat of terrorism against U.S. interests.

One goal of the NPS CISP program is to raise the awareness of all NPS students, employees, and contractors to counterintelligence issues without impeding NPS program goals and requirements.

a. NPS counterintelligence awareness efforts include briefings and debriefings for personnel who travel abroad and host foreign visitors and assignees, presentations on espionage-related topics by guest speakers from the intelligence community, discussions by the NCIS CI staff members to groups of NPS employees, and a lending library of videotapes on espionage cases and counterintelligence subjects.

2.11. NPS Comptroller's Office. Comptroller Office responsibilities as they relate to export control include providing management oversight to ensure compliance with procurement and financial policy, public law, regulations and contractual requirements for subcontracts and credit card purchases.

2.12. NPS Library. The NPS Library maintains a database of all "sensitive" NPS documents released to the public.

2.13. NPS Program Export Control Advisers, Managers, and Supervisors. The NPS Program Export Control Adviser, manager, or supervisor serves as the first line of defense for all NPS programs directly producing export controlled information. He or she anticipates export control questions involved in the project(s), ensures project employees, students, and contractors understand the potential sensitivities, ensures that the proper review of documents is conducted by either sponsor or NPS Export Control Office personnel, and assists in the acquisition of appropriate work force personnel consistent with technology restriction.

NOTE: The NPS Program Export Control Adviser position is highly suggested for those NPS programs directly producing export controlled information at NPS. It is also highly suggested that this individual be highly technically proficient in the technology of the export controlled item(s). For suggested training requirements for this position, please see Chapter 3.

2.14. NPS employees, students, and contractors. As authors of possible documents that contain export controlled information, NPS employees, students, and contractors should ensure appropriate review is conducted. As shippers of possible export controlled equipment and technology, NPS employees, students,

and contractors should work with NPS and Base Shipping to ensure that all Department of State and Commerce requirements are met. When traveling overseas, NPS students, employees, and contractors should ensure that they follow approved DTS travel plans and review what they can and cannot hand-carry into certain countries. Finally, as speakers NPS students, employees, and contractors should know their audience and the restriction on what can and cannot be passed to them.

2.15. Various Topical/Functional Experts. These are individuals throughout NPS that may be called upon to provide technical expertise to the Export Control Officer and/or Export Control Working Group on an as-needed basis.

Chapter 3

EDUCATION AND TRAINING

3.1. Education and Training Overview

a. An effective education and training element is essential to a successful export control program at NPS. Its purpose is to provide all employees, students, and contractors with the information necessary to comply with export control requirements. This is an accomplished readily available resource that clearly defines what those requirements are, why they are important, and how they apply to both employees as individuals and to the NPS as a whole.

b. As stressed in the NPS Export Control Policy Statement (see appendix B) and other instructional materials, NPS employees, contractors, and students are not expected to become experts on export controls. They are, however, expected to be aware of the NPS Export Control Program, appreciate when a work situation may raise increased export control considerations, and know where to find further guidance and assistance with export control matters.

3.2. On-Line NPS Export Control Training Course. The ECWG has developed an online export control training course for NPS employees, contractors, and students. This stems from DOD requirements to comply with the Departments of Commerce and State export control rules.

a. Contents. The NPS Export Control Training Course was designed as a detailed, high-level course available online to provide instruction to NPS personnel who have duties directly associated with export control that includes the transfer of commodities, technologies, and software/codes to non-U.S. entities or individuals. The course provides instruction on the following:

- (1) Export definitions, terminology and areas of concern.
- (2) Avenues of export risk at the NPS.
- (3) NPS organizations specifically involved in export control.
- (4) NPS employee and management responsibilities.

(5) Export control resources available at the NPS.

b. Required Personnel. It is a required annual course for all NPS personnel who are:

(1) Involved with hosting FN visits or assignments.

(2) Involved in preparing or processing the paperwork necessary for FN visits or assignments.

(3) Involved in Shipping/Hand-carrying materials to a foreign destination.

(4) Engaged in foreign travel or who prepare or process travel for foreign nationals.

(5) Author or present technical papers or briefings for distribution outside the NPS.

(6) Review, approve or release technical communications for distribution outside the NPS.

(7) Involved with the review or licensing of non-disclosure agreements, records of inventions, patents, licenses, work-for-others, vendor procurements or CRADAs.

3.3. NPS Export Control Information Booklet. A booklet issued to all employees (and to all new employees during orientation training) Export Control at NPS contains the current Dean of Research's Policy Statement on Export at Naval Postgraduate School (as found in appendix B of this enclosure), an explanation of export controls in general terms and a brief list of resources available to all NPS employees. Its purpose is to clarify NPS's commitment to compliance with all export control regimes and instill a basic awareness about regulations, requirements and procedures.

3.4 Export Control Training for Export Control Advisors

a. NPS programmatic Export Control Advisors within their research program are expected to participate in regular outside training and instruction in order to effectively maintain familiarity with, and proficiency in using relevant export control guidance as provided by the Department of Commerce / Bureau of Industry and Security (DOC/BIS), the Department of State/Directorate of Defense Trade Controls (DOS/DDTC).

b. Export control courses/instruction provided by governmental and non-governmental associations include:

(1) Export Control Coordinator's Organization Annual Training Workshop in Washington D.C., sponsored by the Department of Energy contractors.

(2) Annual Update Conference in Washington, D.C., sponsored by the DOC/BIS.

(3) Seminars and Training on Export Control and the Export Administration Regulations (EAR), sponsored by the DOC/BIS.

(4) Seminars and Training courses on Export Control and the International Traffic in Arms Regulations (ITAR) sponsored by various export control-based private firms on behalf of the DOS/DDTC.

Chapter 4

FEDERAL REGULATIONS FOR EXPORT CONTROL AND NPS ADHERENCE

4.1. Federal Regulations Overview. Export Control is primarily governed by the Export Administration Regulations (EAR) issued by the United States Department of Commerce's Bureau of Industry and Security (BIS) in conjunction with several other federal agencies. The intent of such regulations is to safeguard national and economic security through a system of licensing and control.

4.2. Export Commodity Control Number (ECCN)/Denied Persons List (DPL). Commodities and technologies are classified by description and given an ECCN grouped under nine broad categories. Exporters are responsible for determining if an item is controlled for export to other countries based on country involved, controls exercised, and the ECCN. In addition, exporters must determine that the parties involved are not on several DPLs showing individuals and companies who have had their importing/exporting privileges revoked by civil or criminal action (see paragraph D.2.e(2) of appendix D for more information in regards to DPL).

4.3. NPS Adherence to Export Control.

a. Export Control Reviews at NPS. Export control reviews at NPS are conducted against a variety of regulatory agencies and concerns exercising cognizance through multiple guides. Such guidance generally addresses federal government export control regulations, including trade and technology restrictions. Appendix D of this enclosure provides a brief description of those federal agencies whose responsibilities include export control and a description of available resources available to NPS personnel (it is not an all-inclusive list of all agencies and resources).

b. Deemed Exports and Use Technology. The definition of what constitutes an export may include the technology and information supporting a controlled commodity as well as the actual item itself. Besides the more commonly known transfer of a physical commodity, an export may be "deemed" to have taken place when an item's technical information or technology is released during exposure or use by a foreign national in the United States. Identifying such Deemed Exports of technology is an important part of the NPS's comprehensive adherence to U.S.

export control requirements. Put simply, a "deemed export" is when the transfers or transmissions described above occur within the U.S. For example, allowing a foreign national visitor access to controlled technology within NPS is considered to be a deemed export. A deemed export can also be a shipment of a commodity (to include the technology to design, build, or use that commodity and software) to a foreign national here in the United States.

c. Use of Technology/Technical Equipment

(1) The term "technology" used by the Department of State and Commerce export control agencies is usually defined as "...specific information necessary for the design, production or use of a product..." Based on this, we are obligated to look closely at the specific criteria surrounding the "use" of certain technical equipment we know to be export controlled to certain countries (and, by extension, their citizens).

(2) It is important to remember that the actual use of equipment by a foreign national is not controlled. Rather, it is the transfer of technology related to the use of that equipment which may be controlled. While fundamental research is exempt from export control, the fundamental research exception applies only to information that arises during or results from the research. There is no blanket exemption for all information that is transferred in the context of such research. For example, a foreign national conducting a physics experiment may require the use technology for the experiment of a specially designed target during the course of the experiment. While the effort is considered fundamental research, the additional technology being transferred may be export controlled.

d. Lawful Permanent Residents. It is also important to emphasize that foreign nationals holding the visa status of Lawful Permanent Resident are considered U.S. Persons and like U.S. Citizens are exempt from export control restrictions.

4.4. Document Review

a. NPS creates and releases hundreds of documents every year. These documents cover a wide range of content and scope, and vary between scientific, technical and administrative. Some are written for limited audiences, some for the scientific community outside NPS, and some are written for the general public.

b. These documents are approved for dissemination through NPS's review and release process. This process facilitates the release of the documents while protecting them from inappropriate disclosure or dissemination. During the review and release process, the documents are reviewed for, among other things, export control. This is first addressed by the author and the sponsoring program, and may further involve the Export Control Office

c. Information or technology that is intended for or already in the public domain (i.e., generally accessible or available to the public, such as published literature) is exempt from export control. This includes fundamental research. The Department of Commerce (DOC) defines fundamental research as "...basic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly within the scientific community. Such research can be distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons..."

d. Specific Export Control Document Review Procedures

(1) Forms. NPS currently uses 2 Forms (Thesis Release Form and the NPS Proposal Release Form) in order to ascertain whether information produced in either the thesis or research proposal contains export controlled information. Answering "yes" on either form will cause the generation of another question, whether you have signed the "Control of Classified and Sensitive Material Statement of Understanding" statement and submitted to the NPS Security Office.

(2) Licensing - Individual Validated Licenses (IVL). Export control reviews are performed on document packages received by the ECO directly from a Project's Principal Investigator only for those projects that meet the definition of ASN (RD&A) memorandum of 10 November, 2003. Required export licenses are granted by the Department of Commerce/Bureau of Industry and Security (DOC/BIS) via their electronic Individual Validated License (IVL) online application system.

(3) A review memorandum listing any export restrictions, controls or licensing requirements is returned to the NPS Program Principal Investigator and NPS Base Supply Office. This review memorandum can consist entirely of a written memorandum

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or email summarizing the controls, restrictions, or licensing requirements over the specific NPS commodity, technology or software.

(4) Review details and the process for any resulting application are conducted in accordance with Department of Commerce/BIS guidelines.

Chapter 5

COMPLIANCE REVIEWS

5.1. Schedules for Compliance Reviews. The following describes the schedules for compliance reviews by the NPS Export Control Program.

a. NPS Export Control Program Annual Assessment. This assessment format can be found in appendix C of this document.

b. NPS Export Control Program Instruction (NAVPGSCOLINST 5230.5). This instruction will be reviewed and updated each November.

(1) A memorandum/reminder will be sent to the Export Control Officer in the middle of October by the Dean of Research.

(2) The Export Control Officer will update and retain a hard copy of the NPS Export Control Program Instruction and an electronic copy.

c. On-Line NPS Export Control Training Course.

(1) This course is described in paragraph 3.2 of this enclosure. It will be reviewed and updated every January.

(a) A memorandum/reminder will be sent to the Export Control Officer in the middle of December by the Dean of Research.

(b) The Export Control Officer will update and send the approved changes to the Web Site Developer who will update the web course.

(2) On-Line NPS Export Control Training Course - Course Compliance. The NPS Export Control Office (ECO) is the teaching organization for the On-Line NPS Export Control Training Course and is responsible for tracking attendance to ensure all required employees, students, and contractors complete the export control training.

(a) A Notice of Failure to Complete the Required Export Control Course memorandum (see Sample 1 in appendix D of this enclosure) will be sent to those identified as "out-of-compliance," advising them that records do not indicate their

having completed the course. They will be advised to either complete the course as required within a week and respond back to this notice.

(b) Possible reasons for changing the course requirement include job re-assignment, unrecorded compliance, inaccurate responses to the questionnaire, extended travel or assignment, etc.

(c) Failing a response after one week, ECO will generate a second memorandum (see Sample 2 in appendix D of this enclosure) to the individual's Payroll Supervisor requesting a response within the week and, failing that, a last memorandum (see Sample 3 in appendix D) will be generated to the respective Program representative warning of possible work related consequences for continued non-compliance.

(d) The designated Export Control Advisor will maintain copies of each report generated, appropriate records of all notices and responses generated, and prepare a separate report as necessary for future inventory, audit, or review purposes.

d. Export Control portion of the Foreign National Host Training. The Export Control portion of the Foreign National Host training will be reviewed and updated each March.

(1) A memorandum/reminder will be sent a designated Export Control Advisor in the middle of February.

(2) The designated Export Control Advisor will update and send the approved changes to the Foreign Interactions Office.

(3) The designated Program representative will maintain the electronic file of this training.

e. NPS Export Control Information Booklet. This booklet is described in paragraph 3.3 and in appendix B of this document. This booklet will be reviewed and updated each April.

(1) A memorandum/reminder will be sent to the Export Control Officer in the middle of March by the Dean of Research.

(2) The Export Control Officer will ensure the revised booklet is printed and available for the New Staff Orientation training.

(3) The Export Control Officer will maintain the electronic file of the booklet.

5.2. Notification of Noncompliance

a. It is the responsibility of every NPS student, employee, and contractors to report potential violations of export control requirements or related concerns to their immediate management and the ECO.

b. The ECO staff will research potential violations of export control requirements with other ECWG members assistance and report suspected violations to the NPS Export Control Officer and the appropriate ECWG member. If the violation is regulatory, the NPS Legal Counsel will be notified. The ECWG will also recommend self-disclosure to upper management, if the situation so warrants and, together with Legal Counsel assistance, determine if further disclosure to the cognizant government regulatory agency is required.

Chapter 6

RECORDKEEPING

6.1. Period of Retention. In accordance with 15 CFR 762.6, all records are retained for five years from the date of export, re-export or any other termination of the transaction.

6.2. Export Control Records for Retention at NPS. These records kept by location include:

a. NPS Export Control Office (ECO)

(1) Denied Parties Checks. Denied Parties checks are conducted on all visits and assignments (Foreign Visitor Tracking System), all NPS employees going on foreign travel (Foreign Travel System) and all NPS-employed Foreign Nationals pursuing work. All Denied Parties checks are kept on file and listed in a Security Database. The NPS Security Office maintains files beyond five years.

(2) Hardware/Software/Technology Exports. Export Control Reviews are conducted for any potential foreign national for access to or involvement in Cooperative Research and Development Agreements, Document Review and Release, Federal Business Opportunity Announcements, International Shipments, Nondisclosure Agreements, Procurements and Vendor Requests, Records of Invention and Patent Applications, Software Review and Release, and Work-for-Others (Federal and Non-Federal Requests). All Export Control reviews are listed in the Master Database.

(3) In addition to any Specific Export Controls cited in the above reviews, the following General Export Controls are exercised:

(a) The export is controlled to sanctioned countries as described in the DOC "Embargoes and other Special Controls" (for dual-use technology).

(b) The DOS "Embargo Reference Chart" (for defense articles/services only).

(c) The DOT "Sanction Program Summaries" (for economic and trade sanctions) and the UN "Sanctions List."

(d) The export may not be exported to individuals/entities contained in the DOC "Denied Persons List", the DOC "Entities List", the DOC "Unverified List", the DOS "Debarred Parties List", the DOT "Specially Designated Nationals and Blocked Persons List" and the GSA "Excluded Parties List System".

(4) Customer Screening Checklist. A completed Customer Screening Checklist must be on file prior to approval of any international shipment that is subject to export control regulations. This Checklist is a single page form to be emailed/faxed to the international customer for signature and return. The Checklist covers Commerce concerns regarding Part 744 activities. All checklists are listed in the Master Database and are good for five years.

(5) IVL Export Licenses. Export licenses must be on file prior to approval of any international shipment or deemed export scenario where an export license is required. Any applicable Ultimate Consignee and Purchaser Statements, End User Certificates, etc., are kept on file with the individual licenses. All IVL licenses are listed in the Master Database.

(6) Letter of Assurance (LOA). LOAs pertaining to export license exceptions must be on file prior to the transfer of any controlled technology and/or software requiring such documentation. All LOAs are listed in the Master Database.

b. NPS Base Shipping & Supply Offices. All applicable documents listed below are scanned and electronic copies kept in the NPS & NRSW Shipping Offices' database for all commodity exports for five years. Hard copies of these files are kept for two years after which they are sent to the Archives.

- (1) Shipping Requests
- (2) Waybills/Bills of Lading
- (3) Shipper's Export Declarations
- (4) Shipper's Letter of Instructions
- (5) DPL Checks

Appendix A

LIST OF ACRONYMS

AECA	Arms Export Control Act
AO	Action Officer
ASN (RD&A)	Assistant Secretary of the Navy for Research, Development and Acquisition
BIS	Bureau of Industry and Security
CCL	Commerce Control List
CFR	Code of Federal Regulations
CISP	Counterintelligence Support Program
CMI	Classified Military Information
CUI	Controlled Unclassified Information
CRADA	Cooperative Research and Development Agreement
DDTC	Directorate of Defenses Trade Controls
DOC	Department of Commerce
DOD	Department of Defense
DODD	Department of Defense Directive
DON	Department of the Navy
DOS	Department of State
DOT	Department of the Treasury
DPL	Denied Persons List
EAR	Export Administration Regulations
ECO	Export Control Office
ECCN	Export Control Classification Number

ECWG	Export Control Working Group
EPLS	Excluded Parties List System
FBO	Federal Business Opportunity
FVR	Foreign Visits Representative
GSA	General Services Administration
IPO	Industrial Partnerships Office
ITAR	International Traffic in Arms Regulations
IVL	Individual Validated Licenses
LOA	Letter of Assurance
NIPO	Navy International Programs Office
NPS	Naval Postgraduate School
NRSW	Navy Region South West
OFAC	Office of Foreign Assets Control
STI	Scientific and Technical Information
STIP	Scientific and Technical Information Program
UNSC	United Nations Security Council

Appendix B

NAVAL POSTGRADUATE SCHOOL EXPORT CONTROL POLICY STATEMENT

Overview

As a world leader in the development and use of national security education and research, the Naval Postgraduate School (NPS) works closely in coordination with the Department of Defense (DOD), Navy, international scientific community, and many foreign governments. These interactions are highly valued and important to scientific progress both for the country and the world. Some of our work and collaborations are based upon fundamental research that has no controls regarding such interactions, but some may also involve classified or sensitive technologies that are subject to a variety of economic and security controls.

The interest of foreign interaction at NPS has grown over the years. With that growth, NPS programs have an increasing number of visitors who are citizens of other countries that may be the subject of restrictions on the exchange of specific technologies.

As a responsible exporter, NPS must abide by the export rules and regulations set forth by multiple agencies in the U.S. government. It means that we must understand the export control implications of the work we perform and obtain all required licenses or approvals prior to their transfer, whether abroad or within the United States (such actions being referred to as a "deemed export").

Of particular concern to NPS are export controls dealing with national security-related technology. A critical concern and important objective of export controls is to help curtail any proliferation of certain national security-related technologies. DOD has developed guidelines intended to help all personnel implement a responsible, security-conscious, and consistent policy regarding DOD transfers of unclassified equipment, materials, and technology that could adversely affect U.S. security or commitments.

Part of identifying unclassified and sensitive technology information at NPS also requires some degree of control or special protection. Information designated by responsible NPS, Navy, and Sponsor Subject Matter Expert personnel, broadly

categorized by the DOD as CUI or Controlled Unclassified Information, requires appropriate marking, storage, and handling.

Dean of Research's Policy Statement for Export Control at Naval
Postgraduate School

The following statement regarding export controls has been signed and issued by NPS's Dean of Research as an indicator and authority for all employees, students, and contractors. It is included in the informational booklet issued to all employees, students, and contractors (the term "booklet" below refers specifically to this booklet) and is quoted or referenced in numerous other NPS export related documents.

Naval Postgraduate School is firmly committed to adhering to all applicable U.S. export controls. Export-control laws and regulations are lengthy, complex, and subject to change. Multiple government agencies have different jurisdictions with corresponding rules and requirements regarding export controls. Still, it is the responsibility of each employee, student, and contractor to know about, and abide by, U.S. export control requirements.

You are not expected to become an expert on export controls and licensing, but you are expected to be aware of their existence and to know when a work situation might have export control implications. You are also expected to determine when you need guidance and assistance on an export control matter, and to know where to get that help.

NPS is strengthening its implementation of U.S. export controls and its provision of assistance to employees on export control issues. These efforts are managed by the NPS's Export Control Officer, with assistance from an Export Control Working Group (ECWG). The Export Control Officer, staff, and ECWG members are there to answer your export control questions. They will assist you in determining whether or not export controls apply to your work activities, and in obtaining approvals and licenses that may be necessary.

The purpose of this booklet is to:

- To clarify NPS's export control policy.*
- To increase awareness about export control regulations, requirements, and procedures.*

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- *To identify resources you can use to assure that your activities are in compliance with U.S. export control requirements.*

Please note, however, that this booklet is only an introductory document. It is not a substitute for official export regulations or official NPS policies or procedures.

It also needs to be emphasized that the intent of strengthening export controls at NPS is not to discourage or prohibit necessary interactions or exchanges. Rather, it is to enhance employee awareness about export controls and to assist employees in making sure their activities comply with all applicable U.S. export regulations and requirements.

*Karl van Bibber
NPS Dean of Research*

Appendix C

NAVAL POSTGRADUATE SCHOOL EXPORT CONTROL PROGRAM
ANNUAL SELF ASSESSMENT

As an annual requirement, the Export Control Officer will complete the following Naval Postgraduate School Export Control Program Annual Self Assessment.

Note: The following self assessment contains elements adapted from the Bureau of Industry and Security's Export Management Systems Review Module of 5/2000, and International Comprehensive License Review Module of March 2006, M&K Technology's Internal Control Program sample template of 6/1997 (with permission), various regulatory requirement documents, and best business practices.

Naval Postgraduate School
 Export Control Program
 Annual Self Assessment

Review Period - FYXXXX

Element 1: Upper Management Commitment	Y	N	N/A	Comments
1.1. Is there a signed and dated commitment statement from Upper Management?				
1.2. Does the statement say that no exports will be made contrary to U.S. regulations?				
1.3. Does the statement describe penalties for compliance failure?				
1.4. Has the statement been communicated to all employees?				
1.5. When was the policy statement last updated?				
1.6. When is the policy statement reissued?				
1.7. Has Upper Management provided the resources and support necessary to effectively manage the export control program?				
1.8. Is Upper Management actively involved in export compliance?				
1.9. Has Upper Management delegated authority to export control personnel?				

1.10. Is there a clear description (e.g., organizational chart) showing where export control fits in at the facility?				
1.11. Is there an official document for employees that describes export policies and procedures?				
Element 2: Export Control Working Group	Y	N	N/A	Comments
2.1. Is the ECWG chaired by the Export Control Officer?				
2.2. Does membership include employees from responsible organizations?				
2.3. Does ECWG meet at least quarterly?				
2.4. Does the ECWG create appropriate records?				
Element 3: Designated Personnel for Export Control Related Functions	Y	N	N/A	Comments
3.1. Is there an organization responsible for commodity exports, including licensing, commodity classification and shipping?				
3.2. Is there an organization responsible for reviewing technical data for export?				

3.3. Is there an organization responsible for foreign visitors?				
3.4. Is there an organization responsible for counterintelligence?				
3.5. Is there an organization responsible for foreign agreements, CRADAs and Work-for-Others?				
3.6. Is there an organization responsible for software exports (including software exported electronically)?				
3.7. Is there a person identified as responsible for compliance with each international cooperative license and/or special comprehensive license?				
3.8. For 3.1 - 3.6, have back up personnel been assigned?				
3.9. How is information on responsibilities communicated?				
3.10. Are procedures provided for how to operate when designated persons are not available or unable to perform their export-related responsibilities?				

3.11. Is there sufficient staff to perform critical functions?				
3.12. Is the quality of staff sufficient to ensure competent performance?				
3.13. Is the staff in a proper location to implement export objectives efficiently (i.e. independent)?				
3.14. If yes to 3.1-3.5 above and they are not all the same organizations, are all the organizations (facets of export control) tied together? How?				
3.15. If tied together by committee or working group, is it formal/recognized? How often does it meet?				
Element 4: Applicable Regulations/Export Compliance Instruction Manuals	Y	N	N/A	Comments
4.1. Does the controlling organization have a current copy of:				
4.1.a. DOC (EAR) 15 CFR 730-774				
4.1.b. DOS (ITAR) 22 CFR 120-130				
4.1.c. OFAC 31 CFR 500-590				
4.2. Is there a system for updating regulatory material necessary to compliance?				

4.3. Do manuals contain the appropriate content regarding export compliance (e.g., summaries of laws and regulations, diagrams, policies and procedures, samples)?				
4.4. Are procedures clearly written, widely distributed and easily accessible				
4.5. Do policies and procedures address key areas (training, recordkeeping, audits)?				
4.6. Are manuals reviewed and updated as necessary?				
Element 5: Commodity Exports	Y	N	N/A	Comments
5.1. Is there a methodology for DPL screening against vendors and consignees including providing commodities, servicing, and training? Are there work procedures for reviewing commodity exports?				
5.2. Is the end-user checked against the DOC/BIS Denied Persons List (DPL) for each export? Is it checked against the BIS unverified List?				
5.3. Is the end-user checked against the OFAC Specially Designated Nationals list for each export?				

5.4. Is the end-user checked against the DOS (ODTC) Debarred List for each export?				
5.5. Is the end-user checked against the GSA Federal Program Exclusion List for each export?				
5.6. Is the end-user checked against the United Nations Denial List?				
5.7. In 5.2 - 5.5, is the entity, entity contact and requester's name checked?				
5.8. How Is the end-user check documented?				
5.9. Are vendors/ subcontractors made aware of export requirements for foreign transactions?				
5.10. Is there a procedure to stop shipment if a vendor is on the DPL?				
5.12. Missile End Uses: Is the facility checked against Supplement 4 to 15 CFR 744? If not on the list, is further screening performed? If so, how?				
5.13. Chemical & Biological End Uses: Is the facility checked against Supplement 4 to 15 CFR 744? If not on the list, is further screening performed? If so, how?				

5.14. How is the product classification (ECCN/category) determined? Is the process documented?				
5.15. Is the Commerce Country Chart (Supplement 1 to Part 738) screened to determine license applicability?				
5.16. How are end-use restrictions and license conditions addressed?				
5.17. Have you exported to an embargoed country? Was a license or license exception used?				
5.18. If you have exported to an embargoed country were OFAC requirements met?				
5.19. Is paperwork prepared for items shipped and items to be hand-carried?				
5.20. Are foreign-made items registered with U.S. Customs before leaving the country?				
5.21. How are Shipper's Export Declarations (SEDs) filed?				
5.22. Is there a mechanism to verify that temporary exports have been returned?				
5.23. Are the following records kept?				
5.23.a. Export Request				

5.23.b. License				
5.23.c. License Application and supporting documents				
5.23.d. Invoice (Commercial or Proforma)				
5.23.e. Shipper's Export Declaration (Does it contain the license exception used or license number?, ECCN? Destination Control Statement?)				
5.23.f. Bill of Lading/Airway Bill				
5.23.g. Delivery Verification Certificate (if required)				
5.24. Are the records retained for five (5) years?				
5.25. Is training/awareness provided to employees who export commodities? How is it provided and how often?				
Element 6: Technical Data	Y	N	N/A	Comments
6.1. How are determinations made that the technical data to be exported is/is not export controlled?				
6.2. Are there work procedures for reviewing exports of technical data?				

6.3. Is foreign mail checked for export control? How?				
6.4. Are there work procedures for processing foreign mail?				
6.5. Are records kept for mail to embargoed countries?				
6.6. If TSR is applicable, is a written assurance or license obtained? Who keeps these records?				
6.7. If a license is required, how is it obtained? Who keeps these records?				
6.8. Are exports checked against the DPL, Supplement 4 to Part 744, and the lists described in 5.2 - 5.5 above?				
6.9. Is there a procedure to stop mail/shipment if a consignee or vendor is on the DPL?				
6.11. <u>Missile End Uses:</u> Is the facility checked against Supplement 4 to 15 CFR 744? If not on the list, is further screening performed? If so, how?				

6.12. <u>Chemical & Biological End Uses:</u> Is the facility checked against Supplement 4 to 15 CFR 744? If not on the list, is further screening performed? If so, how?				
6.13. Are there special requirements for technical data that are requested for export to embargoed countries?				
6.14. Is electronic mail screened for export control?				
6.15. Are facsimiles screened for export control?				
6.16. Are conference presentations reviewed for export control?				
6.17. Is training/awareness provided to employees who export information? How and how often?				
Element 7: Software	Y	N	N/A	Comments
7.1. Are there work procedures for reviewing exports of software?				The Export Control review procedures are in place, to include the Office of Classification and Export Control as well as the Industrial Partnerships Office.
7.2. If TSR is applicable, is a written assurance or license obtained? Who keeps these records?				
7.3. If a license is required, how is it obtained? Who keeps these records?				

7.4. Are exports checked against the DPL, Supplement 4 to Part 744, and the lists described in 5.2 - 5.5 above?				
7.5. Is there a procedure to stop shipment if a consignee or vendor is on the DPL?				
7.7. <u>Missile End Uses:</u> Is the facility checked against Supplement 4 to 15 CFR 744? If not on the list, is further screening performed? If so, how?				
7.8. <u>Chemical & Biological End Uses:</u> Is the facility checked against Supplement 4 to 15 CFR 744? If not on the list, is further screening performed? If so, how?				
7.9. Are there special requirements for software that are requested for export to embargoed countries?				
7.10. Is training/awareness provided to employees who export software? How and how often?				
Element 8: Foreign Visits and Assignments	Y	N	N/A	Comments
8.1. Are there procedures for bringing in foreign visitors?				

<p>8.2. Is there a process for determining whether a foreign national will be working on technology for which an export license may be required? If so, is there a process for obtaining any necessary licenses? Are all steps in these processes documented?</p>				
<p>8.3. Are Sensitive Country Foreign National visitors checked against the DPL, Supplement 4 to Part 744, and the lists described in 5.2 - 5.5 above?</p>				
<p>8.4. Is there a procedure to stop visit if a Sensitive Country Foreign National visitor is on the DPL?</p>				
<p>8.5. Is training/awareness provided to employees who host and work with foreign visitors? How and how often?</p>				
<p>Element 9: Foreign Travel</p>	<p>Y</p>	<p>N</p>	<p>N/A</p>	<p>Comments</p>
<p>9.1. Do employees know who to check with if they are taking commodities or information out of the country? How do they know?</p>				

12.4. Are there records of past reviews?				
12.5. Is there a schedule for future reviews?				
12.6. Is there a report written to management on the outcome of the review? Does it contain steps to correct deficiencies?				
Element 13: Training/Awareness	Y	N	N/A	
13.1. Have employees responsible for exporting commodities received training? List source and how often the training is provided/updated.				
13.2. Have employees responsible for exporting information received training? List source and how often the training is provided/updated.				
13.3. Have employees responsible for software exports received training? List source and how often the training is provided/updated.				
13.4. Have employees responsible for foreign visits and assignments received training? List source and how often the training is provided/updated.				

13.5. Have employees responsible for high-risk property reviews received training? List source and how often the training is provided/updated.				
13.6. Is introductory awareness training provided to all employees?				
13.7. Is off site / external training provided to key export personnel?				
13.8. Are there training records? How are they maintained?				
Element 14: Export Control Web Site	Y	N	N/A	Comments
14.1. Does the site contain appropriate content regarding export control and related links?				
14.2. Is the site frequently reviewed and updated as necessary?				
14.3. Is there an "ask questions" referral for employees?				
14.4. Is there a mechanism to update the site?				
Element 15: Recordkeeping	Y	N	N/A	Comments
15.1. Are the following records maintained for 5 years from date of export, reexport or termination of any other transaction? (15 CFR 726.6):				

15.1.a. BIS 748P, 748P-A, 748P-B (license applications) and accompanying attachments, riders and conditions? (15 CFR 748.10(j)).				
15.1.b. Records kept of transmittal and acknowledgments of license conditions?				
15.1.c. BIS-711 Statement by Ultimate Consignee and Purchaser (15 CFR 748.12(e), 762).				
15.1.d. International Import Certificates (15 CFR 748.10(j), 776).				
15.1.e. People's Republic of China End-User Certificate (15 CFR 748.10(c)(3), 748.10(j)).				
15.1.f. License Exception TSR Letter of Assurance (15 CFR 740.3(d)(1)(i)).				
15.1.g. Commercial Invoices with property destination control statements (15 CFR 762.2, 758.6).				
15.1.h. Shipper's Export Declarations (15 CFR 758.3, 762.2, 758.6).				
15.1.i. Air Waybills/Bills of Lading (15 CFR 762.2).				
15.2. Recommended by BIS, do you retain the following?				

15.2.a. A current copy of the Export Administration Regulations with all Export Administration Bulletin updates filed?				
15.2.b. A written copy of the current Export Management System and related manuals?				
15.2.c. A copy of the most current Denied Persons List and all Federal Register notices identifying parties added to, or deleted from, the list?				
Element 16: Notification of Noncompliance	Y	N	N/A	Comments
16.1. When questionable, unauthorized or illegal activities are suspected, does NPS contact the BIS Office of Export Enforcement field office or OEE Headquarters?				

Appendix D

SAMPLES OF MEMORANDUMS - NOTICE OF FAILURE TO COMPLETE THE
REQUIRED EXPORT CONTROL COURSE

Notice of Failure to Complete the Required Export Control Course Memorandums are described in paragraphs 5.1.c.(2)(b-d) of enclosure (1) of this instruction. A sample of each of the three described in paragraphs 5.1.c.(2)(b-d) are provided below.

1. Sample 1 will be sent to those identified as "out-of-compliance," advising them that records do not indicate their having completed the course.

SAMPLE 1. First Notice to Employee of Non-Compliance.

Subject: Notice of Failure to Complete the Required Export Control Course

Our records indicate that the system has failed to record, or you have failed to complete, the course, Export Control At NPS.

This course provides additional education awareness identified by the NPS as necessary for certain employees to perform their export control related work. Employees are assigned this requirement based either on their work assignment or as a result of their answers to particular questions on the yearly questionnaire.

Failure to meet this training may result in the employee experiencing delays in processing foreign travel, interaction with foreign visitors, or the shipment of items out of country.

If you have already successfully completed the course, believe you have received this notice in error, or believe the requirement no longer applies, please contact this office either directly through the individual listed below or by email response before (enter 2 week lead time).

Thank you for your cooperation.

2. Failing a response after one week, ECO will generate a second memorandum to the individual's Payroll Supervisor requesting a response within the week.

SAMPLE 2. Follow-Up Notice to Employee's Payroll Supervisor of Non-Compliance.

Subject: Notice of Employee Failure to Complete the Required Export Control Course

Our records indicate that the system has failed to record, or _____ has failed to complete the course, Export Control At NPS. This course provides additional education awareness identified by the NPS as necessary for certain employees to perform their export control related work. Employees are assigned this requirement based either on their work assignment or as a result of their answers to particular questions on the yearly questionnaire.

We have not received a reply to an earlier notice sent directly to the employee. This notice is being sent to you as their Payroll Supervisor. Would you please determine if they have already successfully completed the course, believe they have received their notice in error, or believe the requirement no longer applies, and contact this office either directly through the individual listed below or by email response as soon as possible. (Track 2 weeks informally.)

Failure to meet this training will result in the employee experiencing delays in processing foreign travel, interaction with foreign visitors, or the shipment of items out of country.

Thank you for your cooperation.

3. Failing to receive a response within a week of the second notice, a last memorandum will be generated to the respective Program representative warning of possible work related consequences for continued non-compliance.

SAMPLE 3. Notice to the Dean/Chair's Office Regarding Non-Compliance

Subject: Notice of Employee Failure to Complete the Required Export Control Course

Our records indicate that the system has failed to record, or _____ has failed to complete the course, Export Control At NPS. This course provides additional education awareness identified by the NPS as necessary for certain employees to perform their export control related work. Employees are

assigned this requirement based either on their work assignment or as a result of their answers to particular questions on the yearly questionnaire.

Failure to meet this training may result in the employee experiencing delays in processing foreign travel, interaction with foreign visitors, or the shipment of items out of country.

We have not received a reply to an earlier notice sent directly to the employee or their Payroll Supervisor. This notice is being sent to your office as their responsible PS. Would you please determine if they have already successfully completed the course, believe they have received their notice in error, or believe the requirement no longer applies, and contact this office either directly through the individual listed below or by email response as soon as possible.

Thank you for your cooperation.

Appendix E

REFERENCES AND RESOURCES FOR EXPORT CONTROL

D.1. References and Resources Overview. The following describes various references and resources as they relate to export control to include all references cited in this instruction. Some information below includes addresses to websites with information that is continually updated. This is not intended to be an all inclusive list, but to highlight key references and resources that are available.

D.2. Descriptions of References and Resources. The references and resources for export control described below are organized by government departments and agencies both civilian and military.

a. Department of State (DOS). DOS concerns include the export of "defense articles and services" specifically those that are designed, modified, or engineered for military applications.

(1) Code of Federal Regulations (CFR), Title 22-Foreign Relations, Chapter 1 - Department of State, Subchapter M - International Traffic in Arms Regulations, Parts 120-130 (listed as reference (a) in this instruction). This reference provides guidelines for ITAR. Chapter 5 of this enclosure provides information in regards to Export Controls under ITAR.

(2) U.S. Department of State, Directorate of Defense Trade Controls Homepage/ Compliance/Arms Export Control Act (AECA) Departments/Statutory Debarred Parties (<http://pmdtdc.state.gov/compliance/debar.html>). This is a list created by the by the DOS, Directorate of Defense Trade Control of persons (including entities and individuals who have been convicted of violating or conspiracy to violate the AECA. These persons are prohibited from participating directly or indirectly in the export of defense articles (including technical data) and defense services.

(3) U.S. Department of State, Directorate of Defense Trade Controls Homepage/Country Policies and Embargoes (http://www.pmdtdc.state.gov/embargoed_countries/index.html). This DOS, Directorate of Defense Trade Control website includes certain "Country Polices and Embargoes Federal Register. It does not include all polices toward foreign countries for the export of defense articles and defense services.

b. Department of Defense. Similar to DOS, DOD concerns include the export of "defense articles and services" specifically those that are designed, modified, or engineered for military applications.

(1) Department of Defense Directive (DODD) 2040.2, International Transfers of Technology, Goods, Services, and Munitions (listed as reference (b) in this instruction). This Directive establishes policy, assigns responsibilities, and prescribes procedures for international transfer of defense-related technology, goods, services and munitions.

(2) DODD 3200.12, DOD Scientific and Technical Information (STI) Program (STIP). This reference is listed as reference (c) in this instruction. This Directive provides guidance on implementation of policies and principles of DOD STIP, the DOD Industry Independent Research and Development Program and for the DOD Domestic Technology Transfer Program.

(3) DODD 5200.2-R, Department of Defense Personnel Security Program (listed as reference (d) of this instruction. DOD 5200.2-R contains direction and procedures that pertain to acceptance and retention of DOD military, civilian, consultant and contractor personnel and of granting such persons access to classified information or assignment to a sensitive position.

(4) DODD 5230.11, Disclosure of Classified Military Information to Foreign Governments and International Organizations (listed as reference (e) in this instruction). This Directive updates policy, responsibilities and procedures governing proposed disclosures of classified military information to foreign governments and international organizations. This document also discusses Controlled Unclassified Information (CIU). Although primarily concerned with classified military information, this Directive also mentions policies regarding CIU and defines it as "unclassified information to which access or distribution limitations have been applied in accordance with national laws, policies, and regulations of the originating country. It includes U.S. information that is determined to be exempt from public disclosure in accordance with DOD Directives 5230.25 and 5400.7 or that is subject to export controls in accordance with the ITAR or the EAR." It could be marked with a distribution limitation statement.

(5) DODD 5230.20, Visits and Assignments of Foreign Nationals (listed as enclosure (f) of this instruction). Included in this directive is guidance regarding granting access of CIU during visits by foreign nationals to DOD Components.

(6) DODD 5230.24, Distribution Statements on Technical Documents (listed as enclosure (g) of this instruction). This directive updates policies and procedures for marking technical documents, including production, engineering and logistics information to denote the extent to which they are available for distribution, release, and dissemination without additional approvals or authorizations.

(7) DODD 5230.25, Withholding of Unclassified Technical Data from Public Disclosure (listed as reference (h) in this instruction). This Directive establishes policy, prescribes procedures and assigns responsibilities for the dissemination and withholding of technical data. This Directive implements rules for the application of 10 U.S.C. 130 (replaced 10 U.S.C. 140c) which provides statutory authority for withholding certain technical information that is subject to export controls from disclosure.

c. Department of the Navy (DON). DON is concerned with export controls as related to all DOD instructions mentioned above as well as those cited below, which provide further guidance specifically to DON personnel.

(1) SECNAVINST 5510.34A, Disclosure of Classified Military Information and Controlled Unclassified Information to Foreign Governments, International Organizations, and Foreign Representatives (listed as reference (i) in this instruction). This instruction establishes foreign disclosure procedures by DON personnel of classified military information (CMI) and CUI. It provides DON foreign disclosure policy and defines responsibilities. The Assistant Secretary of the Navy for Research, Development and Acquisition (ASN (RD&A)) is designated the Principal Disclosure Authority for the Navy. The ASN (RD&A) has delegated this authority to the Director, Navy International Programs Office (NIPO). The Director issues Delegation of Disclosure Authority Letters. The Director promulgates the Navy Foreign Disclosure Manual and training programs. The Chief of Naval Research is responsible for appointing a Designated Disclosure Authority for the Office of Naval Research (paragraph 6c). Guidelines for foreign visits are established in this instruction.

(2) Department of the Navy Foreign Disclosure Manual (listed as reference (j) of this instruction. This manual provides DON foreign disclosure policy and procedures, delegates disclosure authority, and assigns responsibilities. Part II, Chapter 3 addresses export licenses; Part II, Chapter 11 addresses disclosure of documentary information; and Part II, Chapter 15 addresses disclosure of classified and controlled unclassified information to U.S. companies under foreign ownership, control or influence.

d. Department of the Treasury (DOT). DOT is concerned with administering and enforcing economic and trade sanctions based on U.S. foreign policy and national security goals. DOT, Office of Foreign Assets Control.

(1) CFR, Title 31 Money and Finance: Treasury, Chapter 3 Office of Foreign Assets Control, Department of the Treasury, Subtitle B - Regulations Relating to Money and Finance, Parts 500-585 (listed as reference (k) in this instruction). These regulations include transactions involving designated foreign countries or their nationals.

(2) U.S. Department of Treasury, Office of Foreign Assets Control (OFAC), Sanctions Programs. (<http://www.treas.gov/offices/enforcement/ofac/programs/index.shtml>). OFAC administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under U.S. jurisdiction. Descriptions of various sanction programs to include country-specific sanctions are included in this website.

(3) U.S. Department of Treasury, Office of Foreign Assets Control Specifically Designated National and Blocked Persons (<http://www.treas.gov/offices/enforcement/ofac/sdn/tllsdn.pdf>). This is a list created by OFAC that is an integrated and comprehensive list of designated parties with whom U.S. persons are prohibited from providing services or conducting transactions and whose assets are blocked. The names on this

list include persons designated under country-based and list-based economic sanctions programs, as well as individuals and entities designated under the various executive orders and statutes aimed at terrorism.

e. Department of Commerce (DOC). DOC is concerned with the export of all "dual-use" (defense and commercial use) commodities, software and technologies not under the jurisdiction of other agencies.

(1) CFR, Title 15 Commerce and Foreign Trade, Chapter VII, Bureau of Industry and Security, Department of Commerce, Subchapter C - Export Administration Regulations (EAR), Parts 730-774 (listed as reference (1) in this instruction). The EAR are issued by the U.S. Department of Commerce, Bureau of Industry and Security under laws relating to the control of certain exports, re-exports, and activities.

(a) Supplemental No. 4 to Part 744, "Entity List" lists certain entities subject to license requirements for specified items under this part 744 of the EAR. License requirements for these entities include exports, re-exports, and transfers (in-country) unless otherwise stated. This list of entities is revised and updated on a periodic basis in this Supplement by adding new or amended notifications and deleting notifications no longer in effect.

(b) Part 746, "Embargoes and Other Special Controls" implements broad based control for items and activities subject to the EAR imposed to implement U.S. government policies. Comprehensive controls and/or sanctions applicable to Cuba, Iraq, North Korea, Iran, Rwanda, and Syria are described.

(2) U.S. Department of Commerce, Bureau of Industry and Security, "Denied Persons List" (<http://www.bis.doc.gov/dpl/default.shtm>). The purpose of the Denied Persons List is to prevent the illegal export of dual-use items before they occur; investigate and assist in the prosecution of violators of the Export Administration Regulations (EAR) and inform and educate exporters, freight forwarders, and manufacturers of their enforcement responsibilities under the EAR.

(3) U.S. Department of Commerce, Bureau of Industry and Security, "Unverified List" (http://www.bis.doc.gov/enforcement/unverifiedlist/unverified_parties.html). The Unverified List includes names and countries

of foreign persons who in the past were parties to a transaction with respect to which BIS could not conduct a pre-license check or a post-shipment verification for reasons outside of the U.S. Government's control. Any transaction to which a listed person is a party will be deemed by BIS to raise a Red Flag with respect to such transaction within the meaning of the guidance set forth in Supplement No. 3 to 15 C.F.R. Part 732. The Red Flag; applies to the person on the Unverified List regardless of where the person is located in the country included on the list.

f. Department of Energy. References concerning nuclear material and export control are discussed below:

(1) CFR, Title 10 Commerce and Foreign Trade, Chapter I Nuclear Regulatory Commission, Subpart A - General Provisions, Part 110 Export and Import of Nuclear Equipment and Material (listed as reference (m) in this instruction). These regulations prescribe licensing, enforcement, and rulemaking procedures and criteria, under the Atomic Energy Act, for the export of nuclear equipment and material and the import of nuclear equipment and material. This reference also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action.

(2) CFR, Title 10 Commerce and Foreign Trade, Chapter III Department of Energy, Subchapter I - Sales Regulations, Part 810 Assistance to Foreign Atomic Energy Activities (listed as reference (n) in this instruction). These regulations implement section 57b of the Atomic Energy Act which empowers the Secretary of Energy to authorize U.S. persons to engage directly or indirectly in the production of special nuclear material outside the United States. Their purpose is to:

(a) Indicate activities which have been generally authorized by the Secretary of Energy and thus require no further authorization;

(b) Indicate activities which require specific authorization by the Secretary and explain how to request authorization; and

(c) Explain reporting requirements for various activities.

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g. General Services Administration (GSA)/Excluded Parties List System (EPLS). The GSA is concerned with disseminating information on parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. The EPLS (<https://www.epls.gov>) is provided by GSA for the purpose of efficiently and conveniently disseminating information on parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits.

h. United Nations Security Council (UNSC)/ United Nations Sanctions/Resolutions. The UNSC can take enforcement measures to maintain or restore international peace and security. Such measures range from economic and/or other sanctions not involving the use of armed force to international military action. The website <http://www.un.org/sc/committees/index.shtml> provides an overview of UNSC Sanctions Committees as well as information specific to United Nations Resolutions.