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NASA Procedural Requirements

COMPLIANCE IS MANDATORY**NPR 2190.1B**
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Subject: NASA Export Control Program**Responsible Office: Export Control & Interagency Liaison Division**[| TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [Chapter6](#) | [Chapter7](#) | [Chapter8](#) | [AppendixA](#) | [AppendixB](#) | [AppendixC](#) | [AppendixD](#) | [AppendixE](#) | [ALL](#) |

Chapter 2. General Export Control Responsibilities for NASA Personnel

2.1 General

2.1.1 Exports or transfers of export-controlled items, including technical data and software, shall not be made to any foreign entity under any NASA program unless the exporter is confident that such exports or transfers are in conformity with approved contracts or agreements (usually international agreements) and U.S. export control laws and regulations, as delineated in the EAR and ITAR. Further, NASA exports to foreign entities will only be conducted in furtherance of NASA agreements or contracts and when there is a mission requirement. NASA publication of technical data and software are appropriate when effected in accordance with NASA policies. Consultation with the NASA HEA, appropriate CEA, or counsel is required whenever there is doubt as to whether a proposed export or transfer is consistent with this general principle.

2.1.2 Property disposal officials selling NASA export-controlled property to persons in the United States should ensure vetting of individuals to receive the items and provide notice to the recipient of the export-controlled status of the item. Vetting includes verifying U.S. citizenship and checking the Denied Persons List and Debarred Parties List.

2.1.3 NASA export control and international technology transfer policy is formulated by the Headquarters Office of International and Interagency Relations, and the program is administered by Headquarters through its network of CEAs.

2.2 NASA Headquarters Export Administrator (HEA)

2.2.1 The HEA is appointed by the Associate Administrator for International and Interagency Relations and is responsible for assessing and ensuring compliance of all NASA program activities and exports with U.S. export control laws and regulations. The HEA is also NASA's policy and licensing liaison with the U.S. Government's export control community. Specifically, the HEA shall:

- a. Maintain a high level of expertise of current EAR and ITAR provisions and requirements applicable to NASA programs.
- b. Approve and maintain necessary NASA licensing documents regarding specific exports pursuant to NASA programs that are subject to the EAR and ITAR. Coordinate and submit all Commodity Jurisdiction (CJ) requests, Advisory Opinions (AO), Voluntary Disclosures, General Correspondence (GC), export and reexport license applications, and classification requests.
- c. Serve as the NASA Headquarters point of contact for the Department of Commerce's (DoC) Bureau of Industry and Security (BIS), the Department of State's (DoS) Directorate of Defense Trade Controls (DTC or DDTC), the Department of Defense's (DoD) Defense Trade and Security Administration (DTSA) and Defense Threat Reduction Agency (DTRA), the Department of Homeland Security, the Department of Justice Federal Bureau of Investigation, and other appropriate agencies for all international technology transfer/export control issues.
- d. Manage NASA's annual ECP internal audits, including providing annual audit guidance to Centers, receiving, and

reviewing audit reports. See Chapter 7: NASA Export Control Program Auditing.

e. Serve as NASA Headquarters point of contact for NASA Headquarters program executives, and work with the NASA CEA's concerning issues at Centers. Coordinate with appropriate NASA officials on export control matters affecting NASA programs. When the HEA, in consultation with these officials, determines that a proposed export or transfer would not be in conformance with the EAR or ITAR, the HEA has the authority to suspend such activity pending resolution with the concerned offices or agencies.

f. Attend, at least annually, export control-related training and coordinate the annual NASA Export Control Program Conference. Provide additional periodic training to NASA Headquarters and Center officials, as requested or needed.

g. Develop, in consultation with appropriate NASA offices and officials, the NASA position on missile technology proliferation issues, and participate in interagency organizations and meetings concerning missile technology transfers and proliferation as the NASA representative.

h. Manage export control input to the NASA Identity Management System for access to NASA facilities by foreign persons.

i. Obtain the participation of appropriate NASA offices and officials in training and in interagency reviews and assessments conducted by and with the Departments of State, Commerce, Defense, Treasury, and other appropriate agencies concerning technology transfers, export controls, missile technology proliferation, or other related matters affecting NASA programs.

j. Ensure the completion and maintenance (recordkeeping) of necessary licensing and/or license exemption or exception documents regarding specific transfers, pursuant to Headquarters programs, which involve exports or transfers subject to the EAR or ITAR. For exports of defense articles under ITAR license exemptions, copies of all correspondence required by ITAR exemptions, will be maintained as required.

k. Develop and issue export compliance policies and regulation interpretations for NASA to the CEAs.

l. Support import activities for NASA programs. Initiate and coordinate discussions with other regulatory departments and agencies for the import of products in support of NASA programs.

m. Review and concur on Headquarters program management designation of programs as fundamental research (see Appendix E, NASA Fundamental Research Designation Guidelines).

n. Serve as the CEA for the NASA Management Office (NMO) at the JPL in the absence of a formally appointed CEA at the NMO and, otherwise, assist the NMO in administering the NASA/Caltech contract in the area of export control.

o. Provide an export control review of NASA scientific and technical data prior to publication, and determine if the data should be export controlled. Participate in reviews of export-controlled data requested under the Freedom of Information Act (FOIA).

2.3 NASA Officials-in-Charge of Headquarters

2.3.1 The NASA Officials-in-Charge of Headquarters are responsible for ensuring that programs and projects within their organizations comply with all U.S. export control laws and regulations and the NASA ECP.

2.3.2 The NASA Officials-in-Charge of Headquarters should appoint a member of their staff to act as the export control point of contact for the ECP. The export control point of contact will coordinate responses and provide a conduit for sharing the export control-related information.

2.4 NASA Headquarters Export Counsel (HEC)

2.4.1 The HEC is appointed by the General Counsel and is responsible for providing legal guidance to the HEA in NASA export control matters under, among others, the EAR and the ITAR. Specifically, the HEC shall:

- a. Assist the HEA in reviewing specific exports and transfers under NASA programs..
- b. Serve as the NASA Headquarters point of contact for the Center Export Counsel on legal matters.
- c. Assist the HEA with export control review and publication clearance for NASA patent applications.
- d. Keep abreast of statutory and regulatory developments in the U.S. export control system.

2.5 NASA Headquarters Program and Project Managers

2.5.1 NASA Headquarters program/project managers shall include export-control compliance planning and export-control milestones in programs with international partners and will maintain oversight of NASA-directed

contractor export activities, including concurrence on the use of NASA-authorized Exemptions and use of NASA-obtained Individual Validated Licenses (IVL). Program and project managers can request, from NASA contractors, copies of Automated Export System (AES) filings and export licenses submitted in support of NASA programs. NASA use of ITAR exemptions or EAR exceptions requires the approval of the HEA and compliance with reporting and recordkeeping requirements. Specifically, program and project managers shall:

- a. Consult with HEA early in program development to determine the export-control classification of items and data and document that information in the program/project plans, in applicable property accountability records, and prior to releasing property to the Property Disposal Officer (PDO). Understanding export-control classification of items and technical data to ensure that export-control matters are considered and resolved in advance of prospective shipping or transfer dates is essential. Export-controlled technical data will be marked, as such, prior to transfer to international partners. Early collaboration with Export Administrators in a project life cycle (preferably prior to mission definition review) is essential to identify and assess export-controlled items and technical data that may require access by international partners.
- b. Ensure that programs with international partners under their direction include the responsibilities set forth in Sections 2.5.1a-h.
- c. Develop appropriate safeguards for commodities, technologies, and software exported or transferred pursuant to international agreements or contracts. All controlled technical data or commodities will be marked or identified in accordance with the Transfer of Goods and Technical Data Clause of the relevant international agreement or in accordance with the Transfer of Goods and Technical Data Clause of the relevant contract. When necessary and appropriate (and with the concurrence of the HEA and HEC), nondisclosure agreements may be used when foreign nationals are provided export-controlled technical data or commodities outside the scope of an international agreement or contract.
- d. Provide the necessary technical information to the HEA to determine the need for validated export licenses or other documentation in specific activities and for the completion of such documentation, where necessary.
- e. Document requirements for exports or transfers of technical data to foreign persons and ensure that requirements are reflected in relevant international agreements, contracts, or technology transfer control plans that support a program or project.
- f. Develop a Technology Transfer Control Plan (TTCP). It is required when working with countries that are not members of NATO or are not major non-NATO allies. See Section 3.5 and Appendix D. A TTCP is recommended for all NASA programs and projects with international participation and can be referenced when hosting foreign persons at NASA facilities.
- g. Require annual export-control training for program/project personnel working with foreign persons and directing the work of others on the project. All personnel shall participate in basic export control awareness training either via NASA's Systems for Administration, Training and Educational Resources for NASA (SATERN) or through on-site briefings or outside forums.
- h. Work with the HEA to determine the export-control classification of NASA hardware prior to disposal of that hardware.

2.6 NASA Headquarters Manager, Transportation Programs

2.6. The NASA Headquarters Manager, Transportation Programs, shall, in consultation with the HEA, ensure that all exports and transfers of commodities, technologies, and software are accompanied by appropriate and accurate export-control documentation, including validated licenses (if required), marking statements, or other authorizing documents, as needed, as well as AES filings, Shippers Export Declarations (SEDs), and Government Bills of Lading (GBLs), in all appropriate cases. The manager will serve as the point of contact for the HEA on NASA transportation policies and practices.

2.7 Center Directors

2.7. Center Directors are responsible for ensuring that all projects under their purview comply with U.S. export control laws and regulations and this NPR. Center Directors shall appoint senior personnel as CEA and will ensure that the CEA's other responsibilities do not conflict with the duties of the CEA. The Center Directors will also designate a qualified individual as an Export Control Auditor (ECA) to annually review the operation of the NASA Export Control Program at that Center, in accordance with NPD 2190.1, NASA Export Control Program, and Chapter 7 of this NPR. Appointments of CEAs and ECAs should be reported to the HEA within 30 days.

2.8 Center Export Administrator (CEA)

2.8.1 The CEA is responsible for assessing and ensuring compliance of all Center program activities with U.S. export control laws and regulations. Specifically, the CEA shall:

- a. Serve as the Center resident expert on all matters related to export control and international technology transfer and serve as the principal Center point of contact between the Centers and the HEA. CEA may establish a network of Export Control Representatives (ECR) or Center Export Representatives (CER) within Center directorates or programs to assist with export determinations and reviews.
- b. Maintain a thorough knowledge of current EAR and ITAR provisions and requirements and all relevant NASA NPD/NPR requirements applicable to Center programs and activities and assist in developing Center policy and procedures as appropriate.
- c. Ensure the completion and maintenance (recordkeeping) of necessary licensing and/or license exemption or exception documents regarding specific transfers, pursuant to Center programs which involve exports or transfers subject to the EAR or ITAR. For exports of defense articles under ITAR license exemptions, provide copies of all correspondence to the HEA within 30 days of export.
- d. Support and participate in the Center review process for approving foreign person visitors and hires, providing advice and guidance to the Center International Visit Coordinator and to the program and project personnel who serve as sponsors for such visitors and hires, and provide assistance in the development of appropriate TTCPs.
- e. Assist, train, and oversee ECRs or CERs if appointed.
- f. Assist program and project personnel in determining the appropriate export controls for publishing and disseminating scientific and technical information. CEAs, or their designated representative, are required to sign Block 8, Export Control Review/Confirmation, on NASA Scientific and Technical Document Availability Authorization (DAA). The signature may be on the hardcopy document or via the approved electronic DAA review system. CEAs participate in reviews of export-controlled data requested under the FOIA.
- g. Assist Center COs, COTRs, and Grant Officers in procurement-related matters involving export control; e.g., responding to contractor export questions and requests, drafting of ITAR exemption authorizations and EAR exception authorizations for use by contractors, drafting of appropriate clauses in NASA solicitations and contracts, and reviewing NASA draft solicitations as requested. Review and concur on all Center designation of tasks as fundamental research (See Appendix E for requirements regarding fundamental research designation).
- h. Assist the Center Chief Information Officer (CIO) in effecting NASA and local policy on placing information on NASA Web sites.
- i. Assist the Center Software Release Authority in determining export control restrictions.
- j. Coordinate with CECs, Transportation Officers, ECRs, and program/project managers, as appropriate, on export control matters affecting Center programs and activities. Advise Center Transportation Officers on questions related to international shipments (including imports of foreign-origin commodities). When the CEA, in consultation with these officials, determines that a proposed export or transfer would not be in conformance with NASA policy, the EAR or the ITAR, the CEA shall have the authority to suspend or stop such activity pending resolution with the concerned offices or agencies.
- k. Attend the annual NASA Export Control Program Review and at least one other export control training session annually, establish an annual Center training plan for Center personnel, and arrange for, or provide, training.
- l. Review and consult with the HEA on all Center commodity jurisdiction, classification, and licensing requests for Center projects. After local approval, route those requests to the HEA for formal transmittal to, and processing by, BIS or DTC.
- m. Serve as the interface with the HEA for review and comment on contractor-requested export license applications related to NASA/Center programs/projects. The purpose of a review is to:
 - (1) Determine if the industry applicant is accurately representing the NASA program and NASA involvement.
 - (2) Determine if the work is being done under a NASA international agreement or with an industrial contractor of the NASA foreign partner.
 - (3) Determine if an exemption or exception applies for exports in accordance with an international agreement.
 - (4) Verify that NASA contract direction to industry is within the scope of the license activities.
 - (5) Determine any feedback or reporting requirements the program desires to add to the license conditions.
- n. Serve as the interface with the HEA for review and comment on the Committee on Foreign Investment in the United States (CFIUS) cases related to Center programs or NASA contracts.
- o. Serve as the Center export control point of contact for General Accountability Office (GAO) and Inspector General (IG) audits related to export control matters.
- p. Periodically disseminate export control information and guidance to appropriate Center personnel.

- q. Review and ensure Center followup and closeout on recommendations from the annual NASA Export Control Program audit and, as appropriate, on GAO and IG audits related to export control.
- r. Establish contacts with Center contractors involved in Center programs with international content to share information and to work issues related to licenses and/or granting or use of NASA-authorized ITAR exemptions.
- s. Assist the International Space Station (ISS) program and other NASA programs in performing EAR-required audits and reviews of NASA contractors authorized to use any BIS-approved NASA International Cooperative Licenses (ICL).
- t. Assist CEC with export control review and publication clearance for NASA patent applications.
- u. Assist project personnel in determining the export-control jurisdiction of items to be declared excess and support the PDO in conducting audits of Center property disposition and export control activities, as necessary.
- v. Maintain electronically, or in hardcopy, a reference library of relevant policies, regulations, and, to the maximum extent practicable, the international agreements governing the programs and projects for which exports and transfers are required.

2.9 Center Export Counsel (CEC)

2.9.1 The CEC is appointed by the Center Chief Counsel and is responsible for providing legal guidance to the CEA in NASA export control matters under the EAR, the ITAR, and other applicable regulations. The CEC shall:

- a. Assist the CEA in reviewing specific exports and transfers under NASA programs and with export control review and publication for NASA Patent Applications.
- b. Keep abreast of statutory and regulatory developments in the U.S. export control system.
- c. Guide the CEA in appropriate interpretation and implementation of export control laws and regulations. Consult with HEC to ensure Agency-wide consistency of interpretation.

2.10 Center Project Managers

2.10.1 NASA program and project managers shall include "export control milestones" in their program and project plans and should collaborate with CEAs early in a project's life cycle (prior to the mission definition review) to identify and assess export-controlled technical data that will be provided to foreign partners, and other activities as appropriate, to ensure that export control matters are considered and resolved in advance of shipping or transfer dates.

2.10.2 All NASA Center project managers shall, in consultation with the appropriate CEA, ensure that international activities under their direction include the following responsibilities:

- a. Provide appropriate safeguards for commodities, technologies, and software exported or transferred pursuant to international agreements or contracts. All export-controlled technical data or commodities will be marked or identified, in accordance with the Transfer of Goods and Technical Data Clause of the relevant international agreement, prior to authorized transfer to foreign persons. When necessary and appropriate (and with the concurrence of the CEA, HEA, HEC, and CEC), nondisclosure agreements may be used when foreign persons are provided controlled technical data or commodities outside the scope of an international agreement or contract.
- b. Provide necessary technical information to the CEA to determine the need for validated export licenses or other documentation in specific activities and for the completion of such documentation, where necessary.
- c. Provide adequate lead time for the submission, processing, and receipt of validated export licenses, when necessary.
- d. Maintain oversight of NASA-directed contractor export activities, including concurrence on the use of NASA-authorized exemptions and use of NASA-obtained IVLs, and require that copies of all export records (AES/SEDs, GBLs, waybills, invoices) be submitted to NASA. (See Section 3.7 Reporting)
- e. Ensure that NASA only transfers technical data (including software) and hardware necessary to fulfill NASA responsibilities under international agreements and contracts. If foreign contracts are anticipated, program and project managers shall ensure that there is appropriate Headquarters review and that such contracts are prepared with appropriate export control provisions. Contracts with U.S. industry that support an international program or project must also include appropriate provisions related to export control requirements.
- f. Determine the export-control jurisdiction and export classification of hardware and associated software and technical data, in consultation with the CEA, and note classification in NASA property databases or tracking forms. Export control jurisdiction of hardware and technical data is an important consideration when reviewing program access by non-U.S. persons. Technical data (documents) that require use of export license or exemption shall be

marked as "export controlled."

g. Designate work as fundamental research only in consultation with the CEA and CEC as described in Appendix E, NASA Fundamental Research Designation Guidelines.

h. Provide annual opportunities for NASA export-control training for all program and project personnel; this is especially important if foreign persons are involved or when directing the work of others on the project. All personnel shall participate in basic export control awareness training either via SATERN or through on-site briefings.

i. Assist in the timely review of industry export licenses related to NASA programs and projects. Verify program description and characterization of NASA and contractor involvement.

j. Include an appropriate TTCP for programs with international partners that are not members or nationals of NATO or major non-NATO countries and that include exports or transfers of controlled technical data. A TTCP is recommended for all NASA programs/projects with international involvement. (See Section 3.5 of this NPR for more information about TTCPs.)

k. Work with the CEA in determining the need for and subsequent appointment of an ECR in the program to provide assistance to a program/project manager with export control initiatives.

l. Determine the export classification of items, in consultation with the CEA or an export control representative, and document that information in the applicable property accountability record.

2.11 Export Control Representatives (ECR)

2.11 Centers may choose to appoint ECRs or CERs within a directorate organization or program to act as the point of contact with the CEA on all matters concerning export control and international visitor requests to the respective Center. The ECR will maintain working knowledge of the ITAR and EAR, participate in export control training activity annually, and coordinate export issues with the CEA. ECR duties and responsibilities related to export control issues shall be coordinated with the CEA.

2.12 Center Transportation Officers (TO)

2.12.1 NASA TOs at each Center shall, in consultation with the CEA, ensure that all exports and transfers of commodities, technologies, and software under Center programs are accompanied by appropriate and accurate export control documentation, including validated export licenses, marking statements, destination control statements, GBLs, AES filing, or other authorizing documents, as needed, as well as AES/SEDs in all appropriate cases.

2.12.2 Exports and transfers required by Headquarters program or project managers will be handled through the Goddard Space Flight Center (GSFC) TO. The GSFC TO shall consult with the GSFC CEA and the HEA, as appropriate, for such Headquarters exports and transfers.

2.13 Center Property Disposal Officers (PDO)

2.13 NASA PDOs shall ensure that the export-control jurisdiction of NASA hardware is determined prior to its disposal or sale. PDOs can consult with the NASA project manager/owner of the property, the CEA, or the Center ECR. NASA export-controlled property should ensure vetting of individuals to receive the items and notice to the recipient of the export-controlled status of the item. Vetting includes verifying U.S. citizenship and checking the Denied Persons List and Debarred Parties List.

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