National Aeronautics and Space Administration

NASA Export Control Program Operations Manual

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Message from the NASA Administrator:

As the world's premier aerospace agency, with remarkable achievement and expertise in space launch vehicles, satellites, aircraft and other advanced technologies, NASA has a unique responsibility to safeguard the sensitive technologies that are crucial to our missions. Accordingly, the NASA Export Control Program is devoted to maximizing the benefits of our international efforts, while ensuring that we comply with all U.S. export control laws, policies and regulations.

This Operations Manual provides the implementing guidelines for NASA's Export Control Program. It provides processes and best practices for properly and consistently fulfilling our export control obligations. These processes have been designed with broad Agency participation so as not to unnecessarily hinder NASA's ability to execute its missions and daily business. These guidelines are developed to facilitate the valuable work that you do, while protecting the Nation's unique capabilities and sensitive technologies.

As NASA employees, we have been entrusted with access to impressive resources, talent, capabilities and technologies, all of which demand our careful stewardship. I encourage each member of the NASA community – whether you think you'll be involved in work that is affected by Export Control Regulations or not – to take the time to familiarize yourself with this manual and to adhere to the processes as they apply to you.

Charlie B.

NASA Advisory Implementing Instruction

NAII 2190.1

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EXPORT CONTROL OPERATIONS MANUAL

Responsible Office: Office of International and Interagency Relations

Responsible Official: Ken Hodgdon (kenneth.m.hodgdon@nasa.gov)

***Note*:** This operations manual provides implementing instructions for NASA's export control policies and processes. All references to such requirements contained in NASA Policy Directives (NPDs), NASA Procedural Requirements (NPRs), NASA Advisory Implementing Instructions (NAIIs) or other guidance should be verified by reviewing the cited authority directly.

How to use this manual: This document includes embedded hyperlinks for additional information. It also includes checklists and flowcharts. Consider printing them out to use as job aides. For any revisions, corrections, or modifications of this document, contact the Office of International and Interagency Relation's at Headquarters.

CHANGE LOG

Change #	Date	Section Number	Description/Comments
1	11-15-2016	2.2.2. Marking of Shipping Documents With Destination Control Statements	Updated per export control reform effective 11-15-2016.
2	12-27-2016	Acronyms	Added acronyms: ACEA, CCS,EC POC, ESA, FOIA, FRR, MRR, and NTR.
3	12-27-2016	2.3. Recordkeeping for Export Control	Added section to describe general recordkeeping responsibilities within the Agency.
4	12-27-2016	2.4. Export Control Process for NASA Scientific and Technical Information (STI)	Reorganized to introduce this topic sooner (moved from 2.12. to 2.4.).
5	12-27-2016	2.5. Process for Obtaining an Export Authorization	Updated to make chapter title broader to address content of prior Sections 2.3.-2.5.; Changed Figure 12 title and added column to reflect the Shipper/Mailer/Exporter process flow.
6	12-27-2016	2.5. Process for Obtaining an Export Authorization	Added definition for “Shipper’s Letter of Instruction”.
7	12-27-2016	2.6. Export Control Process for Foreign National Access Requests	Removed language regarding Access Control Plan (ACP), which is a NASA HQ Office of Protective Services responsibility area.
8	12-27-2016	2.7. Suggested Best Practices for Meeting with Foreign Persons	Expanded checklist C and removed old sections 2.7.1. and 2.7.2. numbering while retaining corresponding content.

Change #	Date	Section Number	Description/Comments
9	12-27-2016	2.9. Export Control and International Travel	Expanded section 2.9. by incorporating additional information regarding travel preparation and coordination; Inserted Table 7: Required Approvals Prior to International Travel.
10	12-27-2016	4. Export Control Training Program Plan	Expanded and updated Chapter 4 to reflect additional granularity regarding needs and available products.
11	12-27-2016	List of Figures	Expanded from 18 to 27 figures.
12	12-27-2016	List of Tables	Expanded from 4 to 8 tables.
13	12-27-2016	Appendix C: Key Definitions	Multiple key definitions have been updated and added.

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Acronyms

ACEA	Associate/Assistant/Alternate Center Export Administrator
ACP	Access Control Plan
AECA	Arms Export Control Act
AES	Automated Export System
APP	Adjusted Peak Performance
ARC	Ames Research Center
AFRC	Armstrong Flight Research Center
BIS	Bureau of Industry and Security
CCATS	Commodity Classification Automated Tracking System
CCL	Commerce Control List
CCS	Center Chief of Security
CEA	Center Export Administrator
CEC	Center Export Counsel
CER	Center Export Representative
CFR	Code of Federal Regulations
CI	Counterintelligence
CJ	Commodity Jurisdiction
CPS	Center Protective Services
CT	Counterterrorism
CTP	Composite Theoretical Performance
CUI	Controlled Unclassified Information
DAA	Document Availability Authorization
DCS	Destination Control Statements
DDTC	Directorate of Defense Trade Control
DEA	Drug Enforcement Administration

DOC	Department of Commerce
DOD	Department of Defense
DOS	Department of State
DOT	Department of Treasury
DSS	Defense Security Services
EAA	Export Administration Act
EAR	Export Administration Regulations
EC	Export Control
ECA	Export Control Auditor
ECCN	Export Control Classification Number
ECILD	Export Control and Interagency Liaison Division
ECP	Export Control Program
EC POC	Export Control Point of Contact
ECR	Export Control Representative
ECS	Export Control Staff
ECSD	Export Control System Database
EDAA	Electronic Document Availability Authorization
EEI	Electronic Export Information
EIN	Employer Identification Number
ELISA	Export License Status Advisory
ESA	European Space Agency
FNAM	Foreign National Access Management
FOIA	Freedom of Information Act
FPPI	Foreign Principal Party of Interest
FRR	Flight Readiness Review
FTR	Foreign Trade Regulations
GAO	Government Accountability Office

GC	General Correspondence
GPS	Global Positioning System
GRC	Glenn Research Center
GSFC	Goddard Space Flight Center
GSA	General Services Administration
HEA	Headquarters Export Administrator
HEC	Headquarters Export Counsel
HQ	Headquarters
HS	Harmonized System
HTS	Harmonized Tariff Schedule
IA	International Agreement
IATA	International Air Transportation Association
ICAM	Identity, Credential, and Access Management
IdMAX	Identity Management and Account Exchange
ISS	International Space Station
IT	Information Technology
ITAR	International Traffic in Arms Regulations
ITN	Internal Transaction Number
IVC	International Visit Coordinator
JIP	Joint Implementation Plan
JSC	Johnson Space Center
KSC	Kennedy Space Center
LaRC	Langley Research Center
LRODS	Launch and Return Orbital Data Sheets
MCTL	Military Critical Technologies List
MOU	Memorandum of Understanding
MRR	Mission Readiness Review

MSFC	Marshall Space Flight Center
MTEC	Missile Technology Expert Committee
MTCR	Missile Technology Control Regime Annex
NAII	NASA Advisory Implementing Instruction
NAPA	National Academy of Public Administration
NARA	National Archives and Records Administration
NASA	National Aeronautics and Space Administration
NCHC	National Criminal History Check
NF	NASA Form
NID	NASA Interim Directive
NLR	No License Required
NPD	NASA Policy Directive
NPR	NASA Procedural Requirements
NRRS	NASA Records Retention Schedule
NTR	New Technology Report
OAC	Original Acquisition Cost
OCIO	Office of the Chief Information Officer
OIG	Office of the Inspector General
OIIR	Office of International and Interagency Relations
OMB	Office of Management and Budget
OPS	Office of Protective Services
OR	Order of Review
PDO	Property Disposal Officer
PDR	Preliminary Design Review
PII	Personally Identifiable Information
POA	Power of Attorney
RWA	Return Without Action

SAA	Space Act Agreement
SAAG	Space Act Agreement Guide
SBU	Sensitive But Unclassified
SCAC	Standard Carrier Alpha Code
SME	Significant Military Equipment
SSC	Stennis Space Center
STA	Strategic Trade Authorization
STELA	System for Tracking Export License Applications
STI	Scientific and Technical Information
STTCP	Security Technology Transfer Control Plan
TAA	Technical Assistance Agreement
TTCP	Technology Transfer Control Plan
UAV	Unmanned Aerial Vehicle
U.S.	United States
USCBP	United States Customs and Border Protection
USXPORTS	United States Export System
USML	United States Munitions List
VEU	Validated End-user
VWP	Visa Waiver Program
XTN	External Transaction Number

CHAPTER 1: INTRODUCTION

The National Aeronautics and Space Administration (NASA) is on the leading edge of technological development and international cooperation in space, aeronautics, and a variety of scientific endeavors. As a result, the Agency has a unique responsibility to safeguard the sensitive technologies that are crucial for our national security and our missions.

Exporting is a "privilege" not a "right," and export privileges can be revoked, diminishing our ability to conduct important international activities effectively. The Agency's Export Control Program (ECP) provides requirements and processes to ensure that all NASA exports, including commodities, software, technical data, technology, providing a defense service, and/or providing technical assistance are conducted in accordance with United States (U.S.) export control (EC) laws and regulations.

KEY POINT: Export Controls do not simply exist as another set of regulations. They exist to ensure our technological superiority is never employed against us on the battlefield. They exist to ensure our security – our national security, our homeland security, our cybersecurity, and our economic security.

NASA is firmly committed to compliance with U.S. export control laws and regulations. This responsibility starts at the top of the Agency, from the Administrator, and flows down to Mission Directorates and Center executive leadership who set the tone for day-to-day adherence to Agency's export control policies and processes. Management is committed to providing resources and timely training to employees across all missions and Centers as described in this manual.

The instructions and guidelines described in this Operations Manual provide standard processes to implement the ECP across all NASA Centers. All NASA employees, and all NASA contractors, grant recipients, or parties to agreements, to the extent specified or referenced in the appropriate contracts, grants, or agreements, will adhere to the processes and guidelines per this manual.

Chapter 1 addresses the following fundamental questions:

- **What** is an export and what is export control? (1.1.)
- **What** are NASA's export control policies? (1.2.)

- **When** are items subject to export control? (1.3.)
- **Who** is responsible for export control? (1.4.)
- **Where** to find more information? (1.5.)

Chapters 2 and 3 address the question:

- **How** to export?

In particular, Chapter 2 provides standard processes for all NASA personnel who wish to make a specific export request on behalf of the Agency. Chapter 3 is intended for export control practitioners who are responsible for managing the ECP. The administration of NASA's export control policies require competence regarding U.S. export control regulations.

Chapter 4 describes NASA's tiered training program and requirement. The training program plan encompasses various training levels based on employees' roles and responsibilities across programs/projects and supporting functions.

Chapter 5 describes the risk-based approach to managing technologies that warrant additional protection or attention, from an export control perspective.

1.1. WHAT IS AN EXPORT AND WHAT IS EXPORT CONTROL?

An export is the transfer of anything to a foreign person or a foreign destination by any means, anywhere, any time (see 22 CFR §120.17 and 15 CFR §734.2(b)). An export can involve a commodity, software, technical data, technology, providing a defense service, and/or providing technical assistance. Export controls are restrictions applied by the U.S. Government to the transfer of certain goods, services, software, technical data, and technology to foreign entities. With the exception of publicly available information and select other items, all exports require an export authorization. An export authorization includes: a license from Department of State (DOS) or Department of Commerce (DOC), a license exemption under the International Traffic in Arms Regulations (ITAR), a license

KEY POINT: An export is the transfer of anything to a foreign person or a foreign destination by any means, anywhere, any time.

KEY POINT: An export authorization includes a license, a license exemption, a license exception, or No License Required (NLR).

exception under the Export Administration Regulation (EAR), or No License Required (NLR)[1], as defined by the EAR.

Exports can take place in any of the following ways:

- Verbal discussions or presentations to groups that include foreign persons whether in or outside of the U.S.
- Transmission of information to a foreign person, or a U.S. representative of a foreign person, whether in the U.S. or abroad, by any means such as email, telephone, or discussions
- Traditional shipments of items through Center Transportation/Logistics offices to destinations outside the U.S.
- Foreign visitors to NASA facilities
- Placing information on a public website and releasing photos/videos
- Hand carrying items outside the U.S. (including even your laptop and cell phone)
- Placing information in the public domain via websites, social media, or other means without prior appropriate authorization

A **U.S. person** means a person who is a U.S. citizen, a protected individual[2] or a lawful permanent resident[3] (LPR); a U.S. person can also be a corporation, business or other entity that is incorporated to do business in the U.S., and includes all U.S. Governmental entities (federal, state, or local). A **protected individual** means a citizen or national of the U.S.,[4] its territories and possessions; it also includes natural persons[5] who are lawfully admitted for permanent residence, refugee status, or political asylum. A **lawful permanent resident** means

[1] If No License is Required (NLR), then NLR is the authorization to export. See Section 3.3.6.2.

[2] See 8 U.S.C. §1324b(a)(3) for full definition of protected individual.

[3] See 8 U.S.C. §1101(a)(20) for full definition of lawful permanent resident.

[4] See 8 U.S.C. §1101(a)(22) for full definition of a U.S. national.

[5] A natural person is a human being as opposed to an organization or entity.

a natural person who has been lawfully accorded the privilege of residing permanently in the U.S. under U.S. immigration laws. Green card holders are also considered to be U.S. persons because the green card serves as proof that its holder, a lawful permanent resident, has been officially granted immigration benefits, which include permission to reside and take employment in the United States.

A **foreign person** is any natural person who is not a U.S. citizen, U.S. lawful permanent resident or a protected individual (i.e., foreign national). A foreign person also includes any foreign corporation, business or other entity that is not incorporated to do business in the U.S., as well as international organizations, foreign governments (federal, state, and local), and any agency or subdivision of foreign governments (e.g., diplomatic missions in the U.S.)(see 22 CFR §120.15).

A U.S. person representing a foreign corporation, business association, partnership, trust, society, or any other foreign entity should sign a Non-Disclosure Agreement (NDA) prior to receiving a NASA commodity, software, technical data, technology, defense service, and/or technical assistance. In signing the NDA, the U.S. person acknowledges the receipt of export-controlled items and the requirement to obtain the appropriate export authorization prior to transferring those items to a foreign person. NASA thereby obtains the assurance that the U.S. person acknowledges their responsibilities under U.S. export control laws and regulations.

Export laws and regulations control transfers of technical data/technology and goods to foreign entities. The Arms Export Control Act (AECA) of 1976 authorizes the President of the U.S. to control export and import of defense articles and defense services. The President delegates the statutory authority to determine regulatory requirements for these transactions to the DOS, which in-turn has developed the ITAR, 22 CFR §120-130, to implement this authority.

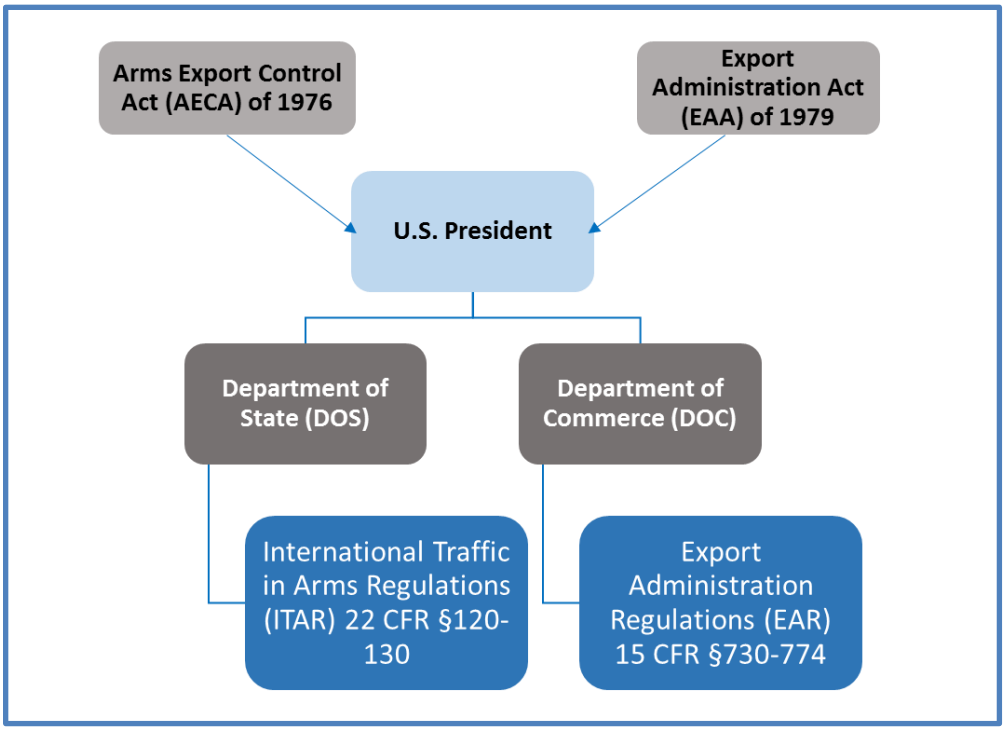
The Export Administration Act (EAA) of 1979, as amended, authorizes the President to control U.S. exports for reasons of national security, foreign policy, and/or limited supply. The President delegates the statutory authority to determine regulatory requirements for these transactions to the DOC, which in-turn developed the EAR, 15 CFR §730-774, to implement this authority (See Figure 1).

Failure to comply with export control laws and regulations can result in export violations, which can in turn generate:

- NASA administrative disciplinary actions
  - Work restrictions, fines and/or demotions
  - Employment termination
- ITAR/EAR civil and/or criminal penalties
  - Monetary penalties can be as much as $1 million per violation.
  - Incarceration can be for a period up to 20 years.

REMEMBER: Both the ITAR and the EAR include criminal and civil penalties for export control violations that can result in monetary penalties, imprisonment, or both (see 22 CFR §127.3 and 15 CFR §764.3).

Figure 1: Export Control Regulatory Authority



1.1.1. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

The ITAR, administered by DOS, controls the exports of goods and technical data on the United States Munitions List (USML), including certain items on the Missile Technology Control Regime (MTCR) Annex. The USML includes 21 categories of enumerated defense articles and services that are subject to the ITAR and require a license or license exemption in order to be exported. The 21 categories are shown in Table 1 for reference. To see the full list in detail, refer to 22 CFR §121.1.

Table 1: ITAR United States Munitions List

I – Firearms, Close Assault Weapons, and Combat Shotguns	***XII – Fire Control, Range Finder, Optical and Guidance and Control Equipment**
II – Guns and Armament	***XIII – Materials and Miscellaneous Articles**
III – Ammunition/Ordnance	XIV – Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
***IV - Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines**	***XV – Spacecraft and Related Articles**
***V – Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents**	XVI – Nuclear Weapons Related Articles
VI – Surface Vessels of War and Special Naval Equipment	XVII – Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated
VII – Ground Vehicles	XVIII – Directed Energy Weapons
***VIII – Aircraft and Related Articles**	***XIX - Gas Turbine Engines and Associated Equipment**
***IX – Military Training Equipment and Training**	XX – Submersible Vessels and Related Articles
X – Personal Protective Equipment	XXI – Articles, Technical Data, and Defense Services Not Otherwise Enumerated
***XI – Military Electronics**	

***Primary categories NASA uses.**

1.1.2. EXPORT ADMINISTRATION REGULATIONS (EAR)

The EAR is administered by DOC and controls the goods and technologies on the Commerce Control List (CCL) (see Supplement No. 1 to 15 CFR §774), including certain items on the MTCR. The DOC's Export Control Classification Number (ECCN) is key for determining whether an export license is needed (see Figure 2). The ECCN is an alpha-numeric code, e.g., 9A004, which describes the item and indicates reasons for control, licensing requirements (see Supplement No. 1 to 15 CFR §738 "The Country Chart"), and applicable license exceptions. The CCL, see Table 2, is divided into ten broad categories, and each category is further subdivided into five product groups. Table 2 lists these categories. To see the full list, visit the Bureau of Industry and Security's website (BIS).

Figure 2: Sample ECCN

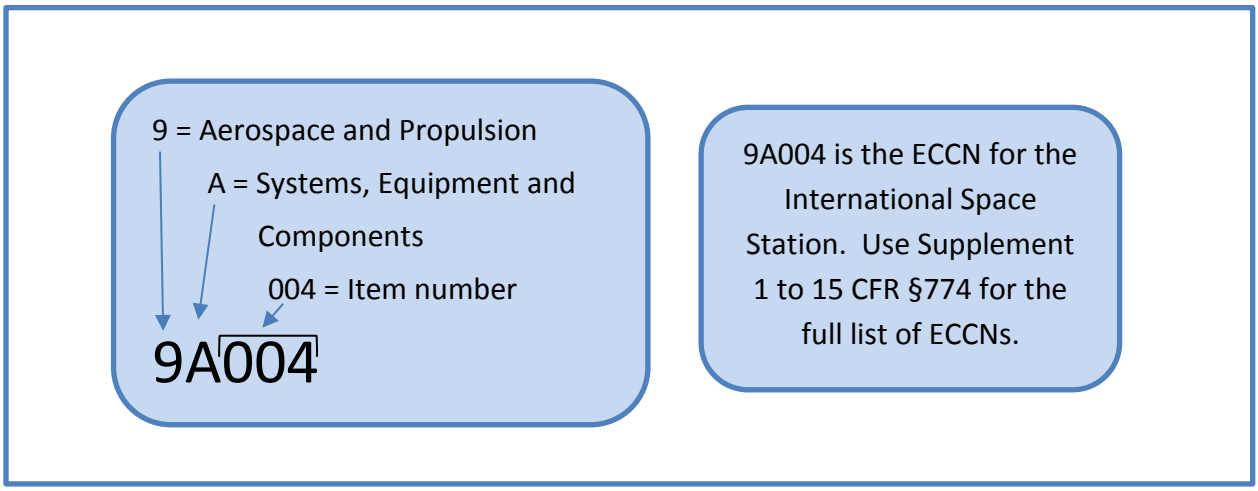


Table 2: EAR Commerce Control List

Commerce Control Category List	
0	Nuclear Materials, Facilities, And Equipment (and Miscellaneous Items)
1	Materials, Chemicals, Microorganisms, and Toxins
2	Materials Processing
3	***Electronics** Design, Development, and Products
4	***Computers**
5 Part 1	***Telecommunications**
5 Part 2	Information Security
6	***Sensors and Lasers**
7	***Navigation and Avionics**
8	Marine
9	***Aerospace and Propulsion**

Five Product Groups	
A	Systems, Equipment, and Components
B	Test, Inspection, and Production Equipment
C	Material
D	Software
E	Technology

***Primary categories NASA uses.**

DOC also maintains lists of certain persons, including businesses, research institutions, government and private organizations, and individuals that are subject to specific license requirements for the export, re-export, and/or transfer (in-country) of specified items. Some of these persons comprise the Entity List (see Supplement No. 4 to 15 CFR §744), established for reasons of proliferation concern, and are subject to licensing requirements and policies supplemental to those found elsewhere in the EAR. Others comprise the Denied Persons List, which are entities that have violated U.S. export control or other laws.

1.1.3. DOS AND DOC DEFINITIONS

DOS and DOC have respective definitions for various export control terms. DOS definitions only apply to the ITAR; DOC definitions only apply to the EAR. The same term can be used in both regulations but may have very different meanings, and some terms are only used by one

or the other (e.g., "commodity" and "technical assistance" are EAR terms). The "Key Definitions" section of this manual divides up ITAR and EAR terms for ease of reference. Consult your Center Export Control Staff (ECS) while applying appropriate definitions. See Table 3.

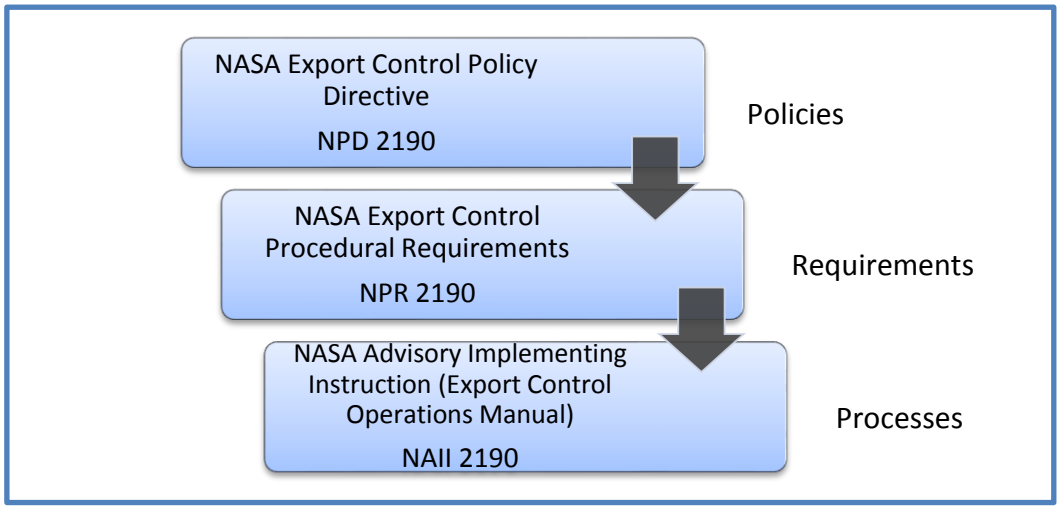
Table 3: DOS v. DOC Definitions

DOS – Software definition included in the ITAR	DOC – Software definition included in the EAR
Software includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems, and support software for design, implementation, test, operation, diagnosis and repair (22 CFR §120.45).	Software. A collection of one or more "programs" or "microprograms" fixed in any tangible medium of expression (15 CFR §772). Source code. (or source language) (Cat 4, 6, 7, and 9)—A convenient expression of one or more processes that may be turned by a programming system into equipment executable form ("object code" (or object language))(15 CFR §772).
DOS – Technical Data definition included in the ITAR	**DOC – Technology definition included in the EAR**
Technical data is information that is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of an export-controlled item and must be protected in accordance with export control (22 CFR §120.10).	Technology is specific information necessary for the "development," "production," or "use" of a product. The information takes the form of "technical data" or "technical assistance" and must be protected in accordance with export control regulations (15 CFR §772).
Defense article and defense service are DOS terms defined in the ITAR.	
Defense article means any item or technical data designated in 22 CFR §121.1 of the USML. It does not include basic marketing information on function or purpose or general system descriptions (22 CFR §120.6). Defense service means the furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles (22 CFR §120.9).	

1.2. WHAT ARE NASA'S EXPORT CONTROL DOCUMENTS?

NASA is committed to compliance with all U.S. export control laws and regulations, which take precedence over NASA's policies and procedures. The Agency's export control policies and requirements are found in NASA Policy Directive NPD 2190.1 "NASA Export Control Program" and NASA Procedural Requirements NPR 2190.1 "NASA Export Control Program." This NASA Advisory Implementing Instruction (NAII) document further implements NASA's ECP. See Figure 3 for the Hierarchy of NASA's Export Control Program documents. In addition to Agency policies, procedures, and processes, NASA personnel are also expected to adhere to their Center-specific export control policies and procedures.

Figure 3: Hierarchy of NASA's Export Control Program Documents



1.3. WHEN ARE ITEMS SUBJECT TO EXPORT CONTROL?

Export laws and regulations require an export authorization for all exports, except for those items that are not subject to export controls.

For example, the following information is not export-controlled:

- Information in the public domain
- General scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities
- Basic marketing information on function, purpose, or general system descriptions of items

The most significant steps in any export activity are to determine if the export is necessary, appropriate, and in accordance with NASA's export control policies. If it is determined that the transaction is subject to export control, there are six things that the exporter needs to assess:

1. The requirement for export
2. The item being exported (commodity, software, technical data, technology, providing a defense service, and/or providing technical assistance)
3. End-user
4. End-use
5. The proper authority to execute the export
6. Does it make sense?

IMPORTANT: If it is determined that the transaction is subject to export control, there are six things that the exporter needs to assess:

1. The requirement for export
2. The item being exported
3. End-user
4. End-use
5. The proper authority to execute the export
6. Does it make sense?

If it is determined that the information and/or technology is subject to export control, there are three elements that the exporter needs to assess: a requirement to export, the nature/description of the item being exported

(commodities, software, technical data, technology, providing a defense service, and/or providing technical assistance), and the appropriate export authorization.

The requirements for export are normally contained in the following types of officially written, signed, and approved documents:

- NASA Contracts and Grants: Such documents should require Technology Development and Technology Transfer Control Plans specifying export requirements (NPR 7120.5E, Appendix G, Sections 3.5 & 3.18).

- NASA Partnership Agreements such as domestic and international Space Act Agreements (SAAs), which include NASA's bilateral Memorandums of Understanding (MOU) and Joint Implementation Plans (JIPs)

NASA's contracts, grants, and/or agreements define the responsibilities of the parties, scope of the work to be performed, and the terms and conditions under which the cooperation will be effected. Once the requirement for an export is in place, the exporter should continue the process by working with export control staff to obtain the appropriate export authorization, as discussed in Chapters 2 and 3.

1.4.WHO IS RESPONSIBLE FOR EXPORT CONTROL?

Every NASA employee and contractor has the responsibility to comply with export control laws and regulations.

Figure 4 illustrates the Agency-wide delegation of authority to oversee all aspects of NASA's ECP. The NASA Administrator is responsible for the Agency's overall compliance with export control laws and regulations. Senior management across the Agency has the responsibility to enable compliance by providing adequate resources and timely training. Mission Directorates and Program and Projects Offices bear the primary responsibility to ensure their programs and projects are in compliance with these policies, and Center Directors are responsible for effective implementation of NASA's Export Control Program at their Centers.

The Office of International and Interagency Relations (OIIR) oversees all export control-related activities, under its Export Control and Interagency Liaison Division (ECILD). The essential ECP roles and responsibilities are described in NPR 2190.1.

NASA Export Control community in front of SOFIA during 2015 Annual Program Review (AFRC, 2015).

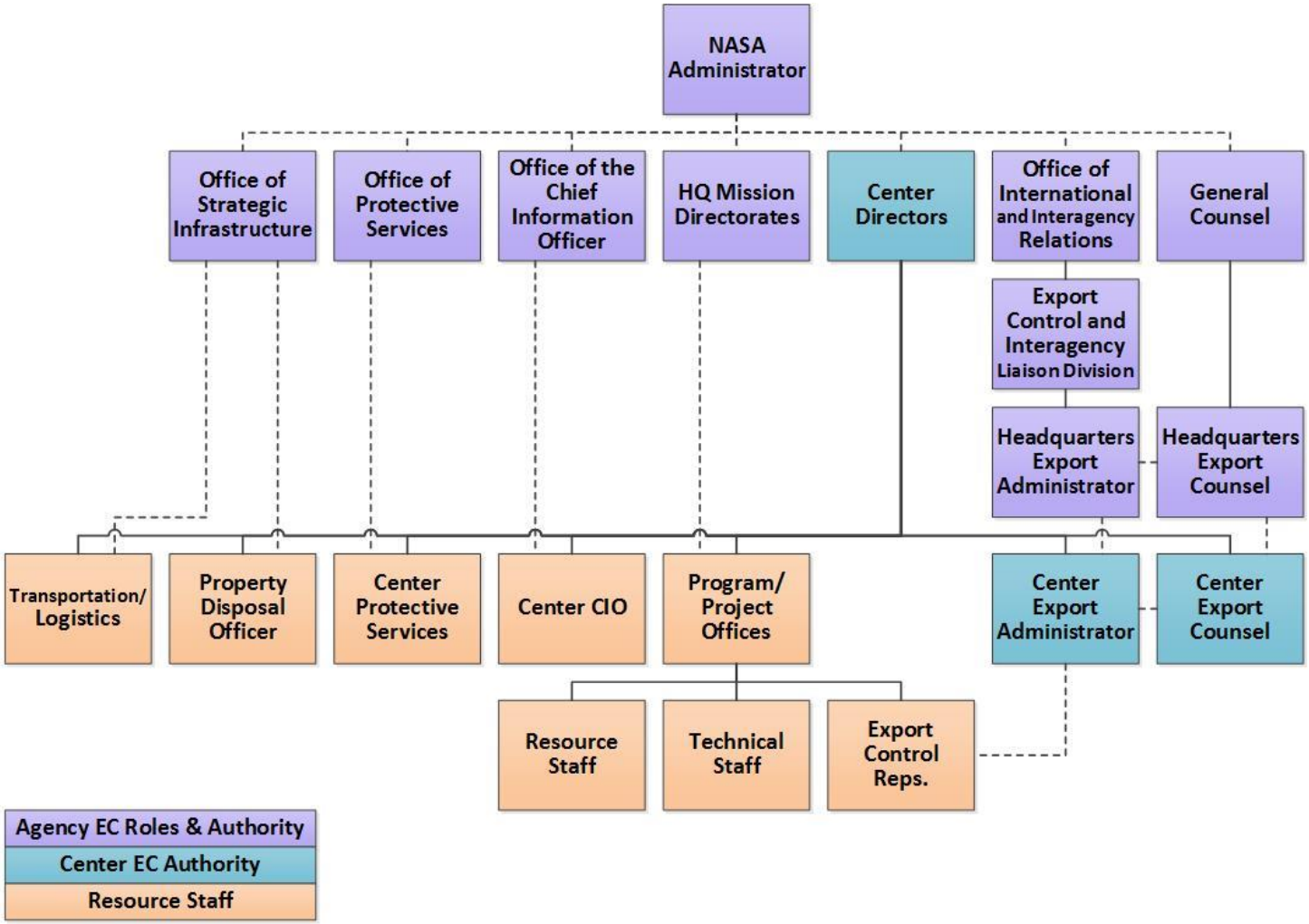
Primarily, export control compliance is administered by the Headquarters Export Administrator (HEA) and the community of Center Export Administrators (CEAs). Centers may also appoint Associate/Assistant/Alternate Center Export Administrators (ACEAs) to support the CEAs. In this document, the export administrators and their support staff are collectively referred to as Export Control Staff (ECS), unless specifically identified by title. The CEAs may further delegate part of the authority to Export Control Representatives (ECRs), also referred to as Center Export Representatives (CERs) or Export Control Points of Contact (EC POCs) at some Centers. ECRs[6], if available, are the first point of contact to initiate an export request on behalf of a program/project or a functional organization.

The Headquarters Export Counsel (HEC) and Center Export Counsel (CEC) are responsible for providing legal guidance to the HEA and respective CEAs. They keep abreast of statutory and regulatory developments in the U.S. export control policies and laws, and assist the HEA and CEAs with reviews of exports and transfers, accordingly.

The Program/Project offices are typically the "Requestor" of export actions. The Property Disposal Officer (PDO) and Transportation/Logistics typically assist in processing exports by physically transferring those items approved by CEA for transport. Other functional organizations, such as the Office of Chief Information Officer (OCIO) and Office of Protective Services (OPS), provide a supporting role in implementing the ECP across the Agency. For example, OCIO creates policies to control the release of technical data/technology and provides Information Technology (IT) systems that prevent its unauthorized release; and OPS verifies credentials of foreign persons and controls access to NASA property and facilities.

[6] The acronym ECR also refers to CERs and is used throughout the rest of this document. ECR roles and responsibilities vary across the Centers.

Figure 4: Export Control Delegation of Authority



1.5. WHERE TO FIND MORE INFORMATION?

The Headquarters Export Control website is the primary resource for export control information. From here you can access ECP's Inside NASA website. From this site, employees can download the checklists and flowcharts as described in this manual and ECS can access information from annual program reviews. In addition, Center export control websites provide Center-specific guidance, forms, and references. See Table 3 and Table 4.

For further guidance, begin by contacting your Center ECS. If necessary, the CEA can contact the HEA or the Headquarters ECS for further assistance.

Table 4: Export Control Program Websites

Headquarters (HQ): **External** **Inside NASA**	**http://oiir.hq.nasa.gov/index.html** **http://inside.nasa.gov/web/insidenasa/information_resources/export-control-interagency-and-liaison-division**
Ames Research Center	http://jp.arc.nasa.gov/EC/EC.html
Armstrong Flight Research Center	http://xnet.nasa.gov/organizations/export_control/index.html
Glenn Research Center	https://export.grc.nasa.gov/
Goddard Space Flight Center	http://export.gsfc.nasa.gov/
Johnson Space Center	http://exportcontrol.jsc.nasa.gov/
Kennedy Space Center	http://exportcontrol.ksc.nasa.gov/
Langley Research Center	http://expcon.larc.nasa.gov/
Marshall Space Flight Center	https://explornet.msfc.nasa.gov/groups/export-compliance
Stennis Space Center	http://www6.ssc.nasa.gov/internal/export/
Department of State ITAR	https://www.pmddtc.state.gov/regulations_laws/itar.html
Bureau of Industry and Security, EAR	http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear

Note: ARC and MSFC export control websites will only work behind their Center firewall.

Table 5 lists applicable NASA policy documents relevant to export control processes referenced throughout this manual.

Table 5: Applicable NASA Policy Documents

NPD 1050.1I	**"Authority to Enter into Space Act Agreements"**
NAII 1050-1C,	"Space Acts Agreements Guide (SAAG)"
NPD 1360.2B	"Initiation and Development of International Cooperation in Space and Aeronautics Program"
NPD 1440.6I	"NASA Records Management"
NPR 1441.1E	"NASA Records Management Program Requirements"
NRRS 1441.1	"NASA Records Retention Schedule (NRRS)"
NPR 1450.10D	"NASA Correspondence Management and Communications Standards and Style"
NPR 1600.1A	"NASA Security Program Procedural Requirements"
NPD 1600.4	"National Security Programs"
NPR 1600.4	"Identity and Credential Management"
NAII 1600.4	"Foreign National Access Management (FNAM) Operations Manual
NID 1600.55	"Marking Recorded SBU Information"[7]
NPR 1620.2A	"Facility Security Assessments"
NPR 1620.3A	"Physical Security Requirements for NASA Facilities and Property"
NPR 1660.1C	"NASA Counterintelligence and Counterterrorism"
NPD 2190.1	"NASA Export Control Program"
NPR 2190.1	"NASA Export Control Program
NPD 2200.1C,	"Management of NASA Scientific and Technical Information"
NPR 2200.2D	"Requirements for Documentation, Approval, and Dissemination of NASA Scientific and Technical Information (STI)"

[7] NASA Interim Directive (NID) 1600.55 is in effect until the OCIO's "Controlled Unclassified Information" (CUI) policy document is released.

NPD 2540.1H	"Personal Use of Government Office Equipment Including Information Technology"
NPD 2810.1E	"NASA Information Security Policy"
NPR 2810.1A	"Security of Information Technology"
NPR 4200.1G	"NASA Equipment Management Procedural Requirements
NPD 4300.1B,	"NASA Personal Property Disposal Policy"
NPR 4300.1C	"NASA Personal Property Disposal Procedures and Requirements"
NPD 5101.32E	"Procurement, Financial Assistance"
NPR 7120.5E	"NASA Space Flight Program and Project Management Requirements"
NPR 8000.4A	"Agency Risk Management Procedural Requirements"
NPR 9700.1	"Travel"

CHAPTER 2: EXPORT CONTROL PROCESSES FOR ALL PERSONNEL

This chapter describes specific processes for various export control-related activities. The instructions are intended for all NASA employees and contractors, as appropriate, across the Agency who may potentially export or conduct export control-related processes on behalf of the Agency in furtherance of NASA's missions. The checklists referenced in this chapter do not replace existing Center-equivalent forms or systems.

2.1. EXPORT CONTROL PROCESSING TIMELINE

Prior to obtaining an export authorization, you must have a valid requirement that is normally contained in a NASA contract, NASA grant, or in an SAA (domestic or international). See Section 2.10 for more information on SAAs. Requirements should be officially written, signed, and approved, prior to obtaining an export authorization. Remember: requirements can take months and even years to develop.

The amount of time that it takes to process an export authorization depends on the type of export and the complexity of the export. Exports do not necessarily follow a set of predictable pattern of factors. For example, an export for which the classification is known may still require a license (necessitating longer processing time), while an export for which the export classification must be determined may, in the end, be processed in a shorter amount of time because no license is required. Some of the factors that affect processing time are:

- Export requirement
- The need for a license
- Nature of the item to be exported
- End-use
- End-user
- Responsiveness of ECR/technical organization to ECS Requests
- Destination
- Method of transfer

- Geo-political events
- Accuracy and completeness of the supporting information
- Associated technical background information to review (including number of pages)

IMPORTANT: To minimize processing time, where appropriate, a program/project may seek specific authorization(s) for certain processes.

- Availability of the use of an exemption or an exception
- Urgency of the license (e.g., an emergency action to prevent loss of a crew member or spacecraft)
- The need to apply for a license (see Section 3.3.)
- Existence of other exports already being worked, and the number of other requests to expedite and prioritize matters that are already in the queue
- Critical nature of request (supporting key national or NASA objective)

IMPORTANT: If you are planning to export, you should talk to your ECR/ECS at least four months prior to your tentatively planned export date.

In general, identify export requirements early and do not wait until an item is ready for export to obtain an export authorization. Programs and projects should involve the Center ECS early with current and future projects to share what, when, and to whom they intend to transfer and share NASA's commodities, software, technical data, technology, defense services, and/or technical assistance. The more information that requesters provide initially to ECS, the easier the process becomes; processing time begins when a complete, current, and accurate export request is received by Center ECS. ECS cannot move forward until they have all the required information.

To minimize processing time, where appropriate, a program/project may seek specific authorization(s) for certain processes such as shipments, releasing Scientific and Technical Information (STI), and hosting meetings as described in this manual. For any modifications in mission scope, foreign participants, or terms of an existing requirement, a new export control review should be completed.

2.2. REVIEW AND MARKING OF DOCUMENTS

All export-controlled information must be marked prior to dissemination to a foreign person or foreign destination. These instructions apply to marking software, technical data, and technology (including STI), in whatever form, including reports, presentations, briefings, etc.

In the definitions section of NPR 2190.1 under "marking" is the requirement for specific marking on export-controlled information prior to dissemination. In addition, NPD 1440.6I section 5.o.(3) "NASA Records Management":

> **REMEMBER:** Center ECS or Program/Project ECRs can help you determine what regulatory authority and classification to use and how to mark your documents.

"(o) All NASA employees or organizations that create, maintain, and dispose of NASA-owned records shall:

(3) Ensure records are marked with the proper access controls when they are created or issued, in accordance with NPR 2190.1, NASA Export Control Program."

Although it is everyone's responsibility to review and mark documents, it is the person who transfers the document to a foreign person who has the final (or ultimate) responsibility to verify that it has been properly reviewed and marked.

> **BEST PRACTICE:** It is a best practice to always mark export-controlled documents prior to sharing, even to U.S. persons.

Marking documents is important because it identifies the correct regulatory authority and export classification, assists the Agency to obtain and/or use the appropriate export authorization(s), enables NASA employees/contractors and foreign persons to recognize if special handling is required, and helps reduce the likelihood of export violations. It is a best practice to always mark export-controlled documents prior to sharing, even to U.S. persons.

2.2.1. MARKING ITAR AND EAR DOCUMENTS

All technical information must be reviewed and marked by the document owner prior to sharing with a foreign person, ideally, upon creation.

2.2.1.1. ITAR AND EAR MARKINGS

Document owners should mark all technical documentation advising the reader of the export jurisdiction and export classification. Most documents subject to export control under the ITAR and/or EAR are generally marked in one of two manners. The first and most common practice involves the marking of an entire document where the majority of the content is export-controlled, such as an engineering drawing package, technical report, mishap investigation report, or technical presentation. While marking a whole document, place the ITAR and/or EAR notice on the cover page in a font size that is readable when printed. Ideally, insert the export jurisdiction and category into the header or footer that mirrors the notice placed on the front cover of the remaining pages, and the marking is complete. The appropriate markings for documentation controlled under the ITAR and EAR are illustrated in Figure 5. See Figure 6 for an example of marking a whole document.

Figure 5: Standard ITAR and EAR Markings

ITAR Category ___

- International Traffic in Arms Regulations (ITAR) Notice –

This document contains information which falls under the purview of the U.S. Munitions List (USML) as defined in the International Traffic in Arms Regulations (ITAR), 22 CFR §120-130, and is export-controlled. It shall not be transferred to foreign persons in the U.S. or abroad without specific approval of a knowledgeable NASA export control official, and/or unless an export license or license exemption is obtained/available from the Directorate of Defense Trade Controls, United States Department of State. Violations of these regulations are punishable by fine, imprisonment, or both.

EAR ECCN ___

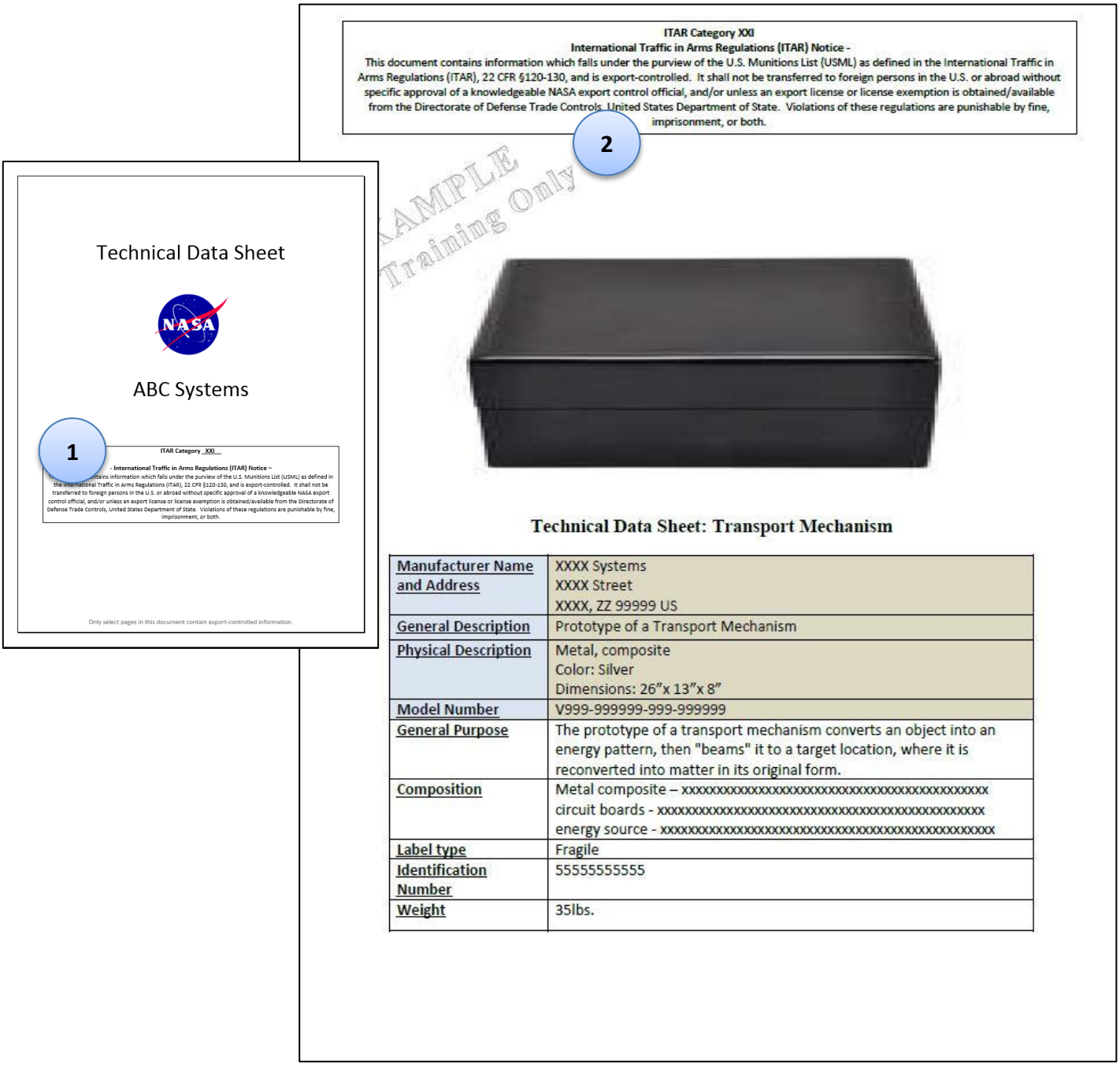
- Export Administration Regulations (EAR) Notice –

This document contains information within the purview of the Export Administration Regulations (EAR), 15 CFR §730-774, and is export-controlled. It may not be transferred to foreign persons in the U.S. or abroad without specific approval of a knowledgeable export control official, and/or unless an export license or license exception is obtained/available from the Bureau of Industry and Security, United States Department of Commerce. Violations of these regulations are punishable by fine, imprisonment, or both.

Subject to U.S. Export Control Regulations:

This document contains information within the purview of the International Traffic in Arms Regulations (ITAR), 22 CFR §120-130 and the Export Administration Regulations (EAR), 15 CFR §730-774, and is export-controlled. It may not be transferred to foreign persons in the U.S. or abroad without specific approval of a knowledgeable export control official, and/or unless an export license, license exemption, or license exception is obtained/available from the Directorate of Defense Trade Controls, United States Department of State or Bureau of Industry and Security, United States Department of Commerce. Violations of these regulations are punishable by fine, imprisonment, or both.

Figure 6: Marking Whole Document Example



For international missions, program/projects may create specific markings such as the following for the International Space Station (ISS):

Program/Project: **International Space Station**

This document, and technical data contained in it, are subject to United States export laws and regulations. They may be used only in the International Space Station (ISS) program to fulfill responsibilities of the Parties or of a Cooperating Agency of an ISS Partner in furtherance of the ISS Intergovernmental Agreement. Re-transfer or disclosure to, or use by, any persons other than citizens of ISS Program International Partner countries, or use for any other purpose, requires prior U.S. Government authorization.

The second practice involves marking select pages within such documents. While the second practice is more resource intensive, it may be preferred or necessary. Marking selected pages provides a way to quickly locate pages containing export-controlled information and remove them before the document is shared with someone who does not have permission to view it.

1. Place the ITAR or EAR notice on the cover page in a font that is readable when printed.

2. Add a note to the cover indicating that only select pages contain export-controlled information.

3. Place a note (in red or bold) in the header or footer of the affected pages indicating the following: "This page contains information subject to U.S. export control regulations under the (insert ITAR and/or EAR)."

4. On those pages, identify[8] the affected text for ease of recognition, and the marking is complete. See Figure 7 for an example of marking select pages.

NOTE: NASA collaborates with other U.S. agencies that have specific documentation marking standards. Typically, the lead agency[9] determines how the document is marked.

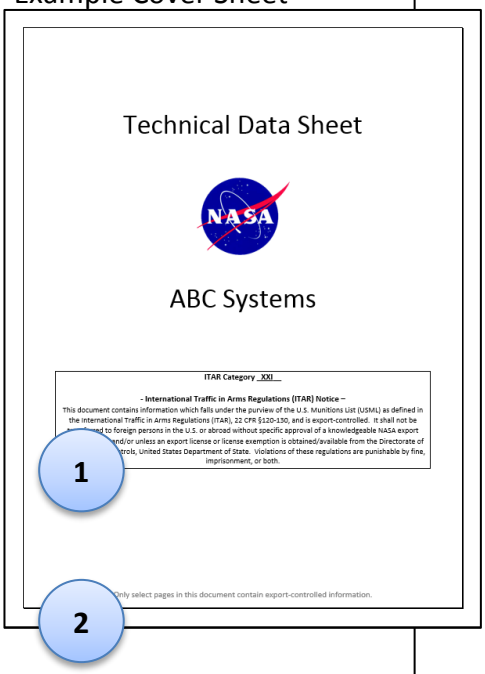
[8] Options include: highlighting the information in yellow, placing the export-controlled information in brackets, italicizing, bolding, circling, or making a note in the margins.

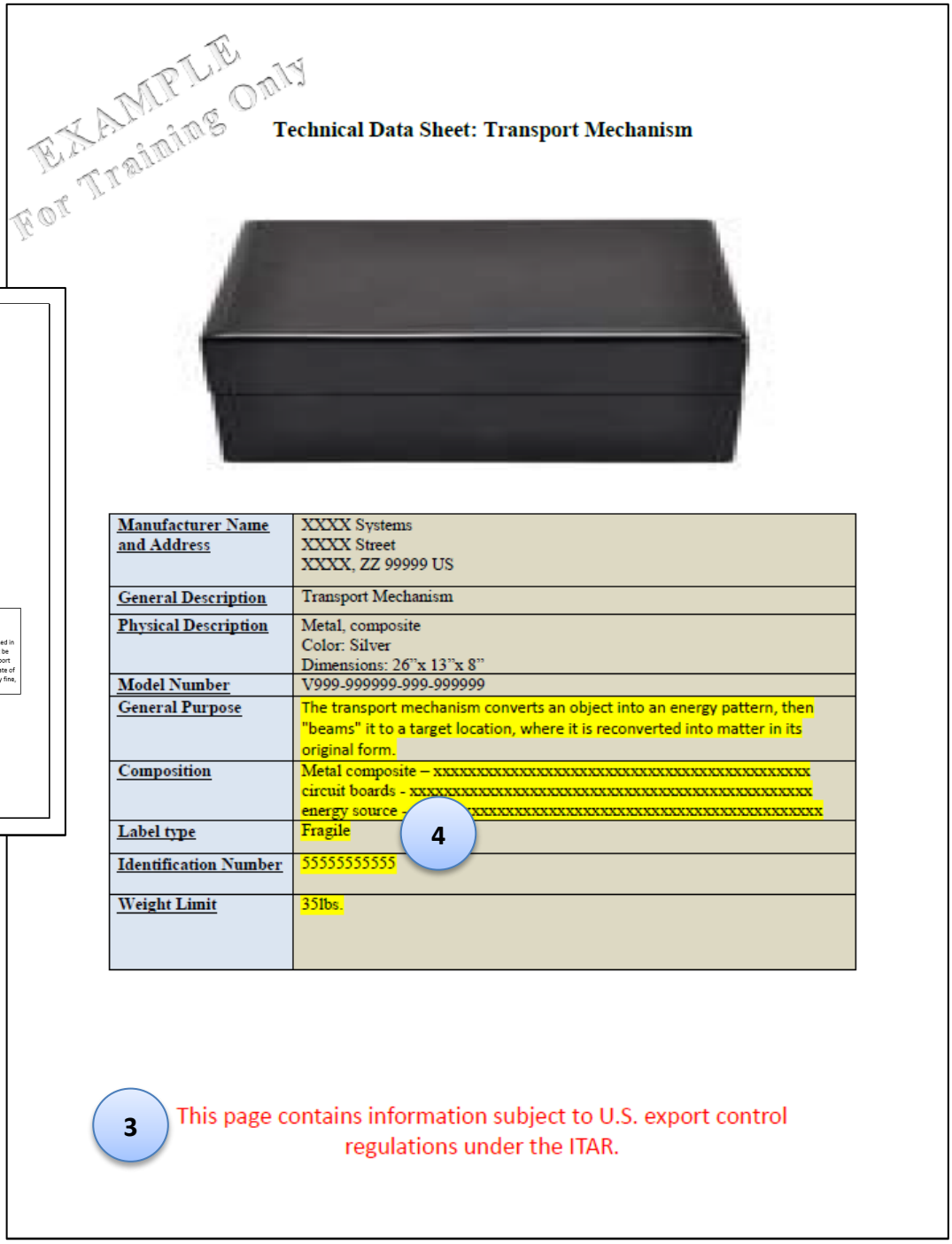
[9] Considerations to take when determining the "lead" agency: Who owns the program? Which other agencies are involved? Who owns the technology? Who provides the funding? Who are the authors? What organization are they from? Who is the lead author(s)?

When NASA is not the lead agency, NASA may defer to the lead agency's documentation marking requirements. The NASA author should work with ECS to resolve any conflicts.

Figure 7: Marking Select Pages Example

Example Cover Sheet





2.2.1.2. EXPORT CONTROL RECORDS THAT ARE ALSO SENSITIVE BUT UNCLASSIFIED (SBU)[10]

Export-related records and export-controlled documentation may also be SBU and require an SBU marking, labeling, special handling, and protection. Recorded information in any form (physical or electronic) that is designated as SBU shall be marked by the originator or custodian so that individuals with access to the SBU information are aware of its sensitivity and protection requirements, per NID 1600.55, section 5.24.3.

Not all export-controlled information is SBU, and not all SBU is export-controlled. Example: Program data coming from contractors concerning budgets and Personally Identifiable Information (PII) is SBU, but not export-controlled. Individual programs and projects have the discretion to designate what is and what is not SBU, per NID 1600.55. Example: The space shuttle data that is stored in warehouses around the Agency contain export-controlled information, but are not designated as SBU. However, if information is export-controlled and SBU, it will have the following marking: "SENSITIVE BUT UNCLASSIFIED (SBU) – CONTAINS EXPORT-CONTROLLED INFORMATION (ECI).

2.2.1.3. MARKING EMAIL

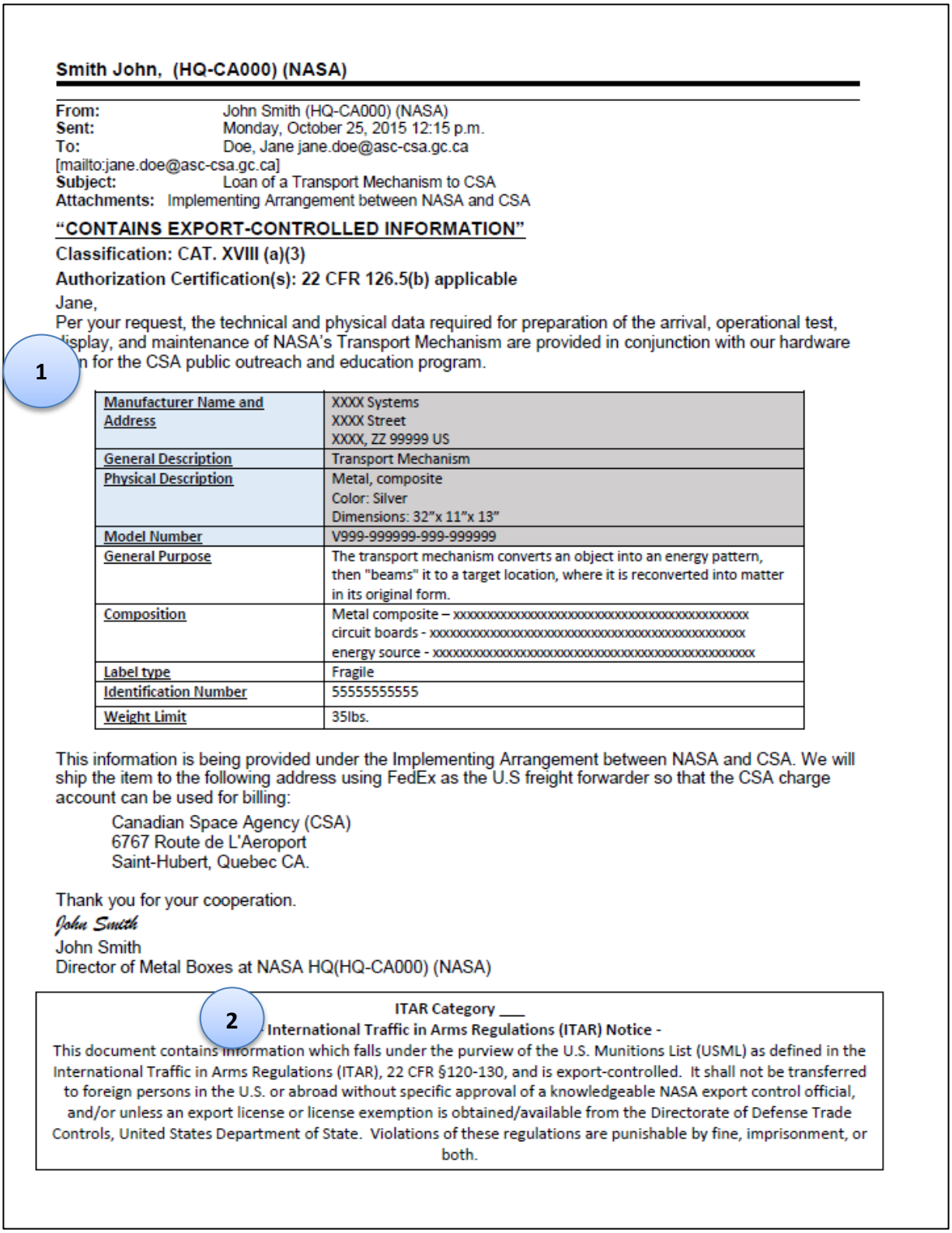
An email that contains export-controlled information should be marked as such. The person who transfers the export-controlled information to a foreign person/party must ensure an appropriate export authorization is in place prior to transmission and include the appropriate marking. If the email contains export-controlled information, the email must be encrypted. To mark the email:

1. Insert the words "CONTAINS EXPORT-CONTROLLED INFORMATION (ECI)" as the first line in the body of the email and distinctly before the content. This line should be at least size 10 font, bolded, all caps, and underlined.
2. Use the ITAR/EAR notice(s) at the end of the email.
3. Ensure that email is encrypted before sending.

See Figure 8 for an example of a marked email.

[10] NID 1600.55 is in effect until the OCIO's "Controlled Unclassified Information" (CUI) policy document is released.

Figure 8: Marked Email Example



Smith John, (HQ-CA000) (NASA)

From: John Smith (HQ-CA000) (NASA)
Sent: Monday, October 25, 2015 12:15 p.m.
To: Doe, Jane jane.doe@asc-csa.gc.ca
[mailto:jane.doe@asc-csa.gc.ca]
Subject: Loan of a Transport Mechanism to CSA
Attachments: Implementing Arrangement between NASA and CSA

"CONTAINS EXPORT-CONTROLLED INFORMATION"

Classification: CAT. XVIII (a)(3)

Authorization Certification(s): 22 CFR 126.5(b) applicable

Jane,
Per your request, the technical and physical data required for preparation of the arrival, operational test, display, and maintenance of NASA's Transport Mechanism are provided in conjunction with our hardware for the CSA public outreach and education program.

1

Manufacturer Name and Address	XXXX Systems XXXX Street XXXX, ZZ 99999 US
General Description	Transport Mechanism
Physical Description	Metal, composite Color: Silver Dimensions: 32"x 11"x 13"
Model Number	V999-999999-999-999999
General Purpose	The transport mechanism converts an object into an energy pattern, then "beams" it to a target location, where it is reconverted into matter in its original form.
Composition	Metal composite – xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx circuit boards - xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx energy source - xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
Label type	Fragile
Identification Number	55555555555
Weight Limit	35lbs.

This information is being provided under the Implementing Arrangement between NASA and CSA. We will ship the item to the following address using FedEx as the U.S freight forwarder so that the CSA charge account can be used for billing:

Canadian Space Agency (CSA)
6767 Route de L'Aeroport
Saint-Hubert, Quebec CA.

Thank you for your cooperation.
John Smith
John Smith
Director of Metal Boxes at NASA HQ(HQ-CA000) (NASA)

2

ITAR Category ___
- International Traffic in Arms Regulations (ITAR) Notice -
This document contains information which falls under the purview of the U.S. Munitions List (USML) as defined in the International Traffic in Arms Regulations (ITAR), 22 CFR §120-130, and is export-controlled. It shall not be transferred to foreign persons in the U.S. or abroad without specific approval of a knowledgeable NASA export control official, and/or unless an export license or license exemption is obtained/available from the Directorate of Defense Trade Controls, United States Department of State. Violations of these regulations are punishable by fine, imprisonment, or both.

2.2.1.4. CONTROL OF OLD OR EXISTING TECHNICAL INFORMATION

NASA has many technical documents from previous and on-going programs and projects that are archived in repositories, planned to be archived, or are currently in use. Existing unmarked technical documents should be treated as if they do contain export-controlled information. Figure 9 shows markings that should be placed on such documents or their container[11]:

Figure 9: Marked Document Example

Export Control Notice
This document or container may include information subject to export control. This document may not be provided to any foreign person until the document has received an export classification by a CEA or a CEA-authorized individual who has attached a correct export control label with release authorization.

2.2.2. MARKING OF SHIPPING DOCUMENTS WITH DESTINATION CONTROL STATEMENTS

Export-controlled shipment transactions require a Destination Control Statements (DCS) be integral to the commercial invoice document. The DCS marking informs all parties to the transaction that the items being shipped are export-controlled and must be protected appropriately. The commercial invoice is the shipping document which acts as the official export control record of the transaction. Figure 10 shows the statement that is required on the commercial invoice in accordance with 22 CFR § 123.9(b)(1)(iv) and 15 CFR § 758.6(a)(1):

Figure 10: Marked Commercial Invoice Example

Destination Control Statement
(22CFR § 123.9(b)(1)(iv) and 15 CFR § 758.6(a)(1))
These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their

[11] Container may include a box, file cabinet, room, burn bag, warehouse, etc.

original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

It is a best practice to include the export authorization and classification on shipping documents.

2.3.RECORDKEEPING FOR EXPORT CONTROL

NPR 2190.1, "NASA Export Control Program" recordkeeping requirements are based on U.S. laws, implemented through the ITAR and the EAR. Failure to comply with export control laws and regulations for recordkeeping can result in export violations. NPD 1440.6I "NASA Records Management" provides the following direction for managing and retaining NASA records:

"Effectively and efficiently manage Agency records, regardless of format or media (including paper, microform, electronic, and audiovisual), throughout their life cycle in order to facilitate the Agency's programmatic and administrative missions." (1)(a)(4)

"Preserve, maintain, and disposition NASA records in accordance with NASA Records Retention Schedules (NRRS) 1441.1, and/or National Archives and Records Administration's (NARA) General Records Schedules.

Destruction of any records, regardless of format, without an approved schedule is a violation of Federal law." (1)(a)(5)

Recordkeeping requirements for NASA's Export Control Program include:

- Export Administrative Records – Documents for export control program administration that are not controlled/protected
- Export Protected Records – Documents that contain export-controlled information that must be properly marked and protected
- Export Control Records – Documentation of transactions that release or deny release of export-controlled items to foreign persons and/or foreign destinations

2.3.1. EXPORT ADMINISTRATIVE RECORDS

These records document export control office program administration. They are not marked as export-controlled and do not represent item/information transfers to foreign entities. Examples of Export Administrative Records include: training records, program audit reports, database information, correspondence, and classifications.

2.3.2. EXPORT PROTECTED RECORDS

These records consist of documents containing export-controlled information that are created or received by NASA or its contractors on behalf of NASA. They are marked with the appropriate regulatory authority and export classification and maintained/protected from unauthorized access, and disposition by the document owners, in accordance with the appropriate retention schedules.

Examples of Export Protected Records include: technical data sheets, reports/emails containing technical data, preliminary design reviews (PDRs), mission readiness reviews (MRRs), flight readiness reviews (FRRs), mishap investigation reports, technical drawings, test procedures, and project proposals.

2.3.3. EXPORT CONTROL RECORDS

These records document individual export control transactions which transfer export-controlled items to foreign persons and/or destinations. Export Control Records must be readily available for retrieval and presentation for inspections to government officials at all times. This is an agency internal business requirement that supports ITAR and EAR requirements. NASA business requirements necessitate that records be retained through and until the end of the program/project lifecycle and until at least five years after the property has been dispositioned.

Examples of Export Control Records include:

- Export licenses obtained by NASA HQ for the Centers
- Documents authorizing the public release of export-controlled information released into the public domain including websites
- Records certifying the use of exemptions or exceptions for exports other than shipping (oral/visual in meetings or electronic transfers)

- Mailing and shipping documentation for export-controlled transactions (invoices, bills of lading, Automated Export System (AES) filings, etc.).
- Export control-related property disposal records
- Meeting records
- Records of electronic transfers

There are 3 NASA offices primarily responsible for retention and retrieval of these records. See Table 6.

Table 6: Offices Primarily Responsible for Export Control Related Records

Office	Records
Center Export Control Staff (ECS)	Copies of export authorizations (e.g., license, exemption, exception, or No License Required (NLR)) and voluntary disclosures
Program/Project Offices	Requests for and copies of licenses, shipping verification documentation, use of exemptions, use of exceptions, license renewals, copies of notifications of external investigations of potential license violations, etc.
Logistics	Copies of shipping and mailing and property disposal documentation for export-controlled items

2.4. EXPORT CONTROL PROCESS FOR NASA SCIENTIFIC AND TECHNICAL INFORMATION (STI)

STI is defined as "the results (the analyses of data and facts and resulting conclusions) of basic and applied scientific, technical, and related engineering research and development." The NASA STI Program was established to provide the widest **appropriate** dissemination of NASA research results.

STI release may occur through methods such as: formal NASA publications, non-NASA publications (e.g., society journals, trade journals, oral presentations to professional societies, and proceedings of scientific and technical conferences and workshops), placement on websites, emailing to foreign persons, and meetings with foreign persons present. All NASA STI and NASA-funded STI, proposed to be released by or on behalf of NASA (such as into the public domain, or presented at conferences, or meetings where foreign persons may be present), shall be reviewed in accordance with NPR 2200.2D "Requirements for Documentation, Approval, and Dissemination of NASA Scientific and Technical Information" and as described on the Agency's STI website.

The STI program office, located at Langley Research Center, reports to the Agency OCIO and manages the Document Availability Authorization (DAA) process. The DAA process ensures appropriate release of STI by providing multiple reviews conducted by Legal Office and the DAA representatives. Export control is just one step of this multi-step process, and each Center has its own DAA representative.

The DAA utilizes electronic and hardcopy formats of the NASA Form (NF) 1676 to review STI; both form formats include a place for the export control determination. ECS determines whether information can be released, restricted, or controlled for export compliance reasons[12]. Requestors must allow sufficient time for ECS to process a determination request depending on the length and complexity of the material to be reviewed. Longer and more complex material may take up to 30 days or more to review. Requests to publicly release STI that is export-controlled must include a compelling written justification and rationale (see Appendix B-3 for an example). To expedite the review of STI, the Requestor should:

- Mark any data that is known to be or is potentially export-controlled
- Indicate which content is new (not been previously released to the public) and which is already publicly available, and where to find it

The Requestor can accomplish this by doing an open source search, providing a bibliography, attaching links to published information, and providing previously approved DAAs, if available.

NASA may not authorize the release of information or data controlled by other government agencies without their prior approval. Such a request typically goes through the CEA to HQ ECS, who normally obtains approval from the other agencies. Allow a minimum of 45 additional days for review of documents that contain information from other agencies.

Not all information released by NASA is STI; however, much of this information still requires an export control review. Examples include: information to be published in NASA policy documents, information to be published as a result of mishap investigations, new technology reports (NTR)/invention disclosures, software, including research, technical, development, operational, and off-the shelf software, scientific and technical documents exchanged with NASA international partners under established international agreements with foreign governmental entities, and Freedom of Information Act (FOIA) requests. To accomplish this, coordinate with the ECS. ECS documents the review and the corresponding export control determination.

[12] This authority can be delegated to ECRs by the CEA at some Centers.

2.5. PROCESS FOR OBTAINING AN EXPORT AUTHORIZATION

This section provides the methodology to obtain the appropriate export authorization[13]. Prior to exporting, a Requestor must have both a formal requirement (usually found in an SAA, NASA contract, or NASA grant) and an export authorization (a license, license exemption, license exception, or NLR).

If there is no formal requirement in place, establish one. Work with the appropriate parties involved, such as: Program/Project Manager, Procurement Office for a contract/grant, and/or the Center designated Agreements Manager for an SAA (see NAII 1050-1C). Additional NASA policy and procedural references that may be useful are NPD 1050.1I "Authority to Enter into Space Act Agreements," NPD 1360.2B "Initiation and Development of International Cooperation in Space and Aeronautics Programs," and NPD 5101.32E "Procurement, Financial Assistance."

Note: If you do not have a contract, grant, SAA or other "requirement" you should reconsider the need to do the export or provide the technology. NASA is not a "lending library" of export-controlled information on space and aeronautics technology.

Once the formal requirement has been established, check with ECS to see if an export authorization already exists. If there is no existing export authorization, the Requestor completes and submits Checklist A to the ECS with any applicable documentation. The information in Checklist A may be submitted to the ECR or Center ECS for review using a Center-equivalent form or system.

The HEA/CEA[14] must approve all temporary[15] or permanent exports of controlled items by all means of export anywhere and at any time, including: mail, email, shipment,

[13] Typically, NASA contractors are responsible for obtaining their own export authorizations in accordance with their contracts. Consult ECS if there is a question about whether NASA or its contractor should obtain the authorization.

[14] The CEAs may further delegate part of the authority to the ECS and/or ECRs, also referred to as CERs or EC POCs at some Centers.

[15] Under the ITAR, the export of less than 4 years. Under the EAR, the export of less than 1 year.

oral/visual disclosure, international travel hand-carry, foreign deployments, and meetings and conferences. CEAs must process all export license applications through the HEA.

Figure 10 illustrates the process for obtaining an export authorization. The process starts and ends with the Requestor. ECS reviews the information provided in Checklist A and any accompanying requirements and documents to ensure completeness and to ensure that the corresponding requirement is valid. ECS verifies that the intended export is within the scope of the documents provided and conducts the appropriate list checks[16] to ensure that any foreign persons involved or represented are not on any prohibited lists.

The Requestor may ask ECS to assist with verification of jurisdiction and classification determination of the potential export items, as needed, and may be asked by ECS to provide more information to ensure the proper classification has been determined. ECS will provide information to the Requestor regarding which export authorization is appropriate to use (i.e. license, exemption, exception, or No License Required (NLR)). CEA approval is required for use of a license exemption or exception. The HEA may require that CEAs request approval from the HEA for some specific exemptions and/or exceptions.

If a new license is required, the ECS informs the Requestor of the processing timelines and the two work together to prepare the license application for submission to HQ ECS. HQ ECS reviews the package and prepares it for submission to the relevant regulatory agency. HQ ECS approval for highly-complex exports can take 60-120 days or longer. External reviews and approval by other U.S. Government agencies typically range from 30-60 days, but in some cases can take months or even years.

IMPORTANT: HQ ECS approval for highly-complex exports can take 60-120 days or longer.

Based on Center/HQ ECS reviews, the Requestor may receive any of the following responses: an approved request, an approved request with conditions, or a denied request. Requests that are incomplete may result in processing delays. Export requests that do not

[16] The export control requirement is to run the lists checks on foreign persons and their organizations. The current NASA methodology is to use the HQ Office of Protective Services' approved database. The current database is an online screening tool that allows a single point check for an individual or entity (company, government entity, school, etc.) against all current export control restrictions, sanctions, law enforcement, international terrorist, blocked person, wanted, and entity lists, and export risk country alerts.

contain complete, detailed, current, and accurate information will likely require additional processing time. The more relevant information Requestors provide, the quicker they will receive a response to their requests.

The ECS documents and provides any export instructions to the Requestor to explain how the Requestor should execute the export. Information that may be found in the written instructions include:

1) Conditions, terms, provisions, and duration for use of the export authorization;

2) Automated Export System (AES) filing instructions (see Section 3.4.); and

3) Special reporting requirements, such as, "Notify the ECS of the initial date of certain export transactions in order to satisfy ITAR reporting requirements (22 CFR 123.22(b)(3))."

After the Requestor has ensured that all conditions, terms and provisions for the valid export authorization have been satisfied, the export can be conducted through the appropriate venue (e.g. meetings, document transmittal, the appropriate shipping/mailing organization, or hand carried).

The shipper/mailer/exporter executes the export and is responsible for maintaining the official shipping records and must include the export authorization and appropriate destination control statements (DCS). The export record includes documentation of ECS approval and export authorization, and any other required additional forms for recordkeeping as described in Section 2.3. All parties involved with the transaction, including the Requestor, are responsible for maintaining their portion of the export control records.

Export-controlled items being shipped or accompanying a NASA traveler, may require an AES filing. The CEA/ECS sends a transmittal letter to inform the recipient of an approved export authorization. If an AES filing is required for a shipment, the letter will explain what the recipient must do. If an AES filing is required, the filing document is an official export control record.

If AES filing is required (see Section 3.4.), the organization conducting the AES filing must include the documentation as part of their official records. NOTE: If an export of NASA-owned commodities, software, technical data, and/or technology is conducted by a third-party shipping and receiving office (such as a contractor or a university), then it is the responsibility of that party to ensure the shipping process is followed in accordance with the regulatory and

contractual requirements, including correct and timely AES filing. The NASA organization that contracts with the third-party shipper will provide a "Shipper's Letter of Instruction" documenting these requirements, including AES filing, if required. A Shipper's Letter of Instruction (SLI) is defined as: A form issued by a shipper to authorize a carrier to issue a bill of lading or an air waybill on the shipper´s behalf. The form contains all details of shipment and authorizes the carrier to sign the bill of lading in the name of the shipper. NASA may request copies of third-party shipping paperwork for review prior to shipment. If using a third-party, work with your ECS to coordinate specific directions.

If a NASA employee is traveling to a foreign destination, see Section 2.9.

Figure 11: Checklist A

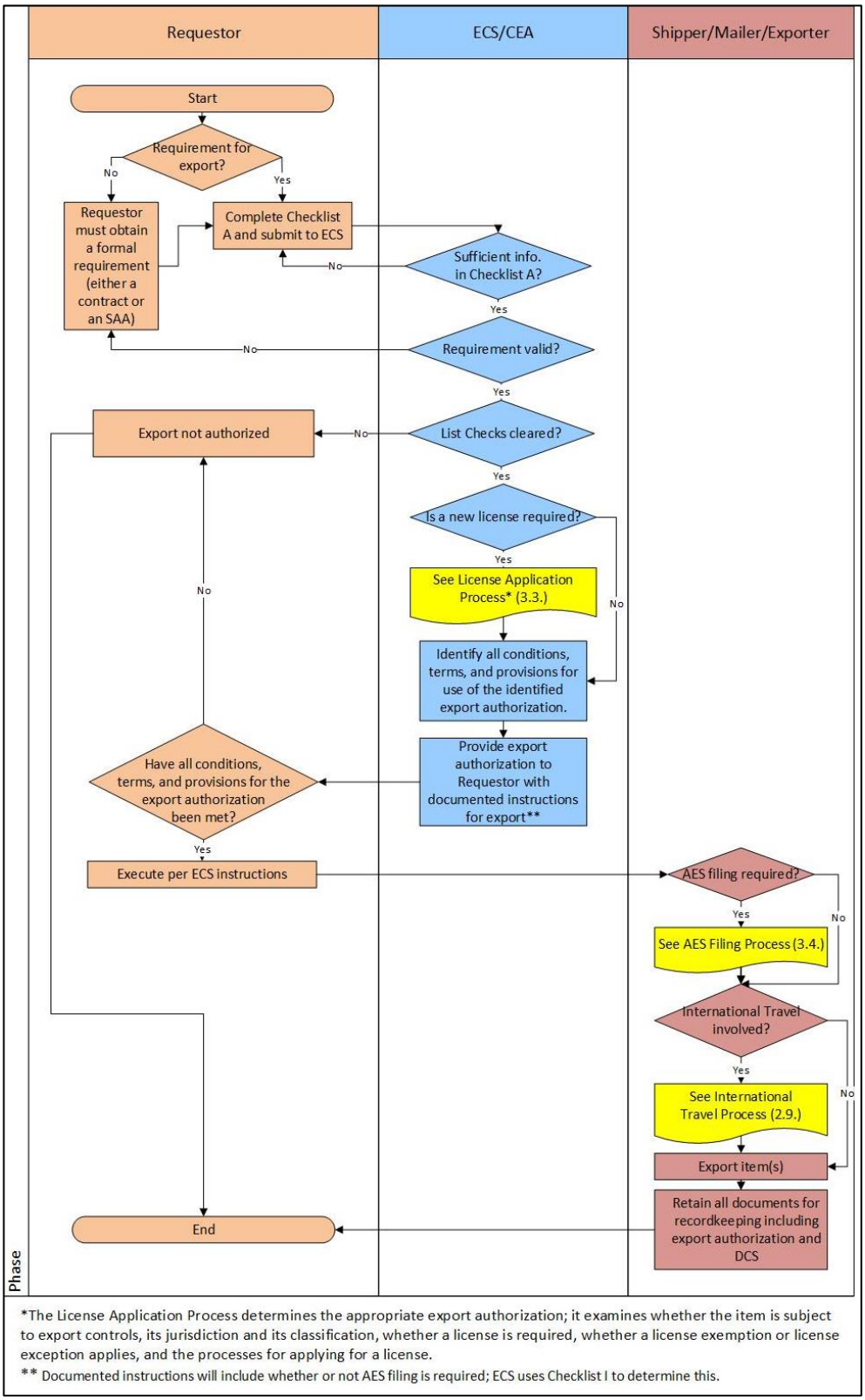
Checklist A: Export Authorization Request	
1.	Name of Requestor: Click here to enter text.
2.	Work Address of Requestor: Click here to enter text.
3.	☐ Civil servant or ☐ Contractor
4.	Organization: Click here to enter text.
5.	What is the purpose of the export? Click here to enter text.
6.	Program/Project: Click here to enter text.
7.	Phone number: Click here to enter text.
8.	Identify the requirement (e.g., contract, grant, or agreement) in place that requires this item(s) to be exported. Click here to enter text. ☐ Send or attach a copy of the requirement document(s), if applicable.
9.	Is there a pre-existing export authorization? ☐ Yes or ☐ No
10.	If yes, what kind?
11.	☐ If a copy of the authorization exists, provide a copy and check this box when attached.
12.	Type(s) of transaction. If there are multiple items, attach a spreadsheet (see sample), and check all that apply: ☐ Hardware ☐ Software ☐ Technical Data ☐ Technology ☐ Defense Service
13.	Enter a general description: Click here to enter text.
14.	☐ Attach a technical description of each item to be exported.
15.	Quantity of the item(s) and unit(s) of measure: Click here to enter text.
16.	Jurisdiction(s): Click here to enter text.
17.	Classification(s): Click here to enter text.
18.	Include model or part number: Click here to enter text.
19.	Manufacturer's name: Click here to enter text.

20.	Manufacturer's address: Click here to enter text.
21.	☐ Send or attach a picture or drawing of each item as a PDF file
22.	Where was the item made: Click here to enter text.
23.	Where did it come from? Click here to enter text.
24.	Where will it be shipped from? Click here to enter text.
25.	Enter the value for each item: Click here to enter text.
26.	Organization of ultimate destination: Click here to enter text.
27.	Address of ultimate destination: Click here to enter text.
28.	Name of end-user: Click here to enter text.
29.	Identify (or describe) the end-use:
30.	Methods of export for each item: Click here to enter text.
31.	Anticipated U.S. port of exit, if applicable: Click here to enter text. ☐ NA
32.	Anticipated U.S. port of return, if applicable: Click here to enter text. ☐ NA
33.	List all parties (U.S. and foreign) who will be involved in this export. Include a spreadsheet if multiple parties are involved. Name(s): Click here to enter text. Organization(s): Click here to enter text. Address(es): Click here to enter text. Role(s) they play in export(s)[17]: Click here to enter text.
34.	When do you want to export? Click here to enter text. When do you need the authorization by? Click here to enter text. Impact if anticipated date is not met? Click here to enter text.

[17] EXAMPLE: If the export is a commodity being shipped in a box, will the person move the box? Open the box? If the export is technical data, is the person exporting via email or over telephone? ECS needs to know exactly what each person's involvement with the export is.

35.	If this is a temporary export, when do you think it is coming back? Click here to enter text.
36.	If this is a loan, review and comply with the procedural requirements of NPR 4200.1G, paragraphs 3.4 and 3.5.

Figure 12: Process for Obtaining an Export Authorization



2.6. EXPORT CONTROL PROCESS FOR FOREIGN NATIONAL ACCESS REQUESTS

The Office of Protective Services (OPS) leads NASA's Foreign National Access Management (FNAM) [18] program. OCIO and OIIR are partners in the FNAM program. Together, the three offices ensure that all security and export control requirements are met as NASA engages with foreign partners and visitors by preventing unauthorized access to NASA resources.

REMEMBER: An export can take place anywhere, at any time, by any means including here in the United States.

The FNAM program enables a layered approach with multiple approvals to protect sensitive information and resources, including IT systems, from inadvertent access by foreign nationals. NASA Export Control uses the FNAM system to:

- Document the rationale for access to NASA assets, both physical and logical
- Document the requirement (e.g., SAA, contract, grant, or Agreement) for access
- Demonstrate that the required export authorization(s)/approval(s) for that access exist
- Confirm program/project managers/sponsors and visitors' acknowledgement of the limits of this access

The Foreign National Access Request process includes program/project elements, export requirements, foreign national identity, export authorizations, Non-disclosure Agreements (NDAs)[19], and provisos. The Identity Management and Account Exchange (IdMAX) is NASA's web-based integrated system for Identity, Credential, and Access Management (ICAM). NASA uses IdMAX to manage NASA identities and credentials and to process requests for foreign nationals' visits[20] to NASA facilities. IDMAX maintains all records for foreign national access requests.

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[18] The terms "foreign national" and "foreign person" are synonyms (see NPR 1600.4 Appendix A). "Foreign national" is used in this section because OPS primarily utilizes this terminology.

[19] Non-disclosure agreements are required for all foreign nationals who are granted access to NASA IT assets or are on long-term visits.

[20] Per NAII 1600.4, a visit is any means by which, and any duration for which, access is obtained to non-public NASA assets. A short-term-visit is any visit enabling physical-only access for a period of up to but not exceeding 29

To start a foreign national access request, the Requestor gathers the necessary information from the foreign national visitor and enters it into IdMAX at least 14 days prior to the visit. Checklist B: Information for IdMAX is available for use in gathering all the required information.

BEST PRACTICE: Uploading resumes and/or curriculum vitae into IdMAX provides additional background information on past affiliations of the foreign national.

calendar days in a 365-day period. A long-term visit is any access by a foreign national for a period of 30 calendar days or more in 365-day period. Long term visits are divided into two categories: temporary (30-180 days) and permanent (more than 180 days).

Figure 13: Checklist B

Checklist B: Gathering Information for IdMAX Entry		
☐	**1.**	Name of Requestor: Click here to enter text
☐	**2.**	☐ Civil servant or ☐ Contractor
☐	**3.**	Organization: Click here to enter text
☐	**4.**	Program/Project: Click here to enter text
☐	**5.**	Phone number: Click here to enter text
☐	**6.**	Full legal name of the Visitor: Click here to enter text
☐	**7.**	Gender ☐ M ☐ F
☐	**8.**	Visitor's Residential Address (include country): Click here to enter text
☐	**9.**	Country and date of birth: Click here to enter text.
☐	**10.**	Country of Citizenship: Click here to enter text
☐	**11.**	Does Visitor have dual citizenship? ☐ Yes ☐ No If yes, enter country(ies): Click here to enter text.
☐	**12.**	Social Security Number (SSN) if available: Click here to enter text. Or Foreign Identification Number (if no SSN available): Click here to enter text.
☐	**13.**	Passport Information/Identification Number; include a digital copy: Click here to enter text.

☐	**14.**	Visa Type[21]; include a digital copy: Click here to enter text.
☐	**15.**	Employer and/or affiliation: Click here to enter text
☐	**16.**	Employer Address: Click here to enter text Work phone number: Click here to enter text. Work email address: Click here to enter text.
☐	**17.**	Name of sponsor: Click here to enter text
☐	**18.**	What is the purpose of the visit? ☐ Interview ☐ Research Assignment ☐ Meeting or conference If the purpose of the visit is for an interview or a research assignment, upload the applicant's resume and/or curriculum vitae, if available, to IdMAX.
☐	**19.**	Is this a high-level protocol visit[22]? ☐ Yes ☐ No
☐	**20.**	Dates and/or period of time for the visit: Click here to enter text
☐	**21.**	NASA facility (physical) access required for the visit: ☐ NA Click here to enter text.
☐	**22.**	NASA IT or data access required for the visit (on-site and/or remote): ☐ NA Click here to enter text.
☐	**23.**	How long has the visitor/applicant lived or worked in the U.S? ☐ greater than 3 years ☐ less than 3 years ☐ Never

[21] If the purpose of the foreign national's visit is to perform research for the benefit of NASA, they are usually admitted on an F, H, or J visa. A B1/B2 (business/pleasure) visa or, visiting under the Visa Waiver Program (VWP), are NOT acceptable authorities for purposes of research performed for the benefit of NASA. A complete list of visa type and respective elements for review in included in Appendix B-1.

[22] Per NAII 1600.4, a high-level protocol visit is an event or meeting attend by individuals representing, or delegations of, foreign heads of state or government, ambassadors, heads of foreign government ministries or space agencies.

☐	**24.**	Provide a work description. Include the program(s)/project(s) the person will support and what tasks/technologies that will be involved: Click here to enter text.
☐	**25.**	Foreign National needs to work outside the normal business hours (8 AM to 6 PM) Specify hours and justification. Click here to enter text.
☐	**26.**	Identify export-controlled items included in the project/program ☐ NA Click here to enter text
☐	**27.**	Export-controlled items NASA is required to provide to the foreign national per the agreement or contract? ☐ NA Attach the agreement or contract in IdMAX "Document" tab, if available: Click here to enter text.
☐	**28.**	Means of export or transfer (hand-carry, ship, oral, electronic, emails, etc.): ☐ NA Click here to enter text.
☐	**29.**	Foreign national applicant requires access to EAR or ITAR data. (Requires an export authorization) Coordinate with your export control staff. ☐ NA Attach the corresponding export authorization (license, license exemption, license exception, or No License Required (NLR) in IdMAX "Document" tab, if available. Click here to enter text.
☐	**30.**	Does the applicant require access to missile technology data or ITAR detailed design, development, production, or manufacturing data? ☐ Yes ☐ No If yes, provide DOS license information. Click here to enter text.

Once the request is entered, the Sponsor reviews the request to ensure all information is complete and correct. It is the sponsor's job to make sure any incorrect or missing information is resolved.

The Sponsor, as the responsible NASA official, also reviews for "Red Flags." A Red Flag is any abnormal circumstance in a transaction that indicates that the export/transfer may be destined for an inappropriate end-use, end-user, or destination. Examples of Red Flags may include requests for items that are inconsistent with the needs of the partner/project, requests for equipment configurations that are incompatible with the stated destination (e.g., 120 volts in a country with 220 volts), or other apparent irregularities. Always inquire and seek additional information if Red Flags are indicated." See EAR 15 CFR Part 732, Supplement 3 for additional information.

DESIGNATED COUNTRIES LIST

Countries on this list fall into one of the following four categories:

- No U.S. diplomatic relations
- Supporters of terrorism
- Under Sanction or Embargo by the U.S.
- Source of missile technology concerns

List available on HQ EC website.

After the sponsor has determined there are no Red Flags and the request is appropriate, they approve the request. The system then routes it to the Center International Visit Coordinator (IVC) for their initial security check. The IVC checks the required information and documents for completeness, currency, and accuracy, and validates the visa type. If complete and correct, the IVC authorizes the request and forwards it to the Center ECS for initial review. Note: If the foreign national was born in or is a citizen of a designated country, the request will be sent to the Counterintelligence Special Agent prior to the International Visit Coordinator.

2.6.1. CENTER EXPORT CONTROL STAFF REVIEW PROCESS

The Center ECS reviews the request for completeness, currency and accuracy, which includes a list check[23] and a Red Flags review. The ECS ensures that the documentation for the visit (e.g., visa type) is consistent with the purpose of the visit, and access to particular physical[24] and/or logical[25] areas is within the parameters of the requirement. While the security office is responsible for validating the visa types, ECS should review that the visa type is consistent with the purpose of the visit and the type of access requested. For example, it is not appropriate to authorize a foreign national who has been granted U.S. entrance on a B1/B2 (business/pleasure) visa or under the Visa Waiver Program (VWP), as a "visiting researcher" to a NASA facility. Visiting researchers performing research for the benefit of the Agency are normally admitted on F, H, or J visas. A complete list of visa type and respective elements for review is included in Appendix B-1.

ECS uses the HQ OPS approved database[26] to conduct required list checks on all foreign national visitors and their organizations. If a "positive hit" results from any of the list checks, the access request is denied and the positive hit must be reported to Center Chief of Security/Center Protective Services and the HEA (see NAII 1600.4). Exceptions of this denial may be granted in cases where the "positive" hit is found to not belong to the specific individual through further investigation or if the positive hit can effectively be mitigated by access restrictions and controls approved by the HEA or through the waiver process (see NAII 1600.4).

ECS reviews both nationality and citizenship against the designated countries list (see HQ Export Control website) to determine whether non-public, export-controlled information may be provided in the course of the prospective foreign national visit via a license, exception,

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[23] A check (search) for an individual or entity (company, government entity, school, etc.) against all current export control restrictions, sanctions, law enforcement, international terrorist, blocked person, wanted and entity lists, and export risk country alerts.

[24] Per NAII 1600.4, physical access is the ability to touch, or walk into or up to an asset such as a building, door, flight, hardware, paper, IT system, etc.

[25] Per NAII 1600.4, logical access, commonly referred to as IT access, is the ability to interact with electronic data, applications, or systems.

[26] The current database is an online screening tool that allows a single point check for an individual or entity (company, government entity, school, etc.) against all current export control restrictions, sanctions, law enforcement, international terrorist, blocked person, wanted and entity lists, and export risk country alerts.

exemption, or provisos. If access to non-public, export-controlled information is requested, ECS ensures that the requested access is appropriate, the appropriate authorizations are in-place prior to the visit, if required, and any export restrictions or conditions are clarified via provisos.

Once all of these factors have been reviewed and the appropriate actions have been taken, the Center ECS may request additional information using the IdMAX Review/Hold feature or they may approve or deny the visit request. If approved, the ECS applies provisos and the request is sent back to IVC for final approval.

Once the Center IVC approves the visit request, the Requestor is notified via an automated email sent through IdMAX and the request is routed to the Center Badging Office for enrollment and authorization (see Section 2.6.4.).

However, if an IdMAX request for a foreign national meets any one of the following conditions, it automatically routes the request to the Agency Desk Officer[27] following the Center ECS review:

- The visitor is born in or is a citizen of a designated country (see HQ Export Control website)
- A NASA-sponsored J-1 visa[28] is involved
- The foreign national is a high-level protocol visitor

TOURS

Public tours should be periodically reviewed by Center ECS and the Counterintelligence Special Agent (CISA).

When FNs are participating in a special request tour, the IVC should review the access request with ECS. Preventative measures may be imposed on the areas of concern (see NAII 1600.4, section 2.3)

2.6.2. Agency Desk Officer Review

[27] An Agency Desk Officer is the Agency-level person who reviews the visit to ensure it is consistent with NASA and national policy relevant to the country and regions. All Agency Desk Officers work within the Office of International and Interagency Relations.

[28] The J-1 visa indicates that the exchange visitor is NASA-sponsored. The J-1 Visa program is administered by DOS, and U.S. organizations sponsor specific individuals for participation in work-and-study-based exchange visitor programs. When NASA is the sponsor, the identity will be vetted at Agency-level, regardless of country of birth or country of citizenship.

The Agency Desk Officer[29] reviews access requests for foreign nationals born in or with citizenship of a designated country. The review is conducted based on their respective Mission Directorate programmatic requirements, any country-specific and/or regional foreign policy issues/circumstances, and compliance with Agency policies and agreements.

If the Agency Desk Officer requires additional information, the Requestor receives an email through the IdMAX system that identifies the information needed. If the request is denied, the Requestor and Sponsor will receive an explanation provided by the Agency Desk Officer. If the Agency Desk Officer approves the request, it is sent to HQ ECS for review

2.6.3. HQ ECS REVIEW

HQ ECS reviews all previous entries and documentation, foreign nationals' affiliations using the Agency approved database checks, and a review of conditions and provisos for the access request.

An approved visit request notification will almost always have provisos or conditions that must be met for the visit to take place. HQ ECS then enters provisos into IdMAX as part of the official record.

If HQ ECS requests additional information, the Requestor will receive an email notice via IdMAX. If HQ ECS approves the request, IdMAX sends it to the Center IVC for final authorization.

PROVISOS

The Requestor and the Sponsor are responsible for reviewing, understanding, and complying with all conditions stated in the provisos. Contact ECS for clarification.

After receipt of a Center or HQ ECS approved visit request, the Center IVC authorizes or denies the request. If the request is not authorized, the Requestor will receive an email notification via IdMAX. If the request is authorized, the Requestor and Sponsor receive an email notification via IdMAX including provisos that must be met and the request is routed to the Center Badging Office for enrollment and authorization

2.6.4. ENROLLMENT AND AUTHORIZATION

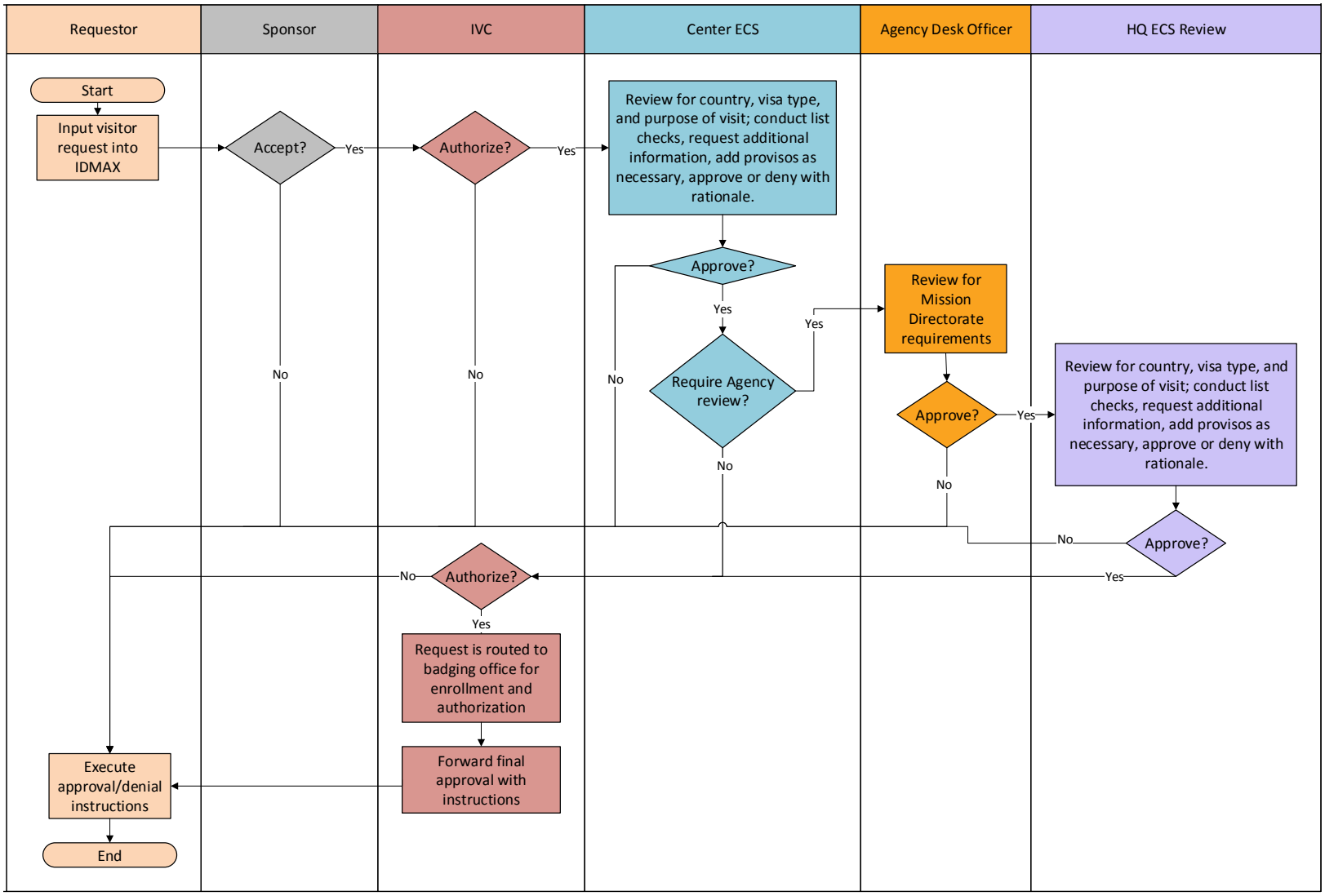
[29] There are specific Agency Desk Officers for each country.

Enrollment for long-term visits captures identity documents, fingerprint biometrics, and photograph. Once registration is complete, Center security conducts adjudication of the individual based on results of a National Criminal History Check (NCHC) and a list check, or additional checks, as appropriate. Successful adjudication will result in the authorization of the access request and issuance of an identity credential. Visitor credentials are only created for on-site visits.

2.6.5. ISSUANCE

If the visit is remote-only, appropriate credentials are issued for access. At the end of the visit, the credentials are returned to Center Badging Office/Security. Escort requirements are to be consistent with NPR 1600.4, "National Security Program." Figure 14 illustrates the process for foreign national access requests.

Figure 14: Process for Foreign National Access Requests



2.7. SUGGESTED BEST PRACTICES FOR MEETING WITH FOREIGN PERSONS

In the context of hosting a meeting, the NASA host is the individual responsible for calling the meeting, setting the agenda, inviting the participants, and ensuring that the meeting complies with NASA policies and procedural requirements.

IMPORTANT: The host should always be aware if foreign nationals are participating in the meeting. This includes being attentive to attendees who join the meeting after it begins.

In addition to onsite meetings, various types of remote meeting systems, such as Microsoft Lync, are available to users at NASA Centers. Additional care is needed to ensure that all remote attendees are known and authorized to receive information presented. A U.S. based-system, preferably a NASA system, should be used for international teleconferences. The Center OCIO can provide guidance on the security of these online collaboration tools. If there is any concern that persons may be attending these online meetings who are not known or authorized to receive export-controlled technical data or technology, then the meeting discussions and presentation material should be limited to that which is in the public domain.

Many of the best practices for hosting meetings with foreign persons apply to attending off-site meetings hosted by foreign persons. Per NAII 1600.4, meetings held outside a NASA Center are considered off-site meetings when there is an exchange of NASA information or if NASA business is being conducted. Off-site meetings include teleconferences, video conferences, Web meetings, and any other remote meetings. When a meeting is held off-site, NASA assets (people, technology, information, etc.) are taken from the Center and shared with the other attendees.

The U.S. participant is responsible for ensuring that they know which foreign persons will be attending the meeting and they have obtained written approval(s) from the ECS for export-controlled information/materials that they intend to transfer at the meeting. The written approvals should identify the information/material and the authorized foreign persons and the materials should be marked with export authorization(s).

All meeting records of off-site meetings must be maintained in accordance with NRRS 1441.1 "NASA Records Retention Schedules."

Meeting records should include the date, time, location, list of foreign persons that attended, list of information/material presented and/or transferred by NASA participant(s), and written ECS approval(s) to hand-carry and/or export the information/material.

Many of the best practices in this section are applicable to all meetings, but some provide a specific focus on best practices before, during, and after on-site or remotely held meetings with foreign persons where *export-controlled* information will be shared. Checklist C has been developed to assist the host in planning and conducting meetings to prevent the inadvertent transfer of export-controlled information and a potential export control violation. For additional assistance, the host should contact the ECS (ideally the program/project ECR) in planning and conducting the meeting.

Figure 15: Checklist C

Checklist C: Best Practices for Hosting Meetings with Foreign Persons		
The best practices in this checklist are applicable to all meetings with foreign persons, but have a specific focus on meetings with foreign persons where EXPORT-CONTROLLED information will be shared. **In the context of hosting a meeting, the NASA host is the single responsible for calling the meeting, setting the agenda, inviting the participants, and ensuring that the meeting complies with NASA policies and procedural requirements.**		
Prior to the meeting, the host is responsible for ensuring that:		
☐	1	The proper export authorization(s) are in place through coordinating with the presenters and ECS
☐	2	The scope of the planned meeting is within the parameters of the export authorization(s) and is communicated to all participants, as necessary
☐	3	All U.S. participants know the authorizations and limitations for the release of export-controlled information Contractors are responsible for ensuring their participation remains within the scope of their export authorization(s)
☐	4	An attendee roster of all foreign person participants has been generated. The roster should include, at minimum: name, nationality(s), and affiliation—all attendees must be accounted for.
☐	5	A full list of foreign national attendees has been provided to the IVC, and approved through IdMAX for both on-site and off-site meetings with foreign persons at least two weeks in advance per NAII 1600.4, sections 2.5 and 3.6.
☐	6	All U.S. participants have been provided a list of all foreign persons and their organizations at least two weeks in advance so they can also evaluate their export authorizations.
☐	7	All required export authorization(s) are evaluated against the list of foreign persons to determine what information can be provided to each individual or organization.
☐	8	Advance notification has been provided to foreign persons if they are not authorized to attend a particular session or an entire meeting; this is for planning purposes and to properly set expectations.
☐	9	All materials for presentations and discussions have been reviewed, approved, and appropriately marked for each of the following types of materials: ▪ Export-controlled materials (reviewed and authorized by the ECS)

		▪ STI materials (per the NPR 2200.2C; contact Center STI Manager for guidance) ▪ Non-STI materials (e.g., using NASA Form 1676; contact ECS for guidance)
☐	10	Someone has been designated to make a record of the meeting.
☐	11	*For meetings with foreign persons conducted via teleconference or video teleconference using platforms such as WebEx, ViTS, Skype, etc.* ☐ This meeting is not a teleconference or video teleconference. Go to Item 12. *Prior to the meeting, the host ensures that:* ☐ There is a trusted agent at each location who will call in and be responsible for identifying and vetting attendees against the requirement(s) and authorization(s). ☐ The name and phone number of each trusted agent has been received by the host. ☐ The trusted agents are provided with written instructions to prevent the unauthorized release of export-controlled information. ☐ Available technology is used to track the names and phone numbers of participants calling in to prevent rogue call-ins. ☐ An ECS representative has been invited to ensure compliance with export control requirements.
While conducting the meeting, the host should ensure that:		
☐	12	All attendees sign the roster (if meeting is held on-site) or conduct a roll call (if meeting is being held remotely) to verify that all present are authorized to attend.
☐	13	At the start of the meeting, participants have been reminded that foreign persons are in the meeting and that all participants should remain within the scope of their respective export authorization(s).
☐	14	Attendees who join after the meeting begins have been approved to attend and sign in. All foreign nationals who join after the meeting begins must be on the approved list and should be announced, as appropriate.
☐	15	Door monitors have been appointed whenever the meeting involves export-controlled information and the meeting size is beyond the capability of the host/sponsor to monitor participants entering and exiting the meeting. Monitors should control physical access as well as telephone access.

☐	16	Walk-on presentation materials are not presented or discussed unless they have been reviewed and approved (See #9).
☐	17	The designated person (or someone) is actually making a record of the meeting.
☐	18	Handouts containing export-controlled information are tightly controlled.
☐	19	Trusted agents generate attendee rosters for the meeting at their locations.
At the conclusion of the meeting, the host should ensure that:		
☐	20	Export-controlled materials (hardcopy or electronic) are not left unattended.
☐	21	Trusted agents forward the rosters to the host/sponsor after the meeting
☐	22	Meeting records are retained; records include: attendee roster, date, time, location, presentation materials, presentation packages, and meeting minutes. The records should list export/release authorizations (by reference if available, e.g. the license, exemption, exception, No Licensed Required (NLR), Technical Assistance Agreement (TAA), Document Availability Authorization (DAA), NASA Form (NF) 1676, or Export Record numbers).

2.8. CORRESPONDENCE TO DESIGNATED COUNTRIES

Due to political sensitivities and concerns regarding potential technology transfer, NASA policy requires special handling of all official correspondence, including electronic messages, sent from NASA systems to designated areas, per NPR 1450.10D, "NASA Correspondence Management and Communications Standards and Style," Appendix E. Foreign requests for published information must be forwarded to the Headquarters' Office of Public Affairs.

The NASA list of designated countries is a compilation of countries for which DOS, DOC, or other U.S. Departments restrict the release of U.S. information due to political sensitivities and potential technology transfer concerns. Countries on this list fall into one of the following four categories:

- No U.S. diplomatic relations
- Supporters of terrorism
- Under Sanction or Embargo by the U.S.

IMPORTANT: Just because a country is on the designated countries list, this is not a sole reason to deny a request for correspondence.

- Source of missile technology concerns

The NASA list of designated countries is updated periodically and is accessible via the HQ Export Control Website.

Foreign national visitors to NASA from these countries require export control approval from the CEA. All NASA mail to these countries requires the concurrence of a NASA CEA, in accordance with NPR 1450.10D, NASA Correspondence Management and Communications Standards and Style. Some of these countries require the HEA's approval.

NPR 1450.10D Appendix E applies to all forms of correspondence with designated countries, including correspondence:

- Related to a program/project
- For the purpose of coordinating a conference
- For peer reviews of technical papers

If the correspondence consists of nothing more than a denial of a request for information, concurrence by either OIIR or the CEA is not required (see NPR 1450.10D E.1.e.).

If correspondence with a designated country is necessary, the Requestor should submit the following information to the HEA/CEA (email is acceptable):

- Name and affiliation of the person receiving the information
- Description of the intended correspondence
- Timeframe for which it will occur

On receipt of request, the HEA/CEA reviews the requested information and consults with the desk officer, if appropriate. At the conclusion of the review, HEA/CEA sends an email response to the Requestor indicating the disposition of the request (e.g., needs corrections, requires more information, approve, or deny). The response serves as the official record and should be retained.

IMPORTANT: The Requestor may NOT send correspondence that is denied by the HEA/CEA, but may modify a rejected denied correspondence request, and re-submit it to HEA/CEA for approval.

If the Requestor needs a broader approval for specific projects, conferences, or activities for a specified period of time, the Requestor must explain and justify the need to the HEA/CEA and describe the extent of the information they are requesting to provide. For example, the HEA/CEA may provide broad approval for a series of correspondence that is part of a conference organization committee where the scope is limited to solely information in the public domain.

On a project or program basis, the CEA may delegate approval authority to the appropriate ECR to expedite the reviews.

2.9. EXPORT CONTROL AND INTERNATIONAL TRAVEL

Export control reviews are conducted prior to international travel to ensure that all NASA property (commodities, software, technical data, and/or technology) has the appropriate export authorizations and documentation to facilitate clearance through Customs. This will help to prevent potential delay, detention, and arrest of NASA travelers and the confiscation of NASA items (see NID 9700.2 "Travel").

2.9.1. TRAVEL PREPARATION AND COORDINATION

Traveling internationally on behalf of NASA requires special preparation and coordination. The traveler should provide a list of all NASA-furnished items accompanying the traveler, both IT items (e.g., laptop, cell phones, and other mobile devices) and non-IT items (e.g., test kit, white board, etc.) including items to be hand-carried, at least 30 business days prior to the travel departure date to ensure adequate time for review and approval of items and interagency coordination, as needed. Travelers must submit their travel request through the Concur Travel System to the Center Foreign Travel Coordinator (FTC) at least 30 days before departure in accordance with NID 9700.2 section 301-2.16. Table 7 provides an overview of reviews, submission vehicles, and approvals/documentation required for NASA-furnished items accompanying the NASA employee/contractor on international travel and estimated time to process the requests.

Table 7: Required Approvals Prior to International Travel

Elements of international travel that require approval	Vehicle for Approval	Approved by	Time needed to process request
Travel Request for NASA individual	Concur Travel System	Foreign Travel Coordinator (FTC)	At least 30 days prior to travel
NASA-furnished non-IT items (e.g., test kit, white board, etc.)	NF-892 (property pass)	Property Custodian	At least 30 days prior to travel
NASA-furnished items accompanying the traveler; commodities, software, technical data, and/or technology (e.g., laptops, cellphones, i-pads, etc.)	NF-892 (property pass)	Property Custodian	At least 30 days prior to travel
	Center-specific OCIO approval of IT resources	OCIO	At least 30 days prior to travel
	Export authorization using Center-specific process*	**Center Export Control**	**At least 30 days prior to travel (more, if a license is required)**
Presentation Materials intended for release (e.g., PowerPoint slides, handouts, etc.)	**Approved and signed NASA Form (NF) 1676***	**Center Export Control**	**At least 30 days prior to travel**

***Export control approvals**

2.9.2. HARDWARE ACCOMPANYING THE NASA TRAVELER

Travelers are strongly advised to take loaner Information Technology (IT) equipment (NOT the traveler's primary work station) and only the software, technical data, and/or technology necessary to conduct the work required for the authorized official travel purpose. They must submit their loaner request per their Center-specific process.

NASA-furnished items require a property pass (NF-892) approved (signed) by the Property Custodian. The signed NF-892 property pass must accompany the traveler and a copy of the NF 892 is retained by the applicable property custodian until return of the equipment has been verified (NPR 4200.1G "Equipment Management," section 3.5.4.1.d).

The OCIO must also approve IT resources (laptop, software, cell phones, and other mobile devices, etc.) being taken on international travel; follow your Center-specific process for submission and approval (NID 2810.107).

Travelers are responsible for coordinating with their ECS to receive all necessary authorizations at least 30 days before departure. When a traveler takes Government equipment or technical data outside the U.S., they must have a written export authorization to do so. If the travel is conducted prior to receiving a required export authorization, the traveler can cause, and be held responsible for a violation of export control laws, which could result in administrative, civil, and/or criminal penalties.

IMPORTANT: The traveler needs to provide a list of all items to ECS to review at least 30 days prior to the travel departure date.

The traveler needs to provide a list of all items (commodities, software, technology, and technical data, including laptops, cell phones, and tablets) to ECS to review **at least 30 days prior to the travel departure date**. This typically ensures that there is adequate time to provide the necessary export authorizations and documentation for clearing customs with any NASA items hand-carried or in checked baggage. 30 days or more **may be required** to process some requests. If a license is required, allow at least an additional 100 days.

2.9.3. Presentation Materials

All presentation materials should be reviewed by the ECS in accordance with NID 9700.2 "Travel," section 301-2.8. Important: The requestors must allow sufficient time for ECS to review and approve release of presentation materials. Longer and more complex material may take up to 30 days or more to review.

IMPORTANT: The traveler must allow sufficient time for ECS to review and approve release of presentation materials. Longer and more complex material may take up to 30 days or more to review.

The traveler submits a NASA Form (NF) 1676 or the Center-specific process to ECS for review of presentation materials. Prior to travel, an approved NF 1676 or DAA must be approved/signed for presentation materials accompany the traveler. Any STI to be released requires a DAA Official signature. The Electronic Document Availability Authorization (EDAA) may be used, if available at your Center.

If by chance, you are traveling with other U.S. government property and/or foreign property (e.g., a European Space Agency (ESA) instrument aboard SOFIA), you must have the appropriate export authorizations for those as well. NASA does not provide export authorizations for personal items.

2.9.4. Counterintelligence And Counterterrorism (CI/CT)

In addition to the previously addressed required approvals, a CI/CT security briefing/debriefing may be necessary to protect NASA personnel, information, and resources from espionage and other unauthorized intelligence collection activities. NPR 1660.1C "NASA Counterintelligence and Counterterrorism" requires security briefings before and/or after travel to certain countries or destinations. The Center's CI Office will schedule and facilitate these briefings. The purpose of the CI briefings is to ensure the protection of NASA personnel, information, and technology.

2.10. EXPORT CONTROL PROCESS FOR SPACE ACT AGREEMENTS (SAA)

The National Aeronautics and Space Act grants NASA the authority to enter into SAAs. NASA enters into SAAs with a wide range of entities, both domestic and international, to advance its mission. The Agency's process for writing and approving Agreements is set forth in NAII 1050-1C "Space Act Agreements Guide" (SAAG).

"Agreements establish a set of legally enforceable promises between NASA and the Partner to the SAA requiring a commitment of NASA resources (including goods, services, facilities, or equipment) to accomplish stated objectives." The Space Act authorizes NASA to conclude agreements. Examples of NASA agreements are contracts, leases, grants, cooperative agreements, or other transactions[30].

An agreement is not:

- Informal statements between individuals or entities (e.g., universities, companies, etc.). There must be a formal requirement (e.g., a NASA contract, grant, or agreement, etc.)
- Responses to unsolicited requests

Agreements can take months or years to develop. Until an appropriate agreement is signed, NASA may not commit resources, share sensitive information or technology, exchange equipment, or share use of facilities. SAAs should be concluded and brought into force well in advance of the commencement of significant joint activities.

SAAs outline the conditions and restrictions for collaboration on a project and contain a clause that addresses export compliance. They often serve as the requirement to export although it should be noted that an SAA is NOT an export authorization. Export regulations apply to all parties to an Agreement including their Related Entities.

NOTE: Agreements can take months or years to develop. Until an appropriate agreement is signed, NASA may not commit resources, share sensitivity information or technology, exchange equipment, or share use of facilities. SAAs should be concluded and brought into force well in advance of the commencement of significant joint activities.

2.10.1. DOMESTIC AGREEMENTS

Domestic SAAs are with U.S. partners. Examples of the types of partners to a domestic SAA include: individuals, companies, organizations, universities, institutions, and federal/state/local

[30] NASA does not enter into or sign Technical Assistance Agreements (TAAs) under the ITAR. NASA contractors may find it necessary to apply for TAA licenses to meet their individual export control obligations in support of an SAA.

government agencies. A U.S. partner of an SAA who exports or transfers items or data outside the U.S or to foreign persons is responsible for complying with export regulations.

An SAA establishes responsibilities (requirements) that may result in an export. Exports and transfers may occur when a U.S. partner employs foreign persons to perform work under the SAA. The Center designated Agreement Managers are the main points of contact for questions associated with developing agreements and ensuring compliance with NAII 1050-1C.

2.10.2. INTERNATIONAL AGREEMENTS (IA)

OIIR serves as the Agreement Manager for all International SAAs and is responsible for the negotiation, execution, amendment, and termination of all International SAAs. A Center point of contact may be designated to execute many of the Agreement Manager tasks, as outlined in the SAAG (NAII 1050-1C).

IAs are agreements with foreign governments, foreign governmental entities, international organizations, foreign entities, or foreign persons. NASA also enters into International SAAs with foreign nongovernmental organizations, including universities, institutes and commercial entities, and occasionally with foreign persons. An International SAA "will always include a clause that discusses the transfer of goods and technical data and the rights and obligations of the parties."

IMPORTANT: Requestors of IAs should coordinate with their Center ECS early in the process, when IAs include exports of commodities, software, technical data, technology, defense services, and technical assistance to foreign parties.

International SAAs may involve transfers by NASA, or other U.S. parties, of commodities, technical data, technology, software, and/or providing a defense service or technical assistance to foreign parties. These transfers are subject to export control regulations, regardless of whether they occur in the U.S., overseas, or in space. Each party is obligated to transfer to the other party **only** those technical data and goods necessary to fulfill the transferring party's responsibilities under the International SAA. NASA civil servants and contractors participating in an international activity are responsible for securing and remaining within the scope of their export authorization(s).

If the SAA requires the "importation of goods into the U.S. or the territory of the International SAA Partner, the agreement should contain a general obligation to facilitate free customs clearance (e.g., waiver of applicable duties or taxes)." This can eliminate the need to pay expensive import taxes or "duties" saving the government(s) considerable costs.

Best Practices to Facilitate International Transfer

- Program Managers need to monitor the status of imports and exports to and from their foreign partners.
- Work with the OIIR Agreement Manager to ensure you have the latest information related to the International SAA.
- Keep the Center Export Administrator (CEA) informed well in advance of potential transfers so they can contact OIIR to develop the duty-free import certificate(s), if needed, and obtain the proper export and import authorizations.
- Work with the Center Export Administrator (CEA) to contact OIIR to develop the duty-free import certificate(s) early on.

2.11. EXPORT CONTROL REVIEW OF INFORMATION PRIOR TO POSTING ON A PUBLIC WEBSITE

The Center OCIO in consultation with the CEA, ensures that IT policies, standards, and procedures are compliant with NPD 2810.1E "NASA information Security Policy," NPR 2810.1A "Security of Information Technology," and NPR 2190.1.

Prior to posting any NASA technical data or technology to a public website, NASA employees/contractors must receive approval from ECS by completing the DAA process for STI and/or submitting the NASA Form 1676 for non-STI to your ECS. Allow at least 30 days for approval. The ECS reviews for export-controlled information and approves it for public release, or recommends redactions, revisions, and/or changes to ensure compliance with export control regulations. Website contributors should retain appropriate records of the approval per the Center-specific process.

To expedite the export control review, the Requestor should mark any data that is known to be or is potentially export-controlled; indicate which content is new and has not been previously released to the public; and indicate what is already publicly available and where to find it.

The Requestor can accomplish this by doing an open source search, providing a bibliography, attaching links to published information, and providing previously approved DAAs or NF 1676s, if available.

2.12. EXPORT CONTROL PROCESS FOR PROPERTY DISPOSAL

Procedural guidance relating to the use and disposal of NASA-owned property is established in NPR 4300.1C "NASA Personal Property Disposal Procedural Requirements". It addresses the disposal management of NASA-owned excess, surplus, and obsolete exchange or sale property. The NPR applies to NASA Centers and the Government property held by NASA or contractors located on a NASA installation.

The Center Property Disposal Officer (PDO) is responsible for the disposition of excess, surplus property in compliance with U.S. Government property laws and regulations[31]. Property no longer needed by a NASA program or activity can be dispositioned in a variety of ways, including, but not limited to, such as, recycling, internal re-use, transfer, donation, sale by the General Services Administration (GSA), and abandonment and/or destruction. Export control should take extra scrutiny to identify which items under no circumstances should be sold to the public.

Regardless of the disposition of the property, the NASA Property Disposal Office at each Center must contact the ECS to obtain the export classifications of the property to be disposed. The request may be for a single item or multiple items. The program/project requesting the disposal of the property provides the following property attributes to the PDO for correct classification of item(s) by ECS:

- Name of the item
- Manufacturer
- Part number
- Model number

BEST PRACTICE: Prior to requesting disposal of excess property, the program/project should provide the necessary export classifications and recommended disposition of the property to the PDO (specifically if it can or cannot be sold to the public).

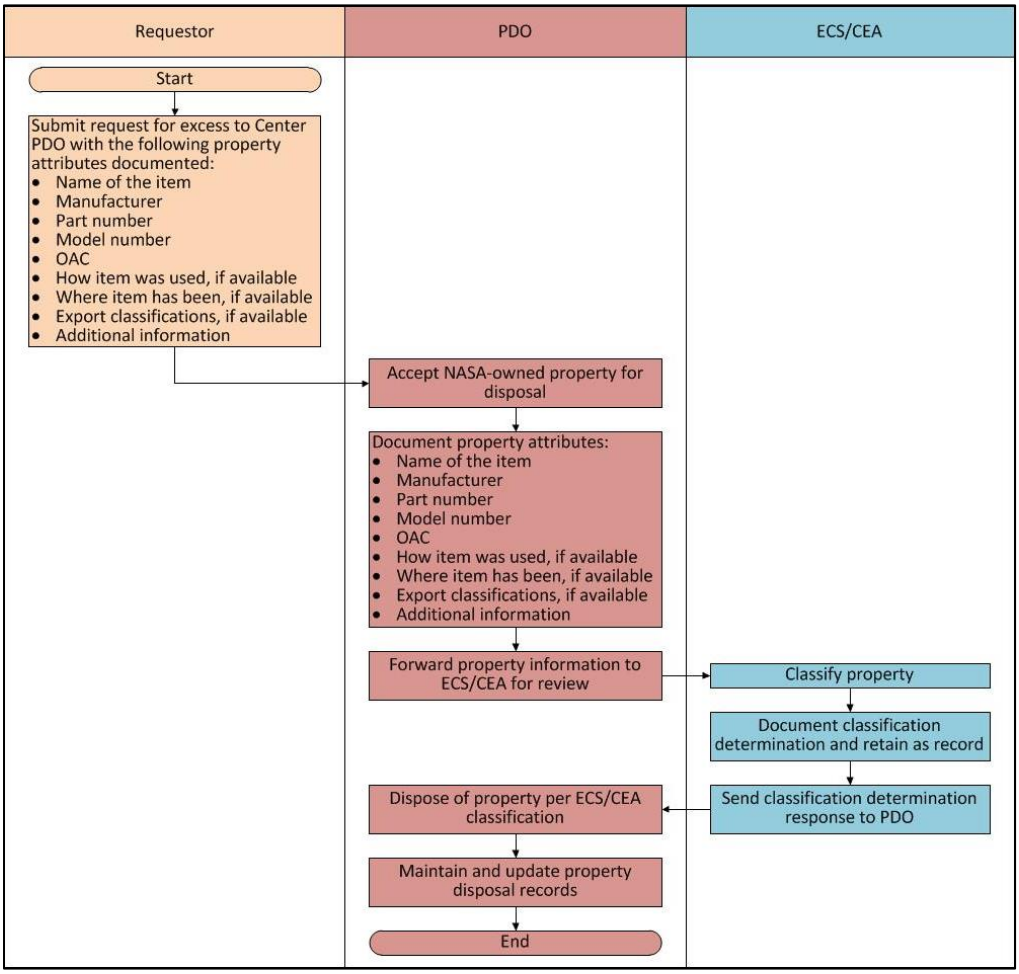
[31] The PDO, consistent with NPR 4300.1C, only disposes ITAR-controlled property to vetted U.S. citizens for public sales.

- Original Acquisition Cost (OAC)
- How item was used, if available
- Where item has been, if available
- Export classifications, if available
- Additional information

CEA review and instructions for disposition to PDO should be maintained by the ECS as the export control record. The original property disposal records are maintained by the Property Disposal Office. For individuals accessing NASA facilities to receive dispositioned property, refer to NPR 1600.1A.

See Figure 16: Process for Property Disposal.

Figure 16: Process for Property Disposal



2.13. NASA REVIEW OF LICENSE AND AGREEMENT APPLICATIONS

DOS and DOC send NASA-related license applications to HQ ECS for review. These applications primarily come from industry, but can come from other government agencies.

HQ ECS reviews these license applications and requests that the relevant Headquarters Mission Directorates and Centers review the license applications, as well. NASA HQ Mission Directorates review the applications, including their terms and conditions, to determine whether it meets or supports the Agency's mission objectives and policies and replies to HQ ECS within five business days.

The Center ECS coordinates the reviews with the responsible program/project or other Center offices.

All reviewers evaluate the license applications from their perspective to determine whether it appears appropriate and relative to the NASA mission(s) described, to include the timing, terms and conditions, and parties involved. Within 5 business days, the reviewers should provide their responses to ECS who sends the responses and/or questions to HQ ECS.

HQ ECS work with DOS, DOC, and/or the applicant to resolve questions; HQ recommends Approval, Approval with Provisos, Return Without Action (RWA), Deny, or No NASA Interest. If the NASA response is Approve with Provisos, then HQ ECS recommends provisos for DOS or DOC consideration. If required, HQ ECS works with the Interagency to expedite the approval process.

Examples:

- If a license application request does not fully address the conditions stipulated by NASA contracts/International Agreements, etc. (such as: commodity, software, technical data, and/or defense services, locations, parties, or timelines) NASA can provide inputs to DOS, including provisos, to meet NASA's requirements.

- If a company requests a license that involves sharing NASA technical data as a defense service to satisfy a foreign partner's hardware/software integration needs, NASA may recommend that the license application be approved with certain provisos limiting the scope of the technical data to be provided.

CHAPTER 3: EXPORT CONTROL PROCESSES FOR NASA EXPORT CONTROL STAFF

The administration of the NASA ECP is conducted in partnership between Agency and Center ECS. The processes described in this chapter are intended for the ECS who manage the day-to-day operations both at HQ and across all Centers. Many of NASA's missions are managed across multiple Centers. The HEA has the final decision-making authority in the event there are multiple interpretations of any of the ECP processes described in this manual or if there are disagreements across Centers regarding export control matters. NASA uses the processes described in this chapter to ensure compliance with export control regulations and NASA's internal policies.

Chapter 3 is intended for ECS staff who are practitioners in export control. The administration of NASA export control policies as defined in this chapter requires competence regarding U.S. Export Control regulations.

Under Export Control Reform, many items that were previously under ITAR jurisdiction are being transferred under EAR jurisdiction. ECS must ensure the latest version of the regulations is being used to make the export control assessment.

IMPORTANT: ECS must ensure the latest version of the regulations is being used to make the export control assessment.

3.1. EXPORT CONTROL SYSTEM DATABASE (ECSD)[32]

In order to manage the day-to-day operations of the ECP, ECILD utilizes and maintains an internal export control database to track all major export and import actions and decisions taken at the Agency level. The system allows the Agency to manage the ECP consistently and efficiently. The database tracks many ECP activities including: submissions to other U.S. Government departments and agencies, license exemptions and exceptions approved by the HEA, export cases staffed to NASA for review by export control agencies, ECILD export control decisions regarding release of NASA STI and other documents, all decisions on foreign national visits made by the HEA, and export control approval decisions regarding foreign travel made by NASA HQ employees. The Centers provide input into the ECSD with respect to actions taken to

[32] Centers do not yet have access to this system outside of Headquarters.

review various export control documents, such as STI, licenses, exemptions, exceptions, and voluntary disclosures.

3.2. REVIEWING STI FOR EXPORT-CONTROLLED MATERIAL

As described in Section 2.11., all NASA STI and NASA-funded STI requires an export control review prior to release. ECS may use Checklist D to facilitate the export control review of the information or their Center-equivalent review process. As noted in the checklist, not all STI requests contain export-controlled information. If ECS determines that the information is subject to the ITAR or the EAR, ECS may deny the request. If the ECS is uncertain, they must consult the CEA.

The CEA may authorize the publication or release of that information consistent with 22 CFR §125.4(b)(13) or 15 CFR §734.3(b). A request to publicly release STI that is controlled for export compliance should include a justification to decontrol that material. It is recommended that the rationale be attached to the DAA. An example of documenting rationale is included in Appendix B-3 as a best practice. If the CEA is unsure about the assessment, the issue may be elevated to ECILD for further review.

Checklist D: Guidance for Export Control Review for STI Release		
Is the information in a publicly available document that was appropriately released such as NASA directives, NASA technical engineering, or safety standards?	☐Yes	☐ No
Is the information high-level program schedules, budget information, or organizational information?	☐ Yes	☐ No
Is the information presently in the public domain?[33]	☐ Yes	☐ No
Is the information considered general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities?	☐ Yes	☐ No
Is the information considered basic marketing information on function or purpose or general system descriptions?	☐ Yes	☐ No
If you answered "Yes" to any of the above questions, the information does not include export-controlled content. If you answered "No" to all questions, proceed filling out this Checklist.		
Will the information be released to a limited audience via a NASA International Agreement?	☐ Yes	☐ No
Does the information you're reviewing have dissemination restrictions (i.e. For NASA Internal Use Only)?	☐ Yes	☐ No
Does the information concern a "defense article" on the USML or on the MTCR Annex? (See Appendix B-4 for defense articles frequently handled by NASA.) **If "Yes", does the document contain technical data related to the defense article?**	☐ Yes ☐ Yes	☐ No ☐ No
Does the information concern an item on the CCL? (See Table 2.) **If "Yes" does the document contain technology related to the commodity?**	☐ Yes	☐ No
If you answered "Yes" to any of the above questions, export-controlled information is present in the material and cannot be fully released.		

[33] Best practice: ECS may document where that information is published or list the previously approved DAA Number.

3.3. PROCESS FOR LICENSE APPLICATIONS

The intent of this section is to provide specific guidelines for Centers to determine if a license is required for an export and the process to prepare the license application package.

3.3.1. DETERMINE IF ITEM IS SUBJECT TO EXPORT CONTROL

The first step in the license application process is to understand the nature of the commodities, software, technical data, technology, and/or provided defense service. In addition, the ECS must understand the context in which the transfer is going to occur, the contractual or agreement documentation, the program/project, the players involved in the transfer, the end-user, the end-use, the transfer destination, and the manner in which the transfer is going to occur.

ECS then needs to ascertain whether the item is subject to export control (i.e., fundamental research or in the public domain). If the item is software, technical data, and/or technology, it could be considered to be fundamental research if it meets the qualifications described in 22 CFR §120.10, 22 CFR §120.11, 15 CFR §734.3, and 15 CFR 734.8. If the item is considered to be fundamental research, then it is not subject to export control.

If the item is software, technical data, and/or technology appropriately placed in the public domain, it is not subject to export control (22 CFR §120.10, 22 CFR §120.11, 15 CFR §734.3, and 15 CFR §734.8).

While an item may not be subject to export control, there may still be NASA policy restrictions affecting potential receiving entities (see Section 2.7.).

3.3.2. JURISDICTION SELF DETERMINATION

Jurisdiction determination identifies whether the export item is subject to the ITAR or EAR. NASA officials who are authorized to make jurisdiction determinations include ECS (with CEA concurrence) and NASA Empowered Officials for export control. These individuals can seek advice from manufacturers, engineers, and other subject matter experts to assist in this process. Although NASA makes the Agency-level jurisdictional self-determinations, DOS has the final regulatory authority.

In order to make such determinations, detailed technical information must be gathered about the item, its function, information concerning the development of the item, and current foreign users. Review the ITAR first. DOS has an online tool (the USML Order of Review Tool) that is useful in making jurisdiction determinations and provides a mechanism to document how the determination is reached. This process is termed The Order of Review (OR). If the item is enumerated on the USML, then it is subject to the ITAR. The results from the DOS online tool cannot be substituted for consultation with the CEA, HEA or a DOS CJ. There are also online tools to help determine if an item is considered to be "specially designed" under the ITAR or "specially designed" under the EAR (DOS Specially Designed Tool and DOC Specially Designed Tool).

BEST PRACTICE: Use of DOS online tools provides a convenience means to document the determination process. Keeping records of Center determinations aid in future jurisdiction determinations.

If the jurisdiction is self-evident, classify the item on the USML or the CCL (see Sections 3.3.5. and 3.3.6.). If a CEA is unsure of a jurisdiction self-determination or if a program spans multiple Centers, they should consult with the HEA, who may submit a CJ request to DOS.

3.3.3. DOS COMMODITY JURISDICTION (CJ) REQUEST

To request a CJ determination, the requesting project or program office shall complete Blocks 4-18 of the Department of State Commodity Jurisdiction Request, Form DS-4076 with assistance from Center ECS. Use Checklist E while filling out the DS-4076. If the item that is to be exported is software, then complete Checklist F and provide as an attachment to the CJ Request. This request can only be submitted to the DOS by a NASA Empowered Official.

IMPORTANT: Remember that while the CJ is under review by DOS, the item must be considered as subject to the ITAR until officially determined otherwise.

The program/project should allow at least two weeks for the CEA and HEA to finalize and submit a CJ request to DDTC. Upon receipt of a written CJ request from NASA, DDTC, in consultation with the DOD and DOC and other concerned U.S. Government agencies, typically responds within 60 days.

Once DDTC provides a determination in writing, the letter states the jurisdiction of control: ITAR (USML), EAR (CCL), or other. If the jurisdiction is ITAR, the category of classification within the USML is provided. If the jurisdiction is EAR or other, the specific classification may or may not be provided.

3.3.4. CLASSIFICATION

Once the jurisdiction is determined, the item needs to be classified on either of the two control lists (USML or CCL). Use the DOS Order of the Review and Specially Designed tools to help identify the appropriate USML Category (22 CFR §121.1). Use the DOC Export Control Classification Interactive Tool and the Specially Designed Tool to help identify the appropriate ECCN (15 CFR §774 (CCL)). If there is doubt about the classification, even after utilizing the online tools, coordinate with the CEA or HEA.

3.3.5. DOC COMMODITY CLASSIFICATION DETERMINATION

In consultation with the CEA and HEA, the ECS may prepare a formal submission to DOC to classify an item if NASA is unable to determine the correct ECCN classification. The commodity classification request is submitted to BIS at DOC, in accordance with 15 CFR §748.3. All NASA classification requests must be submitted to BIS by ECILD.

3.3.6. LICENSE REQUIREMENTS DETERMINATION

If an item is classified on the USML or the CCL, an authorization is required to conduct the export. An authorization may be either a license, a license exemption (for ITAR controlled items), or a license exception (for EAR controlled items), or No License Required (NLR).

The CEA must request approval to use an exemption or an exception from the HEA. For ongoing and established missions, blanket authorization may be obtained at the start of the program or project per the terms of the program plan, contracts, and/or agreements. For any modifications in mission scope, foreign participants, or terms of existing requirement, a new export control review should be completed prior to holding additional meetings to exchange scientific or technical data. Note: An International Agreement can provide the basis for several license exemptions under the ITAR.

IMPORTANT: If a project foresees multiple shipments using the same license exemption/exception, blanket authorizations may be provided by the HEA to the CEA.

3.3.6.1. ITAR LICENSE REQUIREMENTS

Once an item is determined to be subject to the ITAR, a license is required unless you can find an applicable license exemption. Exemptions frequently used by NASA are identified in Appendix B-5. If none of the exemptions are available, then ECS would prepare the license application package to submit to ECILD (see Section 3.3.7.1.).

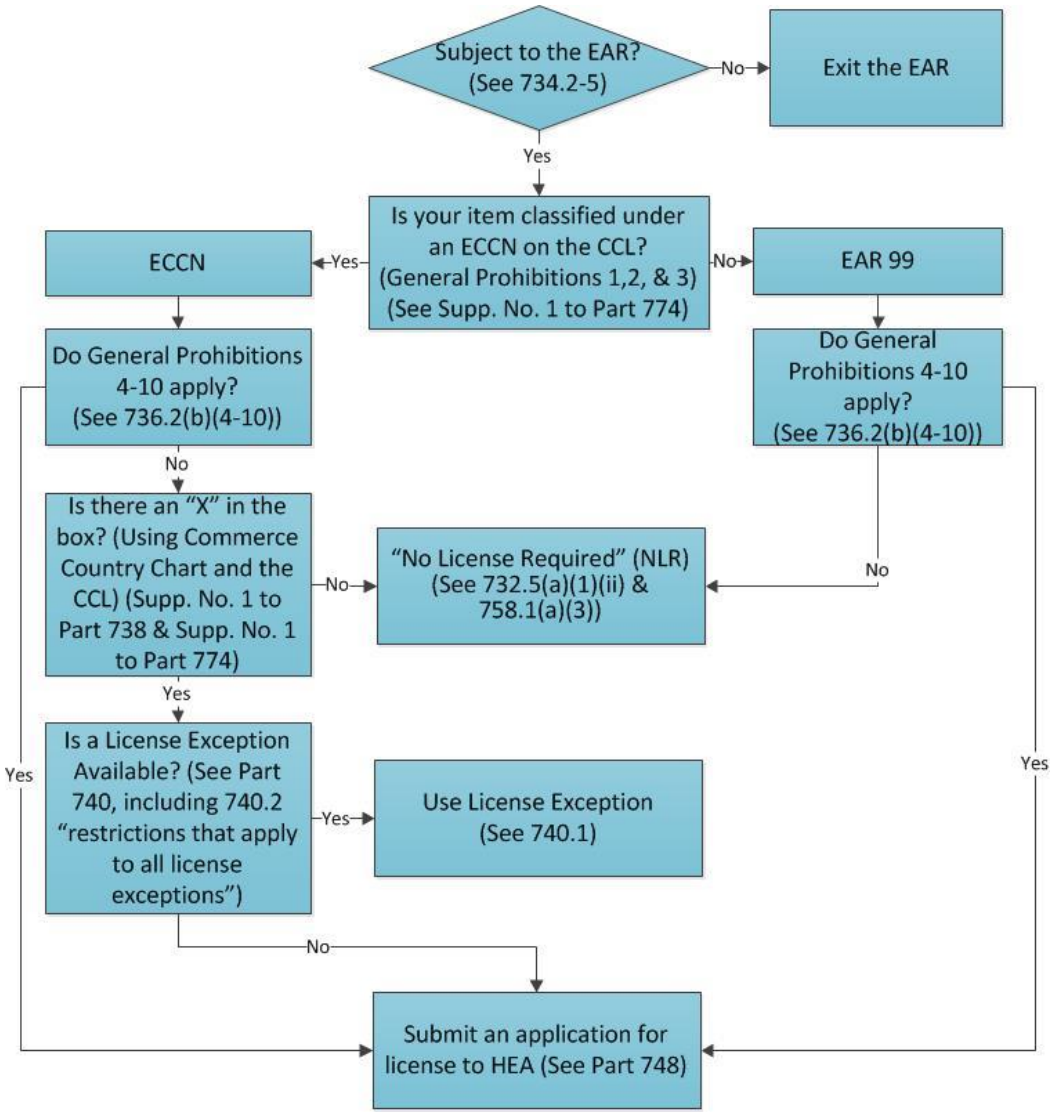
3.3.6.2. EAR LICENSE REQUIREMENTS

Once an item is determined to be subject to EAR, a license may or may not be required. Use information contained in the "License Requirements" section of the ECCN in combination with the Country Chart to decide whether a license is required. Follow the instructions in 15 CFR §738.4 and use the decision tree as depicted in Figure 17: EAR Classification Process (Supplement 1 to Part 732) to aid in the determination of whether a license is required. If No License is Required (NLR), then NLR is the authorization to export and must be included on the shipping documents along with the ECCN.

If a license is required, then ECS should see if there is a license exception available. Exceptions that are frequently used by NASA are identified in Appendix B-5. ECS needs to carefully examine the license exception to ensure that the export meets all of the requirements specified in the license exception, including recordkeeping and reporting.

In addition, ECS must review the exception in light of the "Ten General Prohibitions" (15 CFR §736.2(b)), as stipulated in 15 CFR §740.2. If the export is subject to General Prohibitions four, seven, nine, or ten, then no license exceptions are authorized. If a license exception is not available to overcome each license requirement reflected in an ECCN and its use is not precluded by a General Prohibition, then a license application is required (see Section 3.3.7.2.).

Figure 17: EAR Classification Process



3.3.7. Application Package To Submit For A License

Once it has been determined that a license is required for the export, the CEA prepares a license application package for ECILD review and approval. All license applications are submitted by ECILD to the appropriate regulatory authority. The intent of the application package is to provide the licensing officer and other reviewers as much information and clarity about the export as possible. The package narrative should be developed with specific language so that a non-technical reader understands precisely what is being transferred, to whom, and why. To facilitate clarity and ease of understanding, adhere to these instructions to prepare the license:

- DO NOT use acronyms that have not previously been spelled out.
- Keep terminology in the letters of explanation and descriptions consistent.
- Avoid jargon and unnecessary technical terms.
- Explain new terms when they are introduced.
- All explanations should be self-contained; do not use language that may raise additional questions from the reviewers.
- Include precedent licenses, if applicable.
- Include an electronic copy of the International Agreement, if applicable.
- Structure the application so it can be decremented by U.S. Customs easily.

BEST PRACTICE: For certain items like Unmanned Aerial Vehicles (UAVs) and sounding rockets, it is strongly advised to give a detailed briefing on the license package to the Missile Technology Export Committee (MTEC) team (comprising DOS, DOD, and DOC representatives). The briefing should be conducted during the project formulation phase to gain MTEC's confidence that NASA has a robust plan to mitigate risks against compromising such technologies.

The CEA collects the required information, provides a draft cover letter, and gathers additional documentation to submit to ECILD. The package is reviewed and edited by ECILD and, if necessary, is returned to the CEA for coordination of any changes with the Requestor prior to final submission. Once the review is complete and both the CEA and HEA approve the license application package, it is submitted to DOS or DOC. Typically, it takes 60 days for DOS DDTC or DOC BIS to respond to a license application request.

Note: If the scope, entities or technology involve change after the license application is submitted, contact the HEA immediately. The license may need to be revoked or amended

after it is approved. For example, if the freight-forwarding service is changed to a different company, the license may be amended after it is approved. As another example, if ten items need to be exported instead of six, the license may need to be returned to NASA to submit a new license application.

Once NASA has received a response from the regulatory agency, one of the following two actions take place:

- If the license is approved, a transmittal letter is signed by a NASA Empowered Official and forwarded to the responsible CEA. The transmittal letter provides instructions on the provisions, conditions or limitations, and reporting and recordkeeping regarding the use of the license. The CEA provides this letter, with the license, to the parties that are authorized to conduct the transaction.
- If the license is rejected or Returned Without Action (RWA), based on the rationale that DOS DDTC or DOC BIS provides, ECILD coordinates with the ECS and Program Office to resubmit a revised license package or pursue an alternative course of action to support the NASA mission requirement.

The following sections provide instructions for the draft submissions.

3.3.7.1. ITAR LICENSE APPLICATIONS

The ITAR license application submission package consists of the following items. Use Checklist G to ensure that all information is included.

- The current DDTC License application form – The form should be completed electronically using the DDTC-published guidelines for the particular type of license that is required for the transaction (DSP-5 for permanent export, DSP-73 for temporary export, or DSP-61 for temporary import). The published guidelines on the DOS website, provide detailed block-by-block information on how to complete the required license application form.
- A draft cover-letter explaining the reason for the license application – The cover-letter describes the commodity, technical data or software that is to be exported, the entities/organizations and countries who are participant in the transaction, and the specific reason for the transaction, such as an International Agreement or a contractual requirement.
- A one-page technical description of each commodity line-item to be exported – If the export is a commodity, a picture or a drawing is required as a .pdf attachment. When

multiple items are to be exported, attach supporting technical data sheets and pictures/drawings for each item in the same order that they are listed as line-items in the license application. Also, title these attachments with the same line-item name that is used in the license application, so that it is easy for the reviewer to identify which technical data sheets and pictures/technical data should be aligned with each line-item. This saves time and eliminates confusion when the transaction involves the export of numerous items.

- Copies of any Domestic or International SAAs
- Any other relevant documents or briefings that describe the transaction, the item, program, or the intended outcomes

3.3.7.2. EAR LICENSE APPLICATIONS:

The EAR license application package consists of the following items to submit a license to BIS electronically. Use Checklist H to ensure that all information is included.

- Draft a letter of explanation provided as a Microsoft Word document with specific license application information to include:
    i. A brief description of the export transaction, involved parties, locations, the dollar value, and when it must be exported with an explanation of why
    ii. An impact statement that explains the ramifications if the export transaction does not occur or if it does not occur when planned
- Shipping information about the transaction and the parties involved:
    i. The expected or possible port(s) of exit
    ii. Intermediate Consignee(s): the name and address of each organization that will be involved with the movement of the items to be exported (both domestic and foreign)
    iii. Ultimate Consignee: name and address
    iv. End-user: name and address
- A complete and detailed description of the end-use intended by the ultimate consignee/and or end-user(s) and any countries for which reexport is requested
- Detailed information about each of the items that will be transferred:
    i. ECCN that corresponds to the item that is to be exported

ii. Composite Theoretical Performance (CTP) – Enter the Adjusted Peak Performance (APP) if the item is a digital computer or equipment containing a computer. If the item is not and does not contain a computer enter "N/A" for not applicable. Model Number: Enter the model number of the item to be transferred.

iii. Commodity Classification Automated Tracking System (CCATS) Number: If the item previously received a commodity classification determination from BIS, provide the CCATS number shown on the classification issued by BIS. If there has been no known BIS classification enter "N/A".

iv. Quantity: Identify the number of items to be exported or reexported.

v. Units: A unit of issue that is commonly used in trade such as "each"

vi. Unit Price: Provide the fair market value of the item to be exported rounded to the nearest whole dollar amount. Provide exact unit price only if the value is less than $0.50. For example, if the unit price is $0.45, write $0.45 as the unit price. If the unit price is $0.65, round up to one dollar.

vii. Total Price: The unit price multiplied by the quantity to be exported

viii. Manufacturer: Provide the name of the manufacturer, if known, otherwise, enter "Unknown."

ix. Technical Description: Provide a brief description of the item.

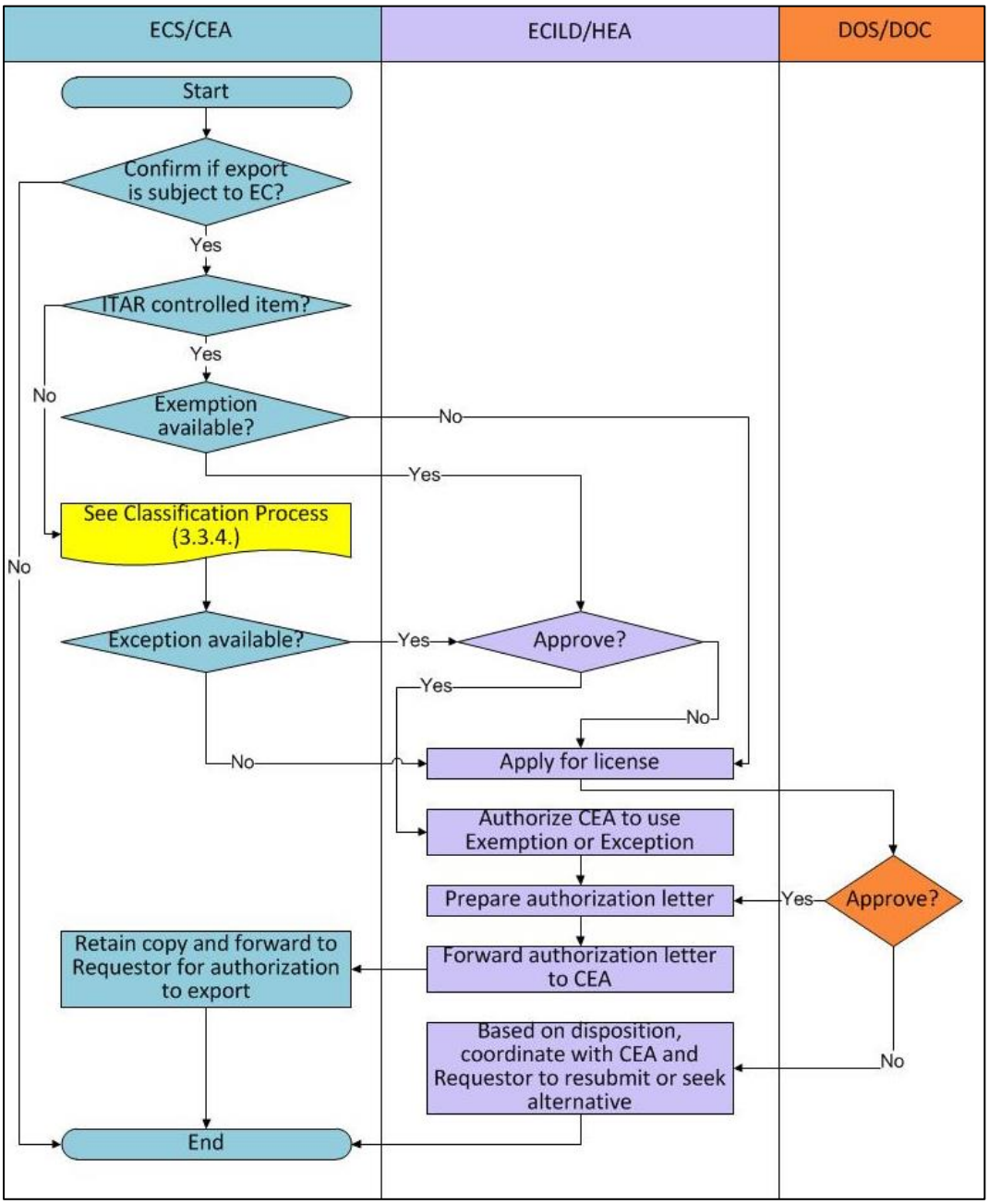
- A technical datasheet for each line item that is to be exported must be attached to explain the purpose of the item and detailed information, such as physical dimensions, weight, and key operating characteristics. The data sheet should generally not exceed one page and should be provided in Microsoft Word format to allow any minor edits if needed.
- Supporting technology information sheets and pictures/drawings for each item listed in the same order as line items in the license application; title these attachments with the same line item name that is used in the license application so that it is easy for the reviewer to identify which technical data sheets and pictures/technical data should be aligned with each line items. This can save time and eliminate confusion when the transaction involves the export of numerous items.

The license application process is illustrated in Figure 18.

3.3.8. TRACKING LICENSE APPLICATIONS

Once a license is submitted to the appropriate authority, Centers can track the status of their license applications through online systems: for ITAR, use Export License Status Advisory (ELISA) and for EAR, use System for Tracking Export License Applications (STELA).

Figure 18: License Application Process



3.4. AUTOMATED EXPORT SYSTEM (AES) FILING PROCESS

AES filing information is used by DOC's Bureau of the Census to compile international trade statistics and regulatory enforcement information. It is also used for verification by U.S. Customs and Border Protection (USCBP) that the transaction occurred as reported. Furthermore, DOC, DOS, USCBP, and Department of Treasury (DOT) use this information to monitor and track export activities and the use of export licenses, exemptions and exceptions. NASA places emphasis on proper processing of Electronic Export Information (EEI) through the AES because this is an activity in which the risk of export violations can be high. This is because multiple parties across NASA need to work together to ensure compliance with U.S. export laws. The NASA parties involved include the Requestor, ECS, and an AES filer. Figure 19 illustrates the AES filing process.

IMPORTANT: To ensure NASA compliance with U.S. export regulations, the AES filer must file the EEI in AES when required, in an accurate and timely manner.

Requestors inform their Center ECS when an international shipment needs to occur. To determine when AES filing is required, the filer should use Checklist I as a guide; consult the latest version of the regulations to determine/confirm if AES filing is required. AES filing is commonly required in transactions that involve international shipments containing licensable items, claiming certain ITAR exemption/EAR exception, or exports with a value greater than $2,500 per individual Schedule B. If it is determined that AES filing is required, the filer coordinates with the Requestor and/or the Center ECS regarding any incomplete or unclear information related to the transaction.

Checklist I: AES Filing Requirement Determination		
If you mark "Yes" to any of the below options, AES filing is required:		
EAR Requirements **(15 CFR §758.1 (b)))** (1) **For all exports of items subject to the EAR that are destined to a country in Country Group E:1 of Supplement No. 1 to Part 740 of the EAR regardless of value;**	☐ Yes	☐ No
(2) **For all exports subject to the EAR that require submission of a license application, regardless of value or destination;**	☐ Yes	☐ No
(3) **For all exports of 9x515 or "600 series" items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or "600 series" ECCN regardless of value or destination, including exports to Canada;**	☐ Yes	☐ No
(4) **For all exports under license exception Strategic Trade Authorization (STA);**	☐ Yes	☐ No
(5) **For all exports of commodities and mass market software subject to the EAR when the value of the commodities or mass market software classified under a single Schedule B Number (or Harmonized Tariff Schedule (HTS)) is over $2,500, except as exempted by the Foreign Trade Regulations (FTR) in 15 CFR §30 and referenced in paragraph (c) of this section;**	☐ Yes	☐ No
(6) **For all exports of items subject to the EAR that will be transshipped through Canada to a third destination, where the export would require EEI or license if shipped directly to the final destination from the United States (see 15 CFR 30.36(b)(2) of the FTR);**	☐ Yes	☐ No
(7) **For all items exported under authorization Validated End-User (VEU); or**	☐ Yes	☐ No
(8) **For all exports of tangible items subject to the EAR where parties to the transaction, as described in §748.5(d) through (f) of the EAR, are listed on the Unverified List (supplement 6 to part 744 of the EAR), regardless of value or destination.**	☐ Yes	☐ No

(9) **For items that fall under ECCNs that list CC Column 1 and 3 and RS Column 2 (see supplement no. 1 to part 738 of the EAR) as reasons for control and such items are for export, regardless of value, to India.**	☐ Yes	☐ No
***For shipments under EAR exceptions, excluding EAR license exception BAG and TMP (FTR §30.2(a)(iv) (B-G))*:**		
(B) Requiring a DOS, DDTC license under the ITAR	☐ Yes	☐ No
(C) Subject to the ITAR, but exempt from license requirements.	☐ Yes	☐ No
(D) Requiring a Department of Justice, Drug Enforcement Administration (DEA) export permit (21 CFR 1312).	☐ Yes	☐ No
(E) Destined for a country listed in Country Group E:1 as set forth in Supplement 1 to 15 CFR 740.	☐ Yes	☐ No
(F) Requiring an export license issued by any other federal Government agency.	☐ Yes	☐ No
(G) Classified as rough diamonds under 6-digit Harmonized System (HS) subheadings 7102.10, 7102.21, and 7102.31	☐ Yes	☐ No
If value is greater than $2500 per Schedule B, licensable or non-licensable (FTR §30.37(a))	☐ Yes	☐ No
Shipment to Puerto Rico or to U.S. Virgin Islands (FTR §30.2)	☐ Yes	☐ No
See below for examples of situations when AES filing is probably not required; this not an exhaustive list and Customs reserves the right to require AES filing for items that don't normally require AES filing:		
Miscellaneous Exemptions (See FTR 30.37)	☐ Yes	☐ No
Special exemptions for shipments to the U.S. Armed Services (See FTR 30.39)	☐ Yes	☐ No
Special exemptions for certain shipments to U.S. government agencies and employees (See FTR 30.40)	☐ Yes	☐ No

Below $2500 per Schedule B, if not subject to an ITAR / EAR export license	☐ Yes	☐ No
Export of technical data and defense service under the ITAR DSP-5 license, Technical Assistance Agreement or TAA exemption, but must report electronically directly to DDTC in accordance with 22 CFR §123.22(b)(3)(iii).	☐ Yes	☐ No
Shipping to Canada, if not subject to an ITAR / EAR export license or is EAR / ITAR controlled but exempt from licensing, excluding all 500 and 600 series items in the CCL (FTR §30.36).	☐ Yes	☐ No
For EAR Shipments exempt from AES Filing see 15 CFR 758.1(c):		
(1) **License Exception Baggage (BAG), as set forth in §740.14 of the EAR. See 15 CFR 30.37(x) of the FTR;**	☐ Yes	☐ No
(2) **License Exception Gift Parcels and Humanitarian Donations (GFT), as set forth in §740.12 of the EAR. See 15 CFR 30.37(h) of the FTR;**	☐ Yes	☐ No
(3) **License Exception Aircraft and Vessels (AVS), as set forth in §740.15 of the EAR. See 15 CFR 30.37(o) (5) of the FTR;**	☐ Yes	☐ No
(4) **License Exception Governments and International Organizations (GOV), as set forth in §740.11 of the EAR. See 15 CFR 30.39 and 30.40 of the FTR;**	☐ Yes	☐ No
(5) **License Exception Technology and Software Under Restriction (TSR), as set forth in §740.6 of the EAR. See 15 CFR 30.37(f) of the FTR; or**	☐ Yes	☐ No
(6) **License Exception Temporary Imports, Exports, and Reexports (TMP) "tools of trade", as set forth in §740.9(a)(1) of the EAR. See 15 CFR 30.37(b) of the FTR.**	☐ Yes	☐ No

The Transportation/Logistics Office creates and maintains the required export documents, such as the shipping form, invoice, and airway/ocean bill of lading for all international shipments, and provides a copy to the Requestor and the Center ECS. Center ECS provides the Center Transportation/Logistics office the appropriate authorization and classification for the items, which should be included on the shipping documents. The AES filer completes the EEI according to the ECS/CEA instructions as well as fulfilling all other requirements. Checklist J can be used as a guide to ensure that all necessary information is gathered for the filing. Center Transportation/Logistics will maintain the shipping records, to include the corresponding export authorization, (see Section 3.4.3.) and send the Requestor notification of the shipment.

Filers must complete the filing within the required timelines depending on the mode of transport:

- *Air or truck shipments.* The export information must be electronically filed at least eight hours prior to departure for all ITAR-controlled shipments. *For EAR-controlled* shipments, the export information should be electronically filed two hours prior to the scheduled departure by air and one hour prior to arrival at the border for trucks.

- *Sea or rail Shipments.* The export information must be electronically filed at least 24 hours prior to departure for all ITAR-controlled shipments. *For EAR-controlled shipments via sea,* AES must be filed 24 hours prior to the loading of the cargo at the U.S. port. For EAR shipments via rail, the information should be filed electronically no later than two hours prior to when the train arrives at the border.

- *For used self-propelled vehicles, the information must be filed electronically at least 72 hours prior to the export.*

- E*mergency shipments of commodities that cannot meet the pre-departure filing requirements above are possible with USCBP permission.* Before seeking USCBP permission, the CEA must coordinate with ECILD to provide DDTC with immediate notification of the External Tracking Number (XTN) or Internal Transaction Number (ITN) for the shipment and rationale for the urgent movement, as specified in 22 CFR §123.22(b)(2). For USCBP to consider permitting emergency shipments they must have the EEI using the AES and the following documentation presented to them at the port of exit: the ITN for the shipment and a copy of a notification to DDTC stating that the shipment is urgent, accompanied by an explanation for the urgency. The AES filing of the export information must be made at least two hours prior to any departure by air from the U.S. When shipping via ground, the AES filing must be made at the time when

the exporter provides the articles to the carrier or at least one hour prior to departure from the U.S., when the permanent export of the commodity has been authorized for export.

Figure 19 illustrates the AES filing process.

3.4.1.1. GOODS EXPORTED UNDER A PERMANENT EXPORT LICENSE (DSP-5).

All permanent export licenses must be *lodged*[34] with Customs prior to filing of the EEI to ensure proper electronic decrementation[35] of the license through the AES system, in accordance with 22 CFR §123.22(1). Not all EAR licenses require lodging nor presentation to Customs because they are electronically-decremented through AES.

3.4.1.2. GOODS EXPORTING UNDER TEMPORARY EXPORT LICENSE (DSP-73).

Carrier/Forwarders facilitating the movement of the goods must have a copy of the temporary export license to be deposited, decremented and endorsed by Customs at the Port of Exit prior to departure and upon re-entry, and obtain a copy of the license endorsed by Customs from the carrier/forwarder in accordance with 22 CFR §123.22(2). Not all temporary export licenses need to be lodged with U.S. Customs, but they must be presented[36] at the time of export and upon re-entry for manual decrementation and endorsement by U.S. Customs. AES does not electronically decrement temporary licenses.

IMPORTANT: Copies of hand-decremented licenses must be sent to the relevant CEA and forwarded to the HEA no later than 15 days after the license expires.

Carriers/forwarders should check that all parties to the export are on the license, such as carrier/forwarder, end-user, and ultimate and intermediate consignees in accordance with 22 CFR 127.1(b)(1) and (c).

[34] Lodged means providing a copy of the export license with a stamped "original" to U.S. Customs.

[35] To decrement a document means to subtract the value of items being shipped from the value that is authorized to be exported in the license.

[36] Presented means physical presentation to U.S. Customs at time of export and entry.

3.4.1.3. AES Filing Best Practices

- Verify that the description and value of the goods on the shipping document matches the license.
- Verify the correct Schedule B, ECCN, or USML Category.
- Verify with the carrier/forwarder the correct port of export and the airline/vessel Standard Carrier Alpha Code (SCAC)/International Air Transportation Association (IATA) code.
- If using a freight forwarder to move the goods, obtain their Employer Identification Number (EIN) and identify them on your AES filing as the Freight Forwarder.
- Upon completion of the verification process of the required EEI, the filer may then proceed with the filing of the AES.
- Upon completion of the AES filing, the filer should then complete and sign Checklist J and attach it with the AES filing copy.
- Once the AES entry is completed, the Center Transportation/Logistics Office proceeds in the preparation of the required export documentation (e.g. shipping form, invoice, airway bill, HAZMAT, and AES copy) and provides the carrier with the export documentation for the applicable method of transport (air or ocean) and files the record accordingly.
- Verify that all information shown on the EEI filing is accurate, true, and complete.

3.4.2. Goods Exporting Under An AES Filing Exemption.

All export documents (including the shipping form) must be annotated with the appropriate AES Exemption citation in accordance with 15 CFR §30.7. (e.g. “No EEI Required, FTR §30.37(b)”).

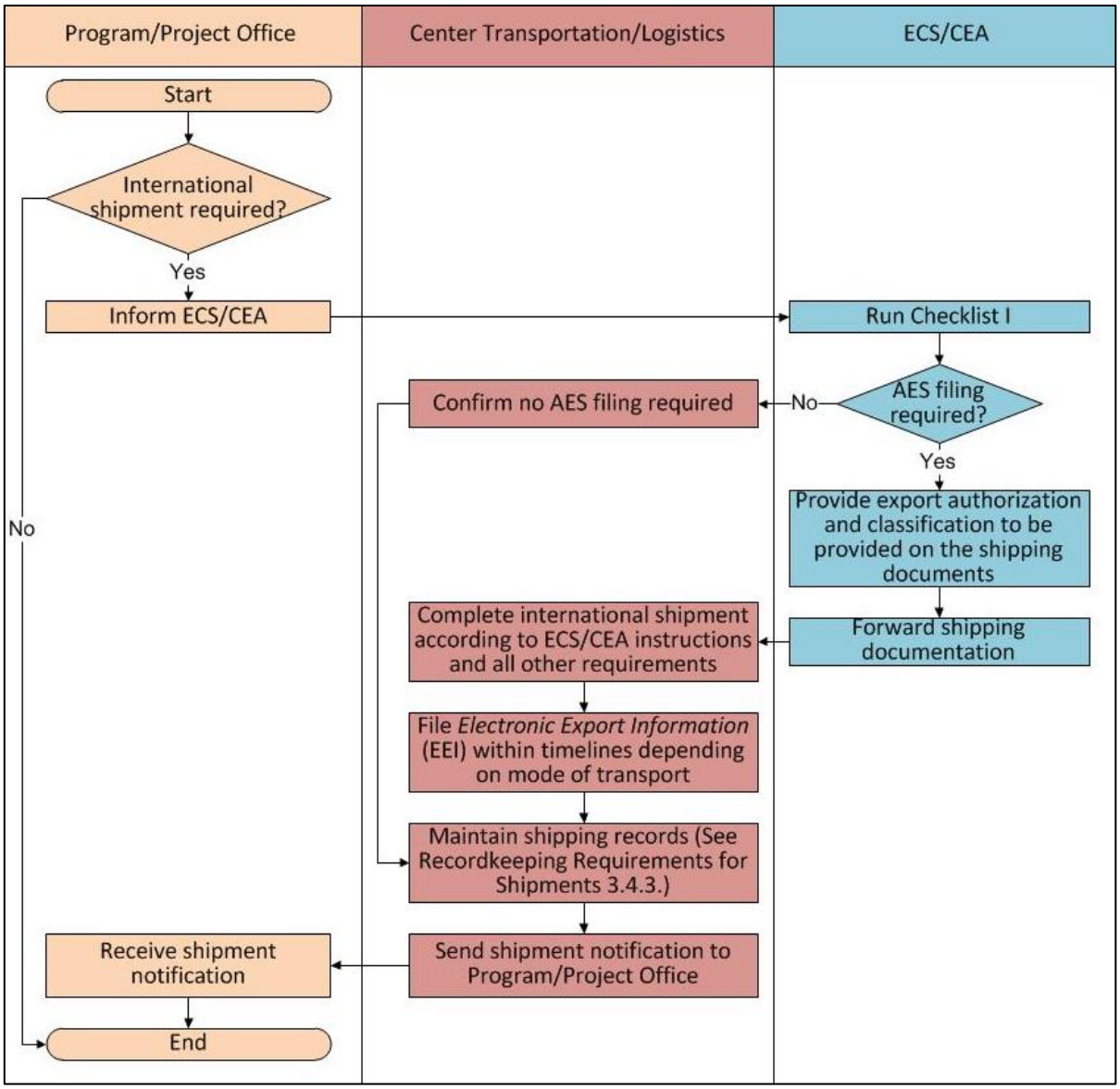
3.4.3. Recordkeeping Requirements For Shipments

In accordance with U.S. export regulations related to recordkeeping, all documents related to an international shipment must be retained for a period of five years and must be available upon request by a U.S. Government official (15 CFR §30.10). All documentation shall be retained and maintained by the Transportation Office/ECS (listing of documents is below) (15

CFR §30.10). The ECS also retains a copy of the transaction documentation (e.g. shipping form, invoice, airway bill and copy of AES filing document [if applicable]) in their files for internal review purposes only (15 CFR §30.10). All documents and correspondence relating to an international shipment, licensable and non-licensable, must be filed by the shipping date upon completion and labeled according to the Shipment Reference number. No records may be discarded without the prior approval of both the Transportation Officer and the CEA (15 CFR §30.10). The required documents for recordkeeping are as follows:

- Shipping form
- Export authorization, which must be identified on the shipping form
- Copies of temporary licenses that have been decremented and endorsed by Customs
- Invoice with the appropriate DCS and AES ITN or exemption/exception citation;
- Checklist I and Checklist J (if applicable)
- Bill of lading

Figure 19: Process for AES Filing[37]



[37] Depending on a Center, the AES filer may be under Center Transportation, Logistics, or a different organization.

3.5.REPORTING REQUIREMENTS

NASA is responsible for preparing and submitting various reports mandated by U.S. export control regulations, as well as U.S. international commitments. There may be specific reporting requirements associated with the use of an export license exemption or exception, requirements contained as a proviso or conditions of a license, or required in an International Agreement. The CEA collects the required information, prepares the reports, and submits them directly to ECILD, who then forwards them to the applicable regulatory agency.

3.5.1. ITAR REPORTING REQUIREMENTS

There are numerous ITAR reporting requirements. It is essential to accurately and efficiently report transactions on demand at the request of DDTC in accordance with 22 CFR §122.5.

The use of certain DOS licenses and exemptions must be reported as indicated below:

i. *Technical data license* – Prior to first use of a DSP-5 license for the export of technical data, NASA HQ will notify DDTC of the initial export and reference the relevant license number. CEAs will follow instructions provided in their license transmittal letters (22 CFR §123.22(b)(3)).

ii. *Technical data and defense service exemptions.* Prior to using an exemption (e.g., 22 CFR §125.4(b)(2), §125.4(b)(4), §126.5) for the export of technical data or providing a defense service, NASA HQ must notify DDTC of the export and the exemption. A copy of this notification, along with other required shipping documents (e.g., invoice, declaration statement, etc.) must accompany technical data shipments and be made available to U.S. Customs and Border Protection upon request.

- For licenses that have not been decremented electronically by U.S. Customs and Border Protection through AES (e.g., decremented by hand or oral/visual technical data releases), NASA HQ must return the license back to DDTC, or the Government agency with which the license was filed, to include when the total authorized value or quantity has been shipped or upon expiration (22 CFR §123.22(c)(2)). This will be accomplished according to instructions in their license transmittal letters (22 CFR §123.22(b)(3)). However, a license that has not been used at all, does not have to be returned even when expired.

3.5.2. EAR Reporting Requirements

The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies is one of four multilateral export control regimes. The Arrangement's purpose is to contribute to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms, dual-use goods, and technologies. The Wassenaar Arrangement establishes lists of items for which member countries apply export controls. The Wassenaar members share with other members reports on exports of items on the Sensitive List (15 CFR Supplement No. 6 to §774) to countries that are not Wassenaar members, when certain license types or license exceptions are used. These are:

- License Exceptions: Shipments to Country B Groups (BGS), Civil end-users only (CIV), Technology and software under restriction (TSR), Shipments of Limited Value (LVS), Computers (APP), and the Cooperating Government portions (15 CFR §740.11(b)(2)(iii)) and 15 CFR §740.11(b)(2)(iv) of License Exception GOV. Exports of technology and source code under License Exception TSR to foreign nationals located in the U.S. should not be reported.
- The Special Comprehensive License procedure (see 15 CFR §752)
- The Validated End-User authorization (see 15 CFR §748.15)
- License Exception STA (see 15 CFR §740.20)
- Thermal-imaging cameras that are not authorized by Individual Validated Licenses; and the report must provide the information identified in 15 CFR §743.3(d).

The report includes the following information (see Figure 20):

- The ECCN and paragraph reference as identified in the CCL
- Number of units in the shipment
- Country of ultimate destination

Figure 20: Sample CEA Submission Response

Item Name/Description	ECCN #	Quantity	Destination Country
Machine Tool Software	2D001	1	Costa Rica

The HEA solicits inputs from the CEAs twice each year for NASA's contribution to Wassenaar reporting. The first report is due by July 15th for the period January 1st through June 30th of the calendar year. The second report is due by January 15th for the period July 1st through December 31st of the preceding calendar year. ECILD submits consolidated Agency-level Wassenaar Reports to DOC by the last day of January and July of each year. If the Center has had no exports of sensitive list items to non-Wassenaar member countries under the above identified authorizations, then the CEA simply replies "nothing to report."

3.6. PROCESS FOR VOLUNTARY DISCLOSURES[38]

DOS and DOC strongly encourage the voluntary disclosure of information by persons or entities that believe that they may have violated any export control provisions. Examples of violations or suspected violations that may require notification are:

- Unauthorized foreign national access to export-controlled materials [technical data, technology, commodities, software or defense services]
- Violations of license requirements

It is important to let regulators know when, where, and how export-controlled materials are compromised, so that countermeasures might be taken to neutralize or minimize potential adverse national security impacts, as appropriate. These disclosures can be considered as a mitigating factor in determining criminal, civil, or administrative penalties that may be imposed. Both regulatory agencies recognize that making voluntary disclosures is a sign of a healthy and vital export compliance program. NASA has a long history of close coordination with the export control regulatory agencies regarding voluntary disclosures.

[38] The DOS uses the term "voluntary disclosure" while the DOC uses the term "voluntary self-disclosure".

IMPORTANT: It is the responsibility of all NASA employees to notify their CEA if they have knowledge of or suspect a potential violation of any export control provisions of the ITAR or EAR.

It is the responsibility of all NASA employees to notify their CEA if they have knowledge of or suspect a potential violation of any export control provisions of the ITAR or EAR. This notification is the first step in the overall voluntary disclosure process. Once informed, the CEA immediately notifies the HEA of the potential violation and proceeds to gather the information surrounding the incident. Once the HEA has been notified of a potential voluntary disclosure, he or she will notify the Headquarters Export Counsel and NASA senior management, as well as the Office of the Inspector General (OIG), as appropriate. He or she then directs ECILD to enter the case into the ECSD and assign a NASA case tracking number. The case number identifies the Center, the calendar year, and number of disclosure within the same year. In addition to documenting this case in the ECSD, ECILD also creates an electronic file folder to maintain all correspondence associated with the case in accordance with 22 CFR §122.5 and 15 CFR §762.6.

Within five days of initial notification, the CEA prepares a statement of the incident and reviews the case with the HEA to determine if there is, in fact, a violation that requires a disclosure to either DOS or DOC, depending upon the type of export violation. The incident summary should explain when, where, and how the potential violation occurred, as well as the parties identified and their roles as specified in 15 CFR §762 and 22 CFR §127.12(c)(2). Also, any interim or permanent actions undertaken to prevent recurring or future violations should be described.

The CEA and HEA will review the facts, and determine, within 30 days of the CEA's initial summary submission, whether a voluntary disclosure or notification is warranted. If it is determined that there is no violation, correspondence to this effect is provided to the CEA by the HEA, and the case is closed in the ECSD, with supporting documentation filed in the electronic file folder.

However, if warranted, the HEA may request additional information and submit an initial notification of potential voluntary disclosure to the appropriate regulatory agency (DOS for ITAR matters; DOC for EAR matters), as well as to NASA's OIG. A copy of this notification is provided to the CEA, the Center Director, the Associate Administrator for International and Interagency Relations, and the Assistant Administrator for Protective Services. The CEA may continue his or her investigation, but is formally tasked by the HEA to submit a final report of findings to the HEA within 30 days of submission of the initial NASA voluntary disclosure

notification to the regulatory authority. The HEA prepares and submits a formal voluntary disclosure to the appropriate regulatory agency and to the NASA OIG within 60 days of the initial voluntary disclosure notification.

Voluntary disclosures, which are prepared and submitted pursuant to section 15 CFR §764.5 of the EAR and section 22 CFR §127.12 of the ITAR, generally include the following elements:

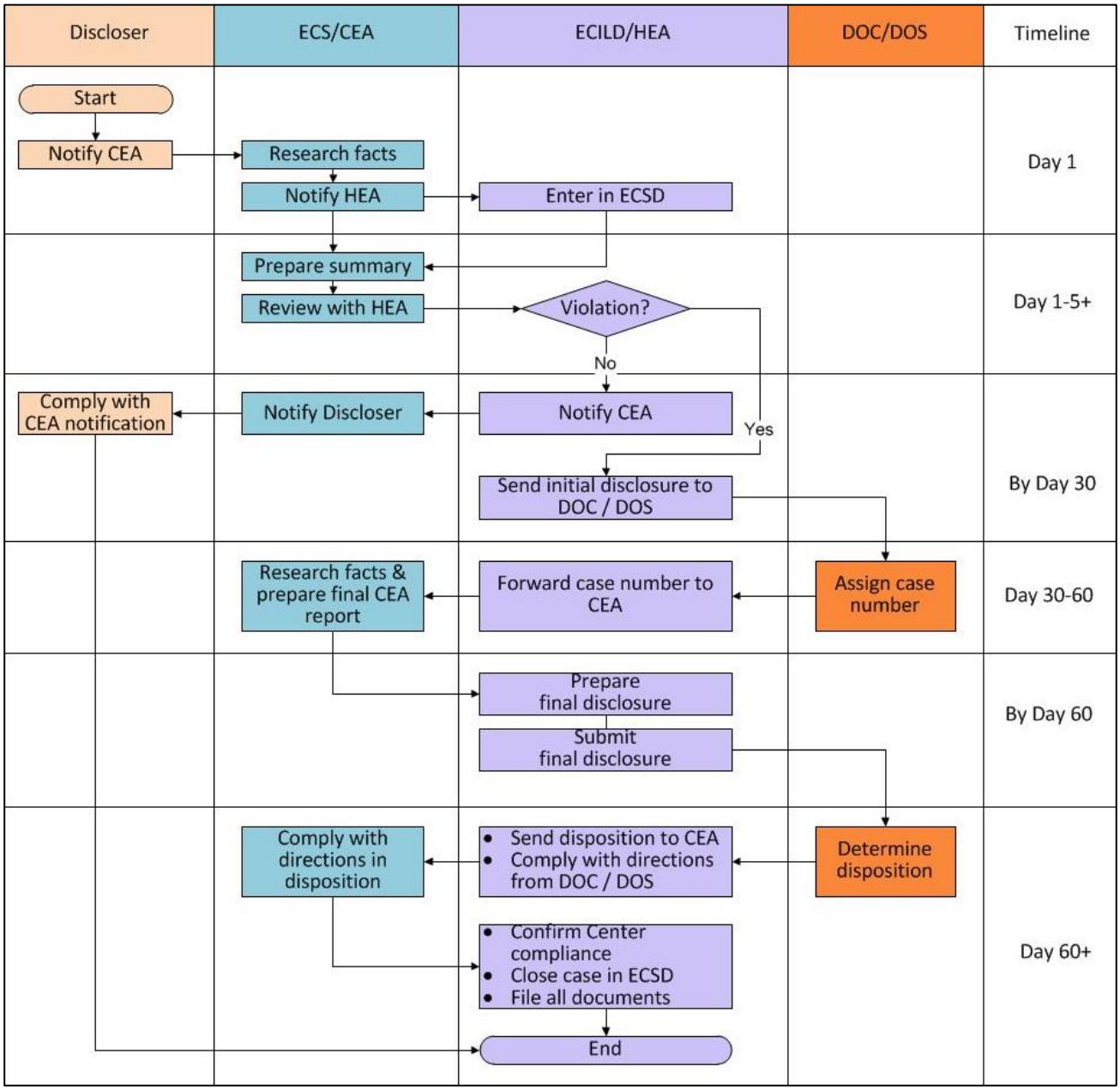
- A description of the nature of the violation
- The circumstances surrounding the violation (i.e., why, when, where, and how the violation occurred)
- The identities of all persons involved in the activities giving rise to the violation
- Any relevant regulatory licenses or authorizations involved
- The commodities, software, technical data, technology, and/or defense services involved
- A description of corrective actions undertaken to address the causes of the violations and how these corrective actions will deter similar violations in the future

After the appropriate regulatory agency has been provided the final disclosure document with a full narrative account and supporting documentation, the regulatory agency responds by acknowledging receipt of the disclosure notification with official correspondence that assigns a case number for tracking purposes and a point-of-contact with the relevant contact information.

Once ECILD has received the regulatory agency disposition on the case, the responsible CEA is notified and measures are taken to comply with additional directions provided by the regulatory agency, as appropriate. The HEA will confirm that the relevant Center has complied with the disposition. Once the HEA receives confirmation, he or she closes the case in the ECSD and all documents are filed in the NASA HQ electronic case file folder.

See Figure 21: Process for Voluntary Disclosure.

Figure 21: Process for Voluntary Disclosure



3.7. PROCESS FOR LOST OR STOLEN EXPORT-CONTROLLED COMMODITIES

When a CEA is notified about lost or stolen export-controlled material, he or she should begin the process of collecting information surrounding the event, ascertain which export-controlled information may have been compromised, and prepare a report for ECILD. The HEA, if necessary, would notify the appropriate regulatory authority.

3.8. PROCESS FOR AUDITING

ECILD oversees annual audits of NASA's ECP compliance. The purpose of the audit is to ensure adequacy of the overall NASA ECP, verify via sampling that required screening and licensing procedures are regularly followed, and to ensure that required documents are maintained in compliance with the requirements of the ITAR and the EAR. The audit verifies that appropriate records of all exports or transfers effected in support of NASA international programs and activities with foreign persons are maintained in accordance with NPD 2190.1 5(d) and NPR 2190.1 Chapter 7.

In accordance with NPD 2190.1, each Center Director will designate a qualified individual as an Export Control Auditor (ECA) to annually review the operation of the NASA Export Control Program at that Center during the previous calendar year. The individual(s) selected by the Center Director to serve as the Center ECA to perform the Annual Audit should have received audit training and have previous auditing or inspection experience. At a minimum, the appointed auditors should have participated in an ISO 9000 internal auditor course or other comparable auditor training. Individuals without appropriate training should not be selected, except in exceptional circumstances. The selected ECAs must not have directly performed any of the actions that are being audited. Furthermore, the ECA must not be an individual (civil servant or contractor) whose performance is evaluated by someone in the Center's Export Control organization. Center Directors should make ECA appointments in writing, and CEAs should inform the HEA of such appointments, as early in January of each year as possible.

Each January, the HEA transmits audit guidance to the CEAs indicating the date by which audits of the previous calendar year are to be completed and forwarded to ECILD (see NPR 2190.1 Paragraph 7.2). The HEA also provides specific information that is to be the focus of the ECA in the form of an audit module NPR 2190.1 Paragraph 7.3.1.h. The CEA ensures that the HEA audit guidance is provided to the ECA. The CEA forwards the final audit report to ECILD within 60 days from the receipt of the final report. The HEA ensures that the results of the audit reports are reviewed, analyzed, and presented during the Agency's Annual ECP Review to

highlight program strengths and weaknesses with a focus on opportunities for program improvement. Center Directors oversee disposition of the findings from this audit.

3.9. PROCESS FOR INTERAGENCY REVIEW OF STATE LICENSES

In addition to submitting license applications to the DOS for export licenses, NASA participates in the DOS interagency license approval review process. When DOS DDTC receives a NASA-related license application, such as from industry, it requests NASA to review and comment, asking for the Agency's recommendation for approval or approval with provisos, Return Without Action (RWA), or denial. This license review process provides NASA with an opportunity to ensure Agency equities and programmatic objectives are appropriately addressed in export license applications that support NASA program execution. The review process starts when ECILD receives a license application for review from DDTC for a permanent export license (DSP-5), temporary import license (DSP-61), temporary export license (DSP-73), general correspondence license (GC), or other regulatory submissions from DOS through the U.S. Exports System (USXPORTS). NASA must respond within 15 calendar days of the DDTC staffing date, to ensure NASA's recommendations are considered by DDTC in its license review and approval process. Upon receiving a request, ECILD:

- Records the receipt of the request in the ECSD,
- Scans the application documentation and generates an electronic file,
- Determines the appropriate internal reviewers and contacts the appropriate Mission Directorate(s) and the CEA(s) to coordinate the reviews,
- Works with the Mission Directorate(s), CEA(s), and the reviewers to prepare Agency's response,
- Submits Agency's response to DOS, and
- Records the completion of the action in ECSD.

IMPORTANT: All NASA reviewers of DOS licenses must have NASA encryption capability.

CHAPTER 4: EXPORT CONTROL TRAINING PROGRAM PLAN

4.1. TRAINING OVERVIEW

NASA's Export Control Training Program focuses on the effective implementation of Agency's Export Control Program (ECP) in accordance with NPR 2190.1 and NAII 2190.1. NASA's Export Control Training Program has been established to improve and maintain an export control program that is focused, current, and relevant to the successful execution of NASA missions while assuring compliance with U.S. export laws and regulations.

NASA's Export Control Program Training Plan focuses on Agency-wide training to provide:

- Export compliance and control awareness for all personnel
- Knowledge and practice of export control processes, steps, and tasks which increase understanding of export control and improve personnel performance
- Increased awareness of behaviors and attitudes identified as illegal and/or undesirable by the Agency such as complacency and disregard of NASA's mission requirements and compliance with U.S. export laws

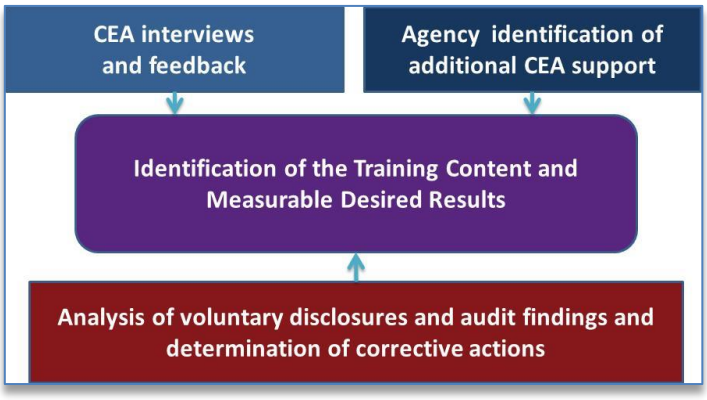
The processes published in this manual are the pivotal and primary link between the NASA policies and requirements and the Export Control Program Training Plan.

4.1.1. IDENTIFICATION OF THE TRAINING NEED

There are three primary sources used to identify what training is needed:

- CEA interviews and feedback
- Agency-identified needs for additional support for CEAs and ACEAs
- Analysis of Voluntary Disclosures and audit findings

Figure 22: Identification of Training Needs



The information within the Voluntary Disclosures and Audit Findings is critical to performing a training analysis which provides vital information required to unravel the problems or issues and identify gaps in the learner's knowledge and understanding of job tasks. It provides a foundation for building the training requirements for tasks and supporting tasks, and identifies the training necessary to improve performance. The ultimate goal of this analysis is to identify the "first" wrong step taken that led to the undesirable result.

At times, NASA may find it necessary to develop additional training for CEAs and ACEAs that builds knowledge and skills for specific tasks to enable CEAs and ACEA s to assist with distribution of workload and relieve Agency personnel.

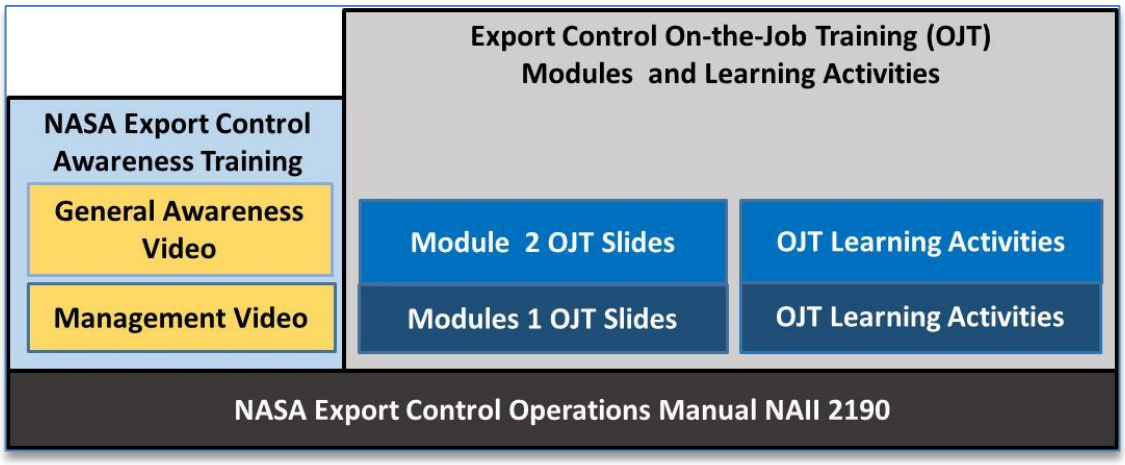
CEAs and ACEAs are the best sources for identifying "real-world" export control problems. The questions others ask of them, and the CEAs' areas of concern should provide insight. Regular communication with CEAs is an important part of future development.

4.2. ORGANIZATION OF THE TRAINING

The Operations Manual is the foundation and knowledge base (content) for the current and future training development.

Figure 23 represents NASA's current development of the training program described in the following sections.

Figure 23: NASA's Export Control Training Program



4.3. Export Control Awareness Videos

The Awareness Videos are available in SATERN. One is geared for senior management and the other is for the general NASA population; they both provide an overview of U.S. export control laws and regulations as they pertain to NASA and its programs and focus on the basic concepts and terminology of export control. The videos can be used in the classroom, or online for new staff/hires to begin their basic awareness and familiarization with the field of export control in NASA.

- Senior Management Awareness Training SATERN Course ID: AG-ECP-001
- NASA Export Control Awareness SATERN Course ID: HQ-NASA-EXPCONT

4.4. Export Control Processes: On-The-Job Training Modules And Learning Activities

NASA's On-the-Job Training (OJT) modules identify the processes, tasks and the steps in the processes, and identifies roles and responsibilities for completion of those tasks.

Module 1 presents the necessary understanding of concepts and terminology. When everyone across the Agency has the same understanding of terms, confusion is minimized and less time is needed to effectively address the larger issues that require our attention. Module 1 and the related learning activities are available in SATERN: SATERN Course ID: AG-EXPCONTRL-TRAINING-M1

Module 2 topics present the steps in the processes related to tasks. Inputs from all subject matter experts have verified the content of the training development of Modules 1 and 2.

4.5. CHANGING DEVELOPMENT TO ADDRESS CHANGING NEEDS

The instructor-led training slides (Modules 1 and 2) present the knowledge from the NASA Export Control Program Operations Manual (Chapters 1 and 2, respectively) and are an important part of the training. While presenting the training slides, the instructor should provide Center-specific scenarios and examples to enhance the learner's understanding of how the knowledge is applied. Depending on the instructor's knowledge, experience, and time available to present the training, the training could be more passive or more active. Taking the training slides online does not provide the learner an active learning environment.

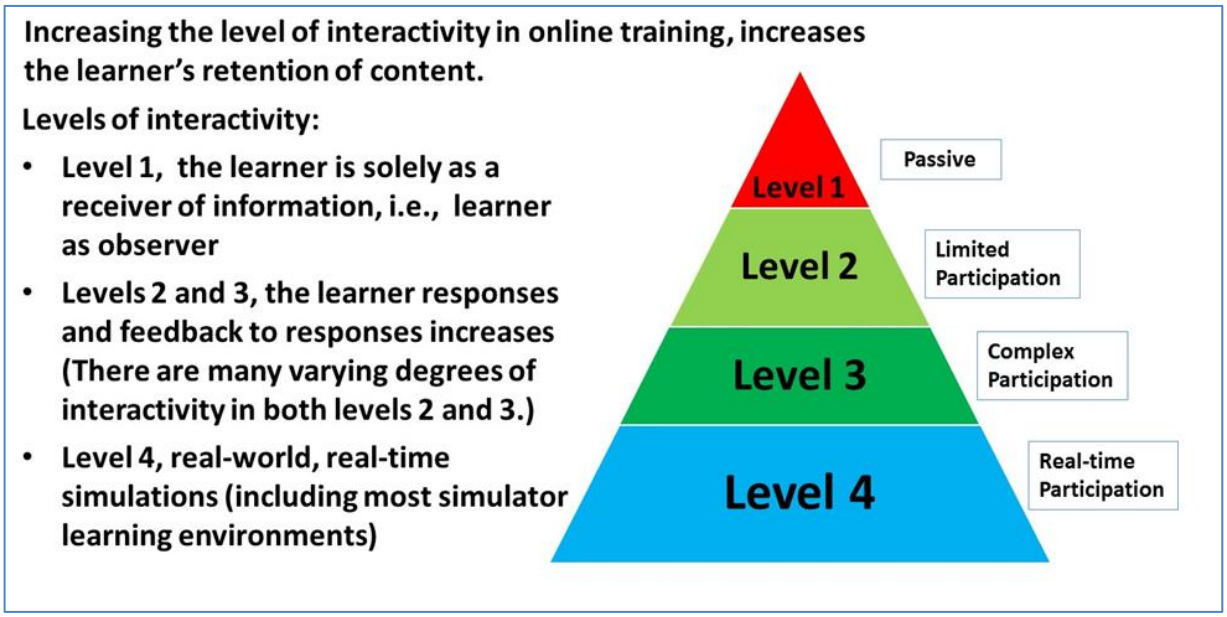
In Modules 1 and 2, the most active learning occurs when learning activities (LAs) are used. The LAs were developed to provide practice for performing tasks and opportunities to think through scenarios and determine actions/decisions. These activities relate to "Agency-wide" export control knowledge and concepts that apply to "all" personnel that have export control responsibilities.

Based on CEA interviews and Agency inputs on Modules 1 and 2, future training development needs to provide more online training rather than instructor-led training. In order to provide an engaging and active learning environment, the amount and level of interactivity will need to be increased.

4.5.1. INCREASING THE LEVEL OF INTERACTIVITY

The level of interactivity (LOI) is the level of active learner participation. Raising the level of interactivity in online training creates a more active learning environment and results in longer retention of content. Within each level, there are varying degrees of interactivity and use of multimedia to facilitate the learning environment.

Figure 24: Increasing the Level of Interactivity (LOI)



LOI 1 Examples: Watching the Export Control Awareness Videos, or viewing a computer-generated multi-media animation of technical equipment operation.

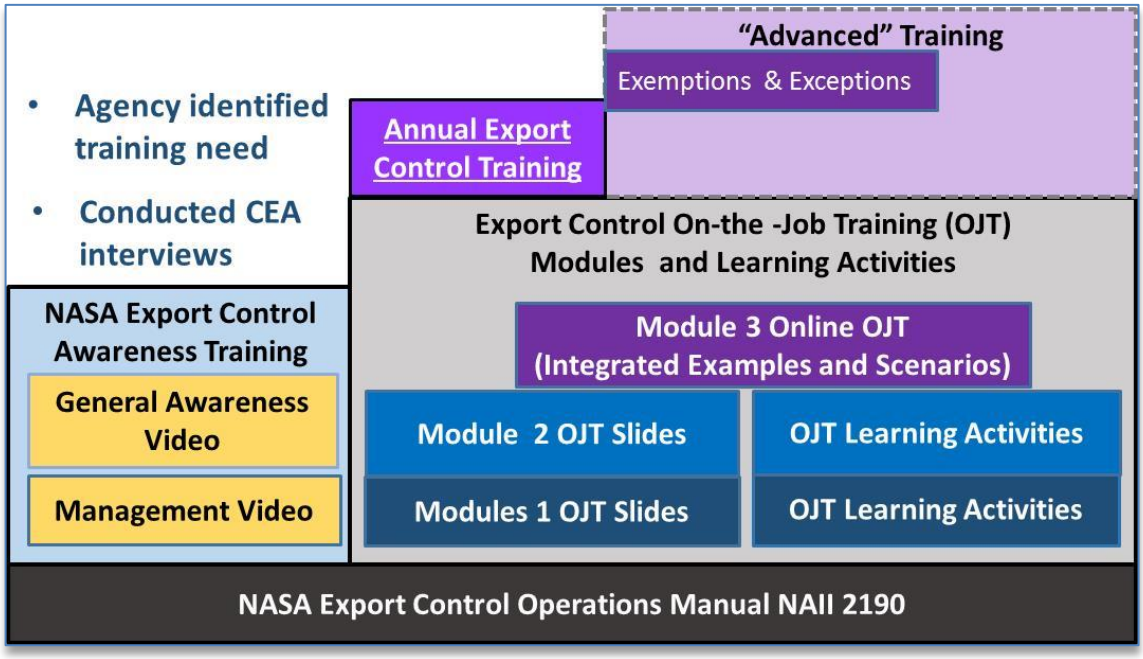
LOI 2 Examples: The simplest example would be using knowledge checks throughout the module. The following is an example of a more complex use of LOI level 2. The learner is presented with a scenario, asked to determine if an exemption or exception should be used for the export and the learner makes selections from available options. (Questions are asked, decision-making criteria is available and selectable on-screen for review), the learner continues to make decisions/selections, until arriving at a results screen. Feedback can be provided via the results screen using various delivery methods.

LOI 3 Example: Computer simulation of a task with many steps which the learner must perform in the correct order at correct time, e.g., Orbital Maneuvering System (OMS) burn on the shuttle. Learner sets dials and switches, watches gauges and lights which change based learner actions/responses; learner follows procedures from a manual or list; makes choices to move switches; learner hears two alternating audios, one provides instructions from command control center, and the other provides sound feedback (alarms) for right and wrong choices, learner makes final decision to start and stop OMS burn based on feedback.

LOI 4 Examples: Real-world, real-time simulation of task performance; live situation or full-simulator experience.

4.6.FUTURE EXPORT CONTROL TRAINING DEVELOPMENT

Figure 25: Future Training Development for Export Control



4.6.1. Module 3 of the Export Control Processes: On-the-Job Training

Topics in Module 3 will be developed as online training and will provide interactive exercises within the training for CEAs, ACEAs, and all ECS to complete. Individual (or grouped) topics in Module 3 will be released on SATERN as they are completed rather than released when all topics in Module 3 are ready. The following priority list of topics based on Chapter 3 of the NAII 2190.1 was established as a result of CEA interviews and Agency inputs:

- Exemptions
- Exceptions
- Jurisdiction and Classification
- Release of Information/STI reviews
- Remaining topics in Chapter 3

4.6.2. INITIAL/REFRESHER EXPORT COMPLIANCE TRAINING

The Initial/Refresher Export Compliance Training is going to be an online course intended to replace the Export Control Training from 2006 that is still available on SATERN. It will provide cases, examples, and scenarios within the training; interactive exercises will be presented as opportunities to practice tasks rather than as separate learning activities.

4.6.3. "ADVANCED" TRAINING

The Agency has identified a priority training need for CEAs and ACEAs on the topic of "Using Exemptions and Exceptions".

Although Module 3 will provide most of the knowledge base for Exemptions and Exceptions, the "Advanced" training will provide a deeper-dive on the topic, and will include an interactive component. The goal of the "Advanced" training is to provide the rationale behind the decisions and practice arriving at a correct solution. Ideally, multiple cases and examples will be provided, followed by multiple scenarios, questions and criteria to review, and decisions to make in determining the solution for each scenario.

Using the Learning Management System (LMS) on SATERN will provide the means to save the results of the multiple decisions (i.e., the entire decision path) and provide the learner with options to review each decision. The LMS makes it possible to download and/or print each of the decisions, steps, and rationale for learners to use as a reference.

Table 8: Summary of EC Program Training

NASA's Export Control Program Training Plan				
Training Product	**Audience and Description**	**Media Selection**	**Level of Interactivity 1-4 (LOI)**	**Recommended Frequency and Tracking**
Awareness Training				
NASA's Export Control Awareness 	Audience: New NASA employees and contractors Description: 7-minute video covering basic export awareness information	Online/SATERN **SATERN Course ID: AG-ECP-001**	LOI 1	On boarding (new personnel)

EC Management Awareness 	Audience: Center & Mission Directors and their management staffs including Program & Project Managers Description: 7-minute video covering basic export awareness information	Online/SATERN) **SATERN Course ID: HQ-NASA-EXPCONT**	LOI 1	On boarding (new personnel)
NASA's Export Control Processes: On-the-Job Training				
NASA's Export Control Processes: On-the-Job Training **Module 1: Introduction** 	Audience: All Personnel Description: This module provides an overview of export control laws and regulations and NASA's Export Control Program and is the foundation for NASA's Export Control On-the-Job training modules 2 and 3. Note:	Online/SATERN and/or F2F with CEA Instructor **SATERN Course ID: AG-EXPCONTRL-TRAINING-M1**	LOI 2	As required and/or assigned by CEA; Completion of a topic/course is tracked by the LMS; A Completion Certificate is available to download or print from the Learning Plan history.
Learning Activities for Module 1:	Currently there are 2 Learning Activities (LAs) for Module 1 topics. Learning Activities may not be appropriate for every topic.	Online/SATERN (and/or F2F with CEA Instructor)	LOI 2-3	As required and/or assigned by CEA; Completion Certificate sent to CEAs and/or Center SATERN Coordinator
NASA's Export Control Processes: On-the-Job Training **Module 2: Processes for All Personnel** 	Audience: In general, all NASA personnel with potential involvement in exports on behalf of the Agency, or whose job may involve elements of export control including contractors including: ▪ Program & Project personnel ▪ Export Control Staff (ECRs and CERs) ▪ Points of Contact (POCs)	Online/SATERN or F2F with CEA Instructor **SATERN Course ID: AG-EXPCONTRL-TRAINING-M2**	LOI 2	As required and/or assigned by CEA; Completion of a topic/course is tracked by the LMS; A Completion Certificate is available to download or print from the Learning Plan history.

	Description: Module 2, has 12 standalone topics which may be assigned as appropriate by the CEA to personnel, or completed by individuals for professional growth in the field of Export Control.			
Learning Activities for Module 2:	Currently there are 9 Learning Activities (LAs) for Module 2 topics. Learning Activities may not be appropriate for every topic.	Online/SATERN (and/or F2F with CEA Instructor)	LOI 2-3	As required and/or assigned by CEA; Completion Certificate sent to CEAs and/or Center SATERN Coordinator
NASA's Export Control Processes: On-the-Job Training Module 3: Processes For NASA Export Control Staff	Audience: All NASA Center Export Control Staff (ECS) and others within programs and projects at the Centers, including Export Control Representatives and Center Export Representatives. Description: This module includes the detailed procedures and steps in the process to perform EC functional requirements; determining jurisdiction and classification; completing an AES filing; and other topics.	In development (estimated release date-first half of 2017) Online/SATERN	LOI 2-3	CEAs may determine and assign the topics within this module to ECS personnel, and others as appropriate. Completion of topic/course is tracked by LMS; A Completion Certificate is available to download or print from the Learning Plan history.
Initial/Refresher Export Compliance Training				
Initial/Refresher Export Compliance Training	Audience: NASA Center Export Control Staff (ECS) and others within programs and projects at the Centers Description: This training includes the basics of Export Compliance, Export Control terms and information, and provides integrated scenarios and exercises as opportunity to	Online/SATERN 50-55 min In development (estimated release date –2017)	LOI 2-3	As required and/or assigned by CEA. Completion of topic/course is tracked by LMS; Completion Certificate is available to download or print from Learning Plan history.

	apply knowledge presented in the training.			
"Advanced" Training				
NASA's Export Control "Advanced" Training: **Using Exemptions and Exceptions**	Audience: CEAs and ACEAs This training is being developed by NASA HQ to broaden CEA responsibilities to include determining the appropriate use of Exceptions and Exemptions Description: This training is being developed by NASA HQ to broaden CEA responsibilities to include determining the appropriate use of Exceptions and Exemptions; it is intended to provide CEAs with understanding of the criteria used to make these determinations. Additional topics may be added as determined by HQ.	TBD	LOI 3	TBD

4.6.4. RECOMMENDED: TRAIN-THE-TRAINER SERIES

Recommended as Video Teleconferences (ViTS) for Export Control Processes: On-the-Job Training Module 2 and 3 topics.

Description: Centers may not perform all functions identified in Module 2 topics but need to be familiar with changes in NASA policies and processes presented in the topics. The instructor presenting the Train-the Trainer ViTs may vary: HEA to CEAs; CEA who understands this functional area and has experience to share with other CEAs; other HQ personnel to CEAs; other instructors and formats. (Feedback from CEAs will determine areas of concern and how many to schedule.)

4.6.5. MAINTENANCE OF THE TRAINING CONTENT

Updates to content and changes to address identified knowledge gaps are part of the training maintenance cycle. A review and identification of issues (provided in voluntary disclosures and audit information) and feedback from learners and instructors is analyzed to identify the required changes and to perform the following tasks:

- Determine whether processes/content has been changed or requires changes
    - Identify what changes or additions to make to existing training
    - Determine if additional training development is required

4.6.6. TRAINING AS A RESOURCE

Although the learning activities were developed to be presented as classroom activities, that isn't the only way they can be used. For example, a Learning Activity in Module 1 presents short scenarios and asks the learner to determine if the scenario being described is an export. The second learning activity builds on the first by presenting scenarios and asking, "Is it an Export? Is it Export-Controlled?

If you have limited time to present instructor-led training (ILT), consider using some of the scenarios from the Learning Activities:

- Use as an introduction to your Center-specific training
- Use as a handout after presenting Module 1 in classroom
- Assign the online training slides and LA1; ask students to send their LA worksheet to you for your feedback

4.7. CENTER EXPORT ADMINISTRATOR (CEA) TRAINING

Within six months of appointment, CEAs should complete the NASA's Export Control Processes: On-the-Job Training Modules:

Module 1: Introduction

Module 2: Processes for All Personnel

CEAs should also complete the Initial/Refresher Export Compliance Training annually. The Department of Commerce's Bureau of Industry and Security hosts an online training room:

http://www.bis.doc.gov/index.php/compliance-a-training/export-administration-regulations-training/online-training-room

Newly-appointed CEAs are encouraged to fully utilize this in addition to training material provided by Headquarters export control staff.

CEAs are required to develop an Export Control Training Plan for their Center and annually provide the plan to the HEA.

CEAs are required to attend the Annual Export Control Program Review, as this includes topics important to maintaining compliance with export control regulations and provides best practices that are shared among the NASA export control community.

CEAs are required to attend the Quarterly Export Control Video Conferences, as these provide updates on NASA procedures, export control regulations, status on issues raised during the Annual Export Control Program Review, and provides opportunities for CEAs to raise additional issues or share important compliance information.

4.8. EXPORT CONTROL REPRESENTATIVE TRAINING

The CEAs are responsible to ensure that ECRs are well-versed in EC laws and regulations and with NASA's export control policies and processes. ECRs must complete the necessary training, such as the EC Processes: On-the-Job Training and any other Center-sponsored training for export compliance. ECRs are encouraged to attend the Annual ECP Review to keep abreast with the latest information that is shared with the broader EC community.

Some Centers conduct periodic export compliance training specifically targeting the ECRs, these training opportunities are a valuable resource for ECRs across all Centers and should be utilized whenever appropriate.

Supervisors may also encourage ECRs to obtain external training, as appropriate for their level of responsibilities pertaining to export control duties.

CHAPTER 5: IDENTIFICATION OF SENSITIVE TECHNOLOGIES & LOCATIONS FOR ADDITIONAL REVIEW

In response to recommendations made by the Government Accountability Office (GAO), NASA has committed to implement a risk-based approach to identifying technologies that warrant additional protection or attention, from an export control perspective. This involves the use of several existing sources of information that, when combined, will aid in risk-informed decision making when considering foreign national access, the need for employee outreach and training, and developing targets for follow-up assessments during annual audits and Integrated Functional Reviews. This process is known as "continuous risk management" (see Figure 21) and is further described in NPR 8000.4A "Agency Risk Management Procedural Requirements." Although this NPR is intended for programmatic or project-related risks, the principles of identifying, analyzing, planning mitigations, tracking progress, enforcing control, communicating and documenting can be adopted, in part, in managing export control risks.

Figure 26: Continuous Risk Management

NASA's export risk management approach, embraces principals outlined in NPR 8000.4A, NPR 1620.2, Facility Security Assessments, and NPR 1620.3A, "Physical Security Requirements for NASA Facilities and Property", in which the risk must be weighed against the cost and operational impact of implementing established minimum-security standards. Risk management is an integrated process of assessing the threat, vulnerabilities, and value of the

resource and then applying appropriate safeguards and/or recommending the assumption of risk.

The first step in this approach is to establish a Center-specific inventory of sensitive technologies. Each CEA should construct a listing of those facilities that, due to the sensitivity of the technology contained therein, warrant heightened attention. This listing will include a rationale for listing (such as NASA Critical Infrastructure (see NPR 1600.1A)), identified as a target of foreign collection, inclusion on the Wassenaar Arrangement Sensitive List, Very Sensitive List or Munitions List, or the Military Critical Technologies List (MCTL). A NASA infrastructure is to be considered critical, or a resource considered key, if its destruction or damage would cause significant impact to the security of the Nation — national economic security, national public health, safety, psychology, or any combination.

The NASA Office of the Chief Technologist has compiled a listing and description of NASA technology investments in their "TechPorts" website, an integrated, Agency-wide software system designed to capture, track, and manage NASA's portfolio of technology investments. TechPorts provides detailed information on individual technology programs and projects throughout NASA and is equipped with features that allow users to efficiently search and browse technology projects, identify technology gaps, and provide comprehensive technology reports. The Wassenaar Arrangement publishes their controls annually and are useful in identifying technologies that have more constrained export requirements.

DOD Instruction 5200.39, Critical Program Information Protection within the DOD, dated July 16, 2008, requires the Defense Security Services (DSS) to publish a report detailing suspicious contacts occurring within the cleared contractor community. A focus of this report is on efforts to obtain unauthorized access to sensitive or classified information. This annual report, *Targeting U.S. Technologies: A Trend Analysis of Cleared Industry Reporting,* constitutes part of DSS' ongoing effort to assist in better protecting the industrial base by raising general threat awareness, encouraging the reporting of incidents as they occur, identifying specific technologies at risk, and applying appropriate countermeasures.

Each Center CI Officer is required to develop an annual threat assessment based upon input from law enforcement and intelligence sources. These assessments also generally identify technologies or trends in technologies that are actively being sought by foreign sources. Together, these disparate sources can assist the CEA in making risk-based decisions on foreign national access and meet the need for heightened attention in audits and outreach.

As the CEA becomes aware of facilities containing sensitive technologies, they will be recorded on a list that will inform subsequent decisions on foreign national access, escort requirements for foreign nationals, or the need for focused export control training. This list will be updated regularly but no less than every two years with input from the CEA, local CI Special Agents, and the local IVC. Figure 27 provides an example of such a listing.

Figure 27: Center-Specific Inventory of Sensitive Technologies

Example Center-specific inventory of sensitive technologies

Technology	Location	Rationale: NCI, CI, WA SL, WA VSL, WA ML,	TechPorts Description	Foreign National Visitors	Foreign Participation	ACP	Remarks
Visible and Near Infrared Sensor Technology	GSFC Building XYZ	CI, WA SL	Y	Y	Y	Y	Collaborative project with ESA, international agreement and license in place, only FNs listed in ACP have access, conduct inperson annual export control outreach

NCI: NASA Critical Infrastructure
CI: Targeted Technology Reported by Counterintelligence
WA SL: Wassenaar Arrangement Sensitive List
WA VSL: Wassenaar Arrangement Very Sensitive List
WA ML: Wassenaar Arrangement Munitions List

APPENDIX A: EXPORT CONTROL CHECKLISTS

Checklist A: Export Authorization Request

Checklist A: Export Authorization Request	
1.	Name of Requestor: Click here to enter text.
2.	Work Address of Requestor: Click here to enter text.
3.	☐ Civil servant or ☐ Contractor
4.	Organization: Click here to enter text.
5.	What is the purpose of the export? Click here to enter text.
6.	Program/Project: Click here to enter text.
7.	Phone number: Click here to enter text.
8.	Identify the requirement (e.g., contract, grant, or agreement) in place that requires this item(s) to be exported. Click here to enter text. ☐ Send or attach a copy of the requirement document(s), if applicable.
9.	Is there a pre-existing export authorization? ☐ Yes or ☐ No
10.	If yes, what kind?
11.	☐ If a copy of the authorization exists, provide a copy and check this box when attached.
12.	Type(s) of transaction. If there are multiple items, attach a spreadsheet (see sample), and check all that apply: ☐ Hardware ☐ Software ☐ Technical Data ☐ Technology ☐ Defense Service
13.	Enter a general description: Click here to enter text.
14.	☐ Attach a technical description of each item to be exported.
15.	Quantity of the item(s) and unit(s) of measure: Click here to enter text.
16.	Jurisdiction(s): Click here to enter text.
17.	Classification(s): Click here to enter text.
18.	Include model or part number: Click here to enter text.
19.	Manufacturer's name: Click here to enter text.
20.	Manufacturer's address: Click here to enter text.

21.	☐ Send or attach a picture or drawing of each item as a PDF file
22.	Where was the item made? Click here to enter text.
23.	Where did it come from? Click here to enter text.
24.	Where will it be shipped from? Click here to enter text.
25.	Enter the value for each item: Click here to enter text.
26.	Organization of ultimate destination: Click here to enter text.
27.	Address of ultimate destination: Click here to enter text.
28.	Name of end-user: Click here to enter text.
29.	Identify (or describe) the end-use:
30.	Methods of export for each item: Click here to enter text.
31.	Anticipated U.S. port of exit, if applicable: Click here to enter text. ☐ NA
32.	Anticipated U.S. port of return, if applicable: Click here to enter text. ☐ NA
33.	List all parties (U.S. and foreign) who will be involved in this export. Include a spreadsheet if multiple parties are involved. Name(s): Click here to enter text. Organization(s): Click here to enter text. Address(es): Click here to enter text. Role(s) they play in export(s)[39]: Click here to enter text.
34.	When do you want to export? Click here to enter text. When do you need the authorization by? Click here to enter text. Impact if anticipated date is not met? Click here to enter text.
35.	If this is a temporary export, when do you think it is coming back? Click here to enter text.

[39] EXAMPLE: If the export is a commodity being shipped in a box, will the person move the box? Open the box? If the export is technical data, is the person exporting via email or over telephone? ECS needs to know exactly what each person's involvement with the export is.

36.	If this is a loan, review and comply with the procedural requirements of NPR 4200.1G, paragraphs 3.4 and 3.5.

Checklist B: Gathering Information for IdMAX Entry

Checklist B: Gathering Information for IdMAX Entry		
☐	**1.**	Name of Requestor: Click here to enter text
☐	**2.**	☐ Civil servant or ☐ Contractor
☐	**3.**	Organization: Click here to enter text
☐	**4.**	Program/Project: Click here to enter text
☐	**5.**	Phone number: Click here to enter text
☐	**6.**	Full legal name of the Visitor: Click here to enter text
☐	**7.**	Gender ☐ M ☐ F
☐	**8.**	Visitor's Residential Address (include country): Click here to enter text
☐	**9.**	Country and date of birth: Click here to enter text.
☐	**10.**	Country of Citizenship: Click here to enter text
☐	**11.**	Does Visitor have dual citizenship? ☐ Yes ☐ No If yes, enter country(ies): Click here to enter text.
☐	**12.**	Social Security Number (SSN) if available: Click here to enter text. Or Foreign Identification Number (if no SSN available): Click here to enter text.
☐	**13.**	Passport Information/Identification Number; include a digital copy: Click here to enter text.

☐	**14.**	Visa Type[40]; include a digital copy: Click here to enter text.
☐	**15.**	Employer and/or affiliation: Click here to enter text
☐	**16.**	Employer Address: Click here to enter text Work phone number: Click here to enter text. Work email address: Click here to enter text.
☐	**17.**	Name of sponsor: Click here to enter text
☐	**18.**	What is the purpose of the visit? ☐ Interview ☐ Research Assignment ☐ Meeting or conference If the purpose of the visit is for an interview or a research assignment, upload the applicant's resume and/or curriculum vitae, if available, to IdMAX.
☐	**19.**	Is this a high-level protocol visit[41]? ☐ Yes ☐ No
☐	**20.**	Dates and/or period of time for the visit: Click here to enter text
☐	**21.**	NASA facility (physical) access required for the visit: ☐ NA Click here to enter text.
☐	**22.**	NASA IT or data access required for the visit (on-site and/or remote): ☐ NA Click here to enter text.
☐	**23.**	How long has the visitor/applicant lived or worked in the U.S? ☐ greater than 3 years ☐ less than 3 years ☐ Never

[40] If the purpose of the foreign national's visit is to perform research for the benefit of NASA, they are usually admitted on an F, H, or J visa. A B1/B2 (business/pleasure) visa or, visiting under the Visa Waiver Program (VWP), are NOT acceptable authorities for purposes of research performed for the benefit of NASA. A complete list of visa type and respective elements for review in included in Appendix B-1.

[41] Per NAII 1600.4, a high-level protocol visit is an event or meeting attend by individuals representing, or delegations of, foreign heads of state or government, ambassadors, heads of foreign government ministries or space agencies.

☐	**24.**	Provide a work description. Include the program(s)/project(s) the person will support and what tasks/technologies that will be involved: Click here to enter text.
☐	**25.**	Foreign National needs to work outside the normal business hours (8 AM to 6 PM) Specify hours and justification. Click here to enter text.
☐	**26.**	Identify export-controlled items included in the project/program ☐ NA Click here to enter text
☐	**27.**	Export-controlled items NASA is required to provide to the foreign national per the agreement or contract? ☐ NA Attach the agreement or contract in IdMAX "Document" tab, if available: Click here to enter text.
☐	**28.**	Means of export or transfer (hand-carry, ship, oral, electronic, emails, etc.): ☐ NA Click here to enter text.
☐	**29.**	Foreign national applicant requires access to EAR or ITAR data. (Requires an export authorization) Coordinate with your export control staff. ☐ NA Attach the corresponding export authorization (license, license exemption, license exception, or No License Required (NLR) in IdMAX "Document" tab, if available. Click here to enter text.
☐	**30.**	Does the applicant require access to missile technology data or ITAR detailed design, development, production, or manufacturing data? ☐ Yes ☐ No If yes, provide DOS license information. Click here to enter text.

Checklist C: Suggested Best Practices for Meetings with Foreign Persons

The best practices in this checklist are applicable to all meetings with foreign persons, but have a specific focus on meetings with foreign persons where EXPORT-CONTROLLED information will be shared. **In the context of hosting a meeting, the NASA host is the single responsible for calling the meeting, setting the agenda, inviting the participants, and ensuring that the meeting complies with NASA policies and procedural requirements.**		
Prior to the meeting, the host is responsible for ensuring that:		
☐	1	The proper export authorization(s) are in place through coordinating with the presenters and ECS
☐	2	The scope of the planned meeting is within the parameters of the export authorization(s) and is communicated to all participants, as necessary
☐	3	All U.S. participants know the authorizations and limitations for the release of export-controlled information Contractors are responsible for ensuring their participation remains within the scope of their export authorization(s)
☐	4	An attendee roster of all foreign person participants has been generated. The roster should include, at minimum: name, nationality(s), and affiliation—all attendees must be accounted for.
☐	5	A full list of foreign national attendees has been provided to the IVC, and approved through IdMAX for both on-site and off-site meetings with foreign persons at least two weeks in advance per NAII 1600.4, sections 2.5 and 3.6.
☐	6	All U.S. participants have been provided a list of all foreign persons and their organizations at least two weeks in advance so they can also evaluate their export authorizations.
☐	7	All required export authorization(s) are evaluated against the list of foreign persons to determine what information can be provided to each individual or organization.
☐	8	Advance notification has been provided to foreign persons if they are not authorized to attend a particular session or an entire meeting; this is for planning purposes and to properly set expectations.
☐	9	All materials for presentations and discussions have been reviewed, approved, and appropriately marked for each of the following types of materials: ▪ Export-controlled materials (reviewed and authorized by the ECS) ▪ STI materials (per the NPR 2200.2C; contact Center STI Manager for guidance)

		▪ Non-STI materials (e.g., using NASA Form 1676; contact ECS for guidance)
☐	10	Someone has been designated to make a record of the meeting.
☐	11	*For meetings with foreign persons conducted via teleconference or video teleconference using platforms such as WebEx, ViTS, Skype, etc.* ☐ This meeting is not a teleconference or video teleconference. Go to Item 12. *Prior to the meeting, the host ensures that:* ☐ There is a trusted agent at each location who will call in and be responsible for identifying and vetting attendees against the requirement(s) and authorization(s). ☐ The name and phone number of each trusted agent has been received by the host. ☐ The trusted agents are provided with written instructions to prevent the unauthorized release of export-controlled information. ☐ Available technology is used to track the names and phone numbers of participants calling in to prevent rogue call-ins. ☐ An ECS representative has been invited to ensure compliance with export control requirements.
While conducting the meeting, the host should ensure that:		
☐	12	All attendees sign the roster (if meeting is held on-site) or conduct a roll call (if meeting is being held remotely) to verify that all present are authorized to attend.
☐	13	At the start of the meeting, participants have been reminded that foreign persons are in the meeting and that all participants should remain within the scope of their respective export authorization(s).
☐	14	Attendees who join after the meeting begins have been approved to attend and sign in. All foreign nationals who join after the meeting begins must be on the approved list and should be announced, as appropriate.
☐	15	Door monitors have been appointed whenever the meeting involves export-controlled information and the meeting size is beyond the capability of the host/sponsor to monitor participants entering and exiting the meeting. Monitors should control physical access as well as telephone access.

☐	16	Walk-on presentation materials are not presented or discussed unless they have been reviewed and approved (See #9).
☐	17	The designated person (or someone) is actually making a record of the meeting.
☐	18	Handouts containing export-controlled information are tightly controlled.
☐	19	Trusted agents generate attendee rosters for the meeting at their locations.
At the conclusion of the meeting, the host should ensure that:		
☐	20	Export-controlled materials (hardcopy or electronic) are not left unattended.
☐	21	Trusted agents forward the rosters to the host/sponsor after the meeting
☐	22	Meeting records are retained; records include: attendee roster, date, time, location, presentation materials, presentation packages, and meeting minutes. The records should list export/release authorizations (by reference if available, e.g. the license, exemption, exception, No Licensed Required (NLR), Technical Assistance Agreement (TAA), Document Availability Authorization (DAA), NASA Form (NF) 1676, or Export Record numbers).

Checklist D: Guidance for Export Control Review for STI Release

Is the information in a publicly available document that was appropriately released such as NASA directives, NASA technical engineering, or safety standards?	**☐Yes**	**☐ No**
Is the information high-level program schedules, budget information, or organizational information?	☐ Yes	☐ No
Is the information presently in the public domain?[42]	☐ Yes	☐ No
Is the information considered general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities?	☐ Yes	☐ No
Is the information considered basic marketing information on function or purpose or general system descriptions?	☐ Yes	☐ No
If you answered "Yes" to any of the above questions, the information does not include export-controlled content. If you answered "No" to all questions, proceed filling out this Checklist.		
Will the information be released to a limited audience via a NASA International Agreements?	☐ Yes	☐ No
Does the information you're reviewing have dissemination restrictions (i.e. For NASA Internal Use Only)?	☐ Yes	☐ No
Does the information concern a "defense article" on the USML or on the MTCR Annex? (See Appendix B-4 for defense articles frequently handled by NASA.) **If "Yes", does the document contain technical data related to the defense article?**	☐ Yes ☐ Yes	☐ No ☐ No
Does the information concern an item on the CCL? (See Table 2.) **If "Yes" does the document contain technology related to the commodity?**	☐ Yes	☐ No
If you answered "Yes" to any of the above questions, export-controlled information is present in the material and cannot be fully released.		

[42] Best practice: ECS may document where that information is published or list the previously approved DAA Number.

Checklist E: Commodity Jurisdiction

This checklist is provided to assist program managers provide the CEA information required to complete the DS-4076. The CEA will use this information to compose a Commodity Jurisdiction (CJ) request to DDTC. The following checklist will be used to help export control determine the commodity jurisdiction (ITAR or EAR) and export control classification (USML category or ECCN) of a specific commodity (see 22 CFR §120.4). An export control official will use this determination to provide guidance needed to export the commodity.

Answer the questions about the commodity and provide historical information and realistic projections/predictions as requested. Provide detailed supporting documentation (e.g. technical data sheets, Launch and Return Orbital Data Sheets (LRODS), schematics, diagrams, that describes and explains the functions, purposes, use and features of the commodity. Include a non-technical description of the commodity, functions, purpose, use etc.

Note: If the commodity is in a developmental or prototype stage, answer the questions for the current status of the commodity. Only one commodity may be entered on a checklist; different development stages of commodities require separate checklists. A new checklist is not required when the major characteristics and descriptive information of the commodity or a family of commodities are essentially the same.

Block 5. Commodity Service Information	
☐	Select: end item (i.e. car), component/major (i.e. car frame), component/minor (i.e. car seat), part (i.e. seat buckle), accessory/attachment (i.e. floor mat), software, firmware, services (i.e. performance of oil change), system (components/parts require to perform specific function: i.e. ignition system - to ignite fuel and make car run), information or technical data (i.e. car repair manual) (If none, explain.) Click here to enter text.
☐	Product Name: Click here to enter text.
☐	Model/Version Number (If none, explain.): Click here to enter text.
☐	Part number (If none, explain.): Click here to enter text.
☐	Other identifier: Click here to enter text.

☐	Manufacturer: Click here to enter text.	
☐	Generic description: Click here to enter text.	
Block 6. Additional Commodity Information - Patent Information and Documentation		
☐	Cost per unit (Acquisition cost): Click here to enter text.	
☐Yes	☐ No	Is the commodity the subject of a patent license or provisional patent? If "Yes", describe the status of and Center patent attorney, patent number, if applicable below. Documentation (to be attached) should include: technical information, schematics, drawings, blueprints, training materials, etc. Click here to enter text.
Block 7. Commodity's Use		
☐	Describe in non-technical terms, what it does, how it operates, and the components/system in which it is used and all current uses). Specify if the commodity and any associated information is currently controlled or restricted for public release by the U.S. Government and/or if the commodity and any associated information has been restricted for public release in the past. Click here to enter text.	
Block 8. Special and/or unique characteristics/capabilities.		
☐ Yes	☐ No	Designed to military or intelligence standards or specifications?
☐ Yes	☐ No	Designed for military application?
☐ Yes	☐ No	Special characteristics (i.e. hard points, thermal or infrared signature reduction capability, surveillance or intelligence gathering capability)?

☐ Yes	☐ No	Commercial item modified for military application? If "Yes", how are the two items differentiated? Click here to enter text.
Identify all military applications and military capabilities of the product and equivalent products used for military application: Click here to enter text.		
Provide, in non-technical terms, details of special characteristics (i.e. provide level of technology such as Gen II, Gen III): Click here to enter text.		
Explain if the commodity to be classified is considered specially designed, as defined in the 22 CFR §120.41(a) or §120.41(b). Click here to enter text.		
Block 9. Product Origin – Answer for all current and previous versions.		
☐ Yes	☐ No	Originally designed or developed for a military or intelligence use?
☐ Yes	☐ No	Originally civil and subsequently adapted, configured or modified for a military or intelligence use?
☐ Yes	☐ No	Originally military or intelligence and subsequently adapted, reconfigured or modified for commercial use?
☐ Yes	☐ No	Specifically define the modifications/changes and capabilities removed or added to the commodity. List any differences in form, fit and/or function between the modified and the unmodified versions: Click here to enter text.

Block 10. Status of Product Development		
☐ Yes	☐ No	In development? If "Yes", provide explanation: Click here to enter text.
☐ Yes	☐ No	In use? If "Yes", provide explanation: Click here to enter text.
Block 11. Funding History		
☐U.S. Government agency ☐Foreign government agency ☐US or foreign contractor ☐Self-funded ☐University funded	Select funding source(s) from the list to the left. Include historical, current and potential funding sources. Provide explanation. Include funding source contract or subcontract number and supporting documentation. Click here to enter text.	
Block 12. U.S. and/or foreign availability of <u>identical</u> products **Select none or provide the following information for each foreign source.**		
☐None ☐Manufacturer: Click here to enter text. ☐Model #: Click here to enter text. ☐Explanation/description: Click here to enter text. ☐Supporting documentation attached or link to website provided Click here to enter text.		

Block 13. Sales Information
Provide sales information, include historical, current and projected sales information. Who are the historical, current and potential/prospective customers? (Customer may be internal.) Click here to enter text.

Block 14. Commodity's Export History			
☐ Yes	☐ No	☐ Unknown	Has this commodity been the subject of a prior Commodity Jurisdiction? If "Yes", cite CJ number: Click here to enter text.
☐ Yes	☐ No	☐ Unknown	Has this commodity been exported under a FMS case? If "Yes", cite the Case number: Click here to enter text.

Block 15. ECILD is responsible for the information to be provided in this block.

Block 16. The Center ECS will provide the reason for submitting this CJ request in the space below:
Click here to enter text.

Block 17. Provide Suggested USML CATEGORY or CCL and explanation in the space below:
Click here to enter text.

Block 18. Points of Contact
In the space below, provide points of contact that can clarify what has been provided or that can provide additional information (name, title, organization, phone number, and email). Attach any additional supporting documentation that may deemed useful and list all documents attach them to this request including those that are identified in Block 6. Click here to enter text.

All signatures on this form expressly indicate a request for a commodity jurisdiction determination. The signatures on the form certify to the accuracy and completeness of the information provided and has not knowingly omitted information that could have an impact on the commodity jurisdiction request. Requests will not be considered without all required signatures.

Requestor: Click here to enter text.
Date: Click here to enter a date.

Branch Head: Click here to enter text.
Date: Click here to enter a date.

Center Export Administrator: Click here to enter text.
Date: Click here to enter a date.

Checklist F: Commodity Jurisdiction Guidance for Software

Providing the following information will assist the U.S. Government reviewers in determining the regulatory jurisdiction of the product. In preparing the documentation, of key importance is to describe in detail the purpose, function, and capability of the software source code.	
☐	Identify the Programming Language: Click here to enter text.
☐	Identify the Operation System(s): Click here to enter text.
☐	Identify the percentage of High Level Code and Machine Code: Click here to enter text.
☐	Description of the probable/possible implementation of the product and potential usage in non-technical terms: Click here to enter text.
☐	Commodity Equipment: Provide a full description of the associated commodity/equipment necessary to execute the software as well as technical characteristics of any special purpose, developmental item or non-off-the-shelf commodity: Click here to enter text.
☐	Software Structure: Provide a top-level flowchart of the software architecture. Describe the software structure in terms of partitioning or modularity. Are the algorithms contained in one distinguishable portion while data is contained in another? Can the two be separated? Click here to enter text.
☐	How much firmware is involved? Click here to enter text.
☐	Associated Software: To what extent does the software rely on other systems' software to exchange data? Does this reliance provide a window into the other programs? Click here to enter text.
☐	Does the software contain, and/or is it based on, open-source software or software code? Click here to enter text.

☐	Does the proposed software release involve software or related documentation pertaining to any defense systems? Click here to enter text.
☐	Are same or similar software products available from foreign or domestic, commercial or government sources? Click here to enter text.
☐	Identify the specific information contained in the documentation this is proposed for transfer and the specific end-user(s) and end-uses for the documentation: Click here to enter text.
☐	Does the product or any of its components perform information security functions? Click here to enter text.

Checklist G: ITAR License Application

The DDTC License application form – The form should be completed electronically using the DDTC published guidelines for the particular type of license that is required for the transaction (DSP-5 for permanent export, DSP-73 for temporary export, or DSP-61 for temporary import). The published guidelines on the DOS website provide detailed block-by-block information on how to complete the required license application form.	
A draft cover letter explaining the reason for the license application to include: the entities/organizations and countries who are participant in the transaction, and the specific reason for the transaction, such as an International Agreement or a contractual requirement.	
☐	Verify that you are using the most current form from the DOS website.
☐	Non-Technical description of the hardware, technical data, or software that is to be exported
☐	Description of entities/organizations and countries who are participant in the transaction
☐	Specific reason for the transaction, such as an IA or a contractual requirement.
A one-page technical description of each commodity line item to be exported;	
☐	If the commodity is hardware, a picture or a drawing is required as a .pdf attachments.
☐	When multiple items are to be exported, attach supporting technical data sheets and pictures/drawings for each item in the same order that they are listed as line items in the license application, and title these attachments with the same line item name that is used in the license application.
☐ Copies of any Domestic or International SAAs	

☐ Any other relevant documents or briefings that describe the transaction, the item, program or the intended outcomes.

Checklist H: EAR License Application

A draft one-page letter of explanation provided as an Microsoft Word document with specific license application information to include:	
☐	A non-technical brief to describe the export transaction, involved parties, locations, the dollar value and when it must be exported with an explanation of why
☐	An impact statement that explains the ramifications if the export transaction does not occur or if it does not occur when planned
Shipping information about the transaction and the parties involved:	
☐	All expected or likely port(s) of exit
☐	Intermediate Consignee(s): the name and address of each organization, and a point of contact with phone number, that will be involved the movement of the items to be exported (both domestic and foreign)
☐	Ultimate Consignee name and address
☐	End-user name and address
☐	A complete and detailed description of the end-use intended by the ultimate consignee/and or end-user(s) and identify any countries for which re-export is requested
Detailed information about each of the items that will be transferred:	
☐	ECCN of the item to be exported with documentation of how it was made
☐	Composite Theoretical Performance (CTP) – Enter the Adjusted Peak Performance (APP) if the item is a digital computer or equipment containing a computer. If this the item is not and does not contain a computer, enter “N/A” for not applicable. Model Number – Enter the model number of the item to be transferred.
☐	Commodity Classifcation Automated Tracking System (CCATS) Number: If the item previously received a commodity classification determination from BIS, provide the CCATS number shown on the classification issued by BIS. If there has been no known BIS classification enter “N/A”.
☐	Quantity: Identify the number of items to be exported or reexported.

☐	Units: A unit of issue that is commonly used in trade such as “each, dozen, gallons, pounds, etc.”
☐	Unit Price: Provide the acquisition cost or fair market value of the item to be exported rounded to the nearest whole dollar amount. Provide exact unit price only if the value is less than $0.50. For example, if the unit price is $0.45, write $0.45 as the unit price. If the unit price is $0.65, round up to one dollar.
☐	Total Price: The unit price times the quantity to be exported.
☐	Manufacturer: Provide the name only of the manufacturer, if known, otherwise, enter “Unknown.”
☐	Technical Description: Provide a brief, non-technical, one-sentence or phrase that describes this item.
☐ Attach a technical datasheet for each line item that is to be exported to explain the purpose of the item and detailed information, such as physical dimensions, weight, and key operating characteristics. The data sheet should generally not exceed one page and should be provided in Microsoft Word format to allow any minor edits.	
☐ Supporting technical data sheets and pictures/drawings for each item in the same order listed as line items in the license application. Title these attachments with the same line item name that is used in the license application so the reviewer can identify technical data sheets and pictures/technical data with each line item.	
☐ The CEA collects the required information, provides a draft cover letter, and gathers additional documentation to submit to ECILD. The package is reviewed and edited by ECILD and, if necessary, is returned to the CEA to coordinate changes with the Requestor prior to final submission. Once the review is completed and both the CEA and HEA have approved the license application package, it is submitted to DOC. Typically, it takes 30-45 days for DOC BIS to respond to a license application request.	

Checklist I: AES Filing Requirement Determination

If you mark "Yes" to any of the below options, AES filing is required:		
EAR Requirements (15 CFR §758.1 (b)))	☐ Yes	☐ No
(1) For all exports of items subject to the EAR that are destined to a country in Country Group E:1 of Supplement No. 1 to Part 740 of the EAR regardless of value;	☐ Yes	☐ No
(2) For all exports subject to the EAR that require submission of a license application, regardless of value or destination;	☐ Yes	☐ No
(3) For all exports of 9x515 or "600 series" items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or "600 series" ECCN regardless of value or destination, including exports to Canada;	☐ Yes	☐ No
(4) For all exports under license exception Strategic Trade Authorization (STA);	☐ Yes	☐ No
(5) For all exports of commodities and mass market software subject to the EAR when the value of the commodities or mass market software classified under a single Schedule B Number (or Harmonized Tariff Schedule (HTS)) is over $2,500, except as exempted by the Foreign Trade Regulations (FTR) in 15 CFR §30 and referenced in paragraph (c) of this section;	☐ Yes	☐ No
(6) For all exports of items subject to the EAR that will be transshipped through Canada to a third destination, where the export would require EEI or license if shipped directly to the final destination from the United States (see 15 CFR 30.36(b)(2) of the FTR);	☐ Yes	☐ No

(7) For all items exported under authorization Validated End-User (VEU); or	☐ Yes	☐ No
(8) For all exports of tangible items subject to the EAR where parties to the transaction, as described in §748.5(d) through (f) of the EAR, are listed on the Unverified List (supplement 6 to part 744 of the EAR), regardless of value or destination.	☐ Yes	☐ No
(9) For items that fall under ECCNs that list CC Column 1 and 3 and RS Column 2 (see supplement no. 1 to part 738 of the EAR) as reasons for control and such items are for export, regardless of value, to India.	☐ Yes	☐ No
For shipments under EAR exceptions, excluding EAR license exception BAG and TMP (FTR §30.2(a)(iv) (B-G)):		
(B) Requiring a DOS, DDTC license under the ITAR	☐ Yes	☐ No
(C) Subject to the ITAR, but exempt from license requirements.	☐ Yes	☐ No
(D) Requiring a Department of Justice, Drug Enforcement Administration (DEA) export permit (21 CFR 1312).	☐ Yes	☐ No
(E) Destined for a country listed in Country Group E: 1 as set forth in Supplement 1 to 15 CFR 740.	☐ Yes	☐ No
(F) Requiring an export license issued by any other federal Government agency.	☐ Yes	☐ No
(G) Classified as rough diamonds under 6-digit HS subheadings 7102.10, 7102.21, and 7102.31	☐ Yes	☐ No
If value is greater than $2500 per Schedule B, licensable or non-licensable (FTR §30.37(a))	☐ Yes	☐ No
Shipment to Puerto Rico or to U.S. Virgin Islands (FTR §30.2)	☐ Yes	☐ No
See below for examples of situations when AES filing is probably not required; this not an exhaustive list and Customs reserves the right to require AES filing for items that don't normally require AES filing:		

Miscellaneous Exemptions (See FTR 30.37)	☐ Yes	☐ No
Special exemptions for shipments to the U.S. Armed Services (See FTR 30.39)	☐ Yes	☐ No
Special exemptions for certain shipments to U.S. government agencies and employees (See FTR 30.40)	☐ Yes	☐ No
Below $2500 per Schedule B, if not subject to an ITAR / EAR export license	☐ Yes	☐ No
Export of technical data and defense service under the ITAR DSP-5 license, Technical Assistance Agreement or TAA exemption, but must report electronically directly to DDTC in accordance with 22 CFR §123.22(b)(3)(iii).	☐ Yes	☐ No
Shipping to Canada, if not subject to an ITAR / EAR export license or is EAR / ITAR controlled but exempt from licensing, excluding all 500 and 600 series items in the CCL (FTR §30.36).	☐ Yes	☐ No
For EAR Shipments exempt from AES Filing see 15 CFR 758.1(c):		
(1) License Exception Baggage (BAG), as set forth in §740.14 of the EAR. See 15 CFR 30.37(x) of the FTR;	☐ Yes	☐ No
(2) License Exception Gift Parcels and Humanitarian Donations (GFT), as set forth in §740.12 of the EAR. See 15 CFR 30.37(h) of the FTR;	☐ Yes	☐ No
(3) License Exception Aircraft and Vessels (AVS), as set forth in §740.15 of the EAR. See 15 CFR 30.37(o) (5) of the FTR;	☐ Yes	☐ No
(4) License Exception Governments and International Organizations (GOV), as set forth in §740.11 of the EAR. See 15 CFR 30.39 and 30.40 of the FTR;	☐ Yes	☐ No
(5) License Exception Technology and Software under Restriction (TSR), as set forth in §740.6 of the EAR. See 15 CFR 30.37(f) of the FTR; or	☐ Yes	☐ No

(6) License Exception Temporary Imports, Exports, and Reexports (TMP) “tools of trade”, as set forth in §740.9(a) (1) of the EAR. See 15 CFR 30.37(b) of the FTR.	☐ Yes	☐ No

Checklist J: AES Filing Requirements

Shipping Ref#:

Definitions:

- **End-user**: Ultimate Consignee: Party who will take final possession and use of the materials.
- **Foreign Consignee**: Party who will take possession, but not necessarily user of the materials (e.g. foreign purchaser).
- **Intermediate Consignee**: Party who will take possession in behalf of the purchase or end-user.
- **Routed Transaction**: A transaction in which the Foreign Principal Party of Interest (FPPI) authorizes a U.S. agent to facilitate the export of the terms from the U.S. and to prepare and file EEI through AES, in accordance with FTR 30.3(e). Written consent or Power from Attorney (POA) from the FPPI is required.

NOTES:

- AES "FATAL ERROR" must be corrected or suppressed out of AES before export.
- Shipment Reference Numbers are unique and may only be used once. Never use the same Shipment Reference Number (one time use only, even for those AES filings that have already been deleted).
- SCAC / IATA Codes are carrier codes (Airline/Vessel/Ground Transporter). They are not Freight Forwarder codes.
- The "Country of Destination" in the AES must always reflect the country of the "Ultimate Consignee" which is the "End-user" on the license.
- The "Intermediate Consignee" on the AES must always reflect the "Intermediate Consignee" noted on the license, unless the intermediate consignee on the license is N/A and there is a "Foreign Consignee" on the license, then you must declare the Foreign Consignee as the intermediate.

Checklist J: AES Filing Requirements		
Are you using the correct FTR AES exemption?	☐ Yes	☐ No
Did you annotate your customs invoice, airway bill, or bill of lading with the FTR exemption?	☐ Yes	☐ No
If you answered "Yes" to both questions above, your shipment is exempt from AES filing; sign the bottom of this form and attach it to the shipping form. If you answered "No" to either of the above questions, proceed to fill out the rest of this this checklist.		
1. Is this shipping on a DSP-5 export license? If "Yes", fill out the questions following and proceed to sections 5 and 6. If "No", continue to section 2.	☐ Yes	☐ No
Are the parties to the transaction on the license (forwarder/carrier, consignees)?	☐ Yes	☐ No
Has the license been lodged with customs?	☐ Yes	☐ No
Is the remaining value on the license enough to cover export?	☐ Yes	☐ No
Is the license still valid (not expired or exhausted)?	☐ Yes	☐ No
Is the departure date correct?	☐ Yes	☐ No
Is this shipping via Freight Forwarder and is the Forwarder on the license? If "Yes", did you identify the forwarder in the AES filing?	☐ Yes ☐ Yes	☐ No ☐ No
Did you select the correct "Export Code" and "License Type"?	☐ Yes	☐ No
Do you have the correct Schedule B?	☐ Yes	☐ No
Is the USML category correct?	☐ Yes	☐ No
If this is Significant Military Equipment (SME)? If so, did you identify this in the AES filing?	☐ Yes	☐ No
Did you update the license defragmentation spreadsheet?	☐ Yes	☐ No
2. Is this shipment a DSP-73? If "Yes", fill out the questions following and proceed to sections 5 and 6. If "No", proceed to section 3.	☐ Yes	☐ No

Did you provide the carrier/forwarder with a copy of the license to be deposited, decremented and endorsed by USCBP prior to exit and entry?	☐ Yes	☐ No
Are the parties to the transaction on the license (forwarder/carrier, consignees)?	☐ Yes	☐ No
Is the remaining value on the license enough to cover export?	☐ Yes	☐ No
Is the license still valid (not expired or exhausted)?	☐ Yes	☐ No
Did you select the correct "Export Code" and "License Type"?	☐ Yes	☐ No
Is this shipping via Freight Forwarder and is the Forwarder on the license? If so, did you identify the Forwarder in the AES filing?	☐ Yes ☐ Yes	☐ No ☐ No
Is the departure date correct?	☐ Yes	☐ No
Do you have the correct Schedule B?	☐ Yes	☐ No
Is the USML category correct?	☐ Yes	☐ No
If this is SME? If so, did you identify this in the AES filing?	☐ Yes	☐ No
Have you received a copy of the license from the carrier/forwarder decremented and endorsed by USCBP (see back of license)?	☐ Yes	☐ No
Did you update the license defragmentation spreadsheet?	☐ Yes	☐ No
3. Is this shipping under an EAR exception or ITAR Exemption? If "Yes", fill out the questions following and proceed to sections 5 and 6. If "No", continue to section 4.	☐ Yes	☐ No
Are you using the correction Exemption or Exception?	☐ Yes	☐ No
Do you have the correct ECCN or USML category?	☐ Yes	☐ No
Do you have the correct Schedule B?	☐ Yes	☐ No
Did you select the correct "Export Code" and "License Type"?	☐ Yes	☐ No
Is the departure date correct?	☐ Yes	☐ No

Did you identify the correct Export Port?	☐ Yes	☐ No
If using a freight forwarder, did you identify the forwarder in AES?	☐ Yes	☐ No
If using a freight forwarder, did you identify the forwarder in AES?	☐ Yes	☐ No
4. Is this shipping a "No License Required" and greater than $2500 per Schedule B? If "Yes", fill out the questions following and proceed to sections 5 and 6. If "No", review the previous sections and make sure your item is either a DSP-5, DSP-73, EAR Exception/ITAR Exemption.	☐ Yes	☐ No
Are you filing your AES per individual Schedule B and ECCN or USML Category?	☐ Yes	☐ No
Do you have the correct ECCN?	☐ Yes	☐ No
Do you have the correct Schedule B?	☐ Yes	☐ No
Is the value correct?	☐ Yes	☐ No
Did you identify the correct "Export Code" and "License Type"?	☐ Yes	☐ No
Is the departure date correct?	☐ Yes	☐ No
Did you identify the correct export port?	☐ Yes	☐ No
If using a freight forwarder, did you identify the forwarder in AES?	☐ Yes	☐ No
5. Did you file AES within the necessary timelines as required by the method of transportation? For example, for Sea or rail Shipments, the export information must be electronically filed at least 24 hours prior to departure for all ITAR controlled shipments. See Section 3.4.	☐ Yes	☐ No
6. If all the relevant white boxes have been checked "Yes" (grey boxes can be checked "no") for your specific shipment,	☐ Yes	☐ No

sign and date below. Attach this checklist to the shipping form.		

Filer Name: Click here to enter text.

Date: Click here to enter a date.

APPENDIX B: EXPORT CONTROL REFERENCES

B-1: Visa Types and Categories

Visa Type	Visa Category
A-1	Diplomat or foreign government official
A-2	Foreign military personnel stationed in the U.S.
B-1	Business visitor
B-2	Tourism, vacation, pleasure visitor
D	Crewmember
E-1	Treaty trader/treaty investor
E-2	Dependent for E-1
E-3	Australian professional specialty
F-1	Student: academic, vocational
F-2	Dependent for F-1
G-1	Permanent Mission Member of a designated international organization
G-2	Temporary Mission Member of a designated international organization
G-3	Representatives of non-recognized or non-member governments
G-4	Individuals coming to the U.S. to take up an appointment at a designated international organization
G-5	Personal employees or domestic workers of a G-1 – 4 visa holders
H-1B	Specialty occupations in fields requiring highly specialized knowledge
H-2A	Temporary agricultural worker
H-2B	Temporary worker performing other services or labor of a temporary or seasonal nature.
I	Media, journalist
J-1	Exchange visitor
J-1 NASA	Exchange visitor-NASA SPONSORED
J-2	Dependent for J-1
K-1	Foreign-citizen fiancé(e) of a U.S. citizen

Visa Type	Visa Category
K-2	Child of K-1
K-3	Foreign-Citizen Spouse of a U.S. citizen
K-4	Child of K-3
L-1	Intra-company transferee
L-2	Dependent for L-1
NATO	NATO
O-1A	Foreign national with extraordinary ability in Sciences, Education, Business or Athletics
O-1B	Foreign national with extraordinary ability in Arts and Motion Picture/Television Industry
O-2	Individuals who will accompany an O-1, professionally
O-3	Dependent for O-1A/B
Q-1	International cultural exchange visitor
R-1	Religious worker
R-2	Dependent for R-1
TN	NAFTA professional worker: Mexico, Canada
TD	Dependent for TN
VWP	Visa Waiver Program

B-2: Provisos and IdMAX

ID	Description	Status
1	**Approved access is limited to information in the public domain; no access to classified, sensitive but unclassified, or export-controlled information or hardware is authorized.	Active
2	**Use of an escort is required.	Inactive
3	**The visit is authorized only so long as there is a valid visa in effect.	Inactive
4	**No access to U.S. Government or NASA technical data, IT systems/networks, email, equipment, software (including source code), programs and systems authorized.	Active
5	**Approval of visit is not a precedent for approval of long term appointment.	Active
6	**Copies of the visit approval provisos/conditions are to be provided by the NASA host to all NASA employees and on-site contractor employees working with this foreign person.	Active
7	**Host is to confer with CEA to determine export classification of data and hardware to be accessed prior to visit.	Active
8	**The visitor is authorized to use NASA standard PC with COTS software and access to NASA technological data regarding [_____] provided, these items and corresponding use of technology are eligible for license-free to (country/unless proscribed).	Active
9	**The employer, [_____], is responsible for compliance with U.S. export control laws and regulations and for seeking an appropriate license if required. NASA host shall be apprised of these provisos and is responsible for informing the employer of this proviso.	Active
10	**A non-disclosure agreement is required for this assignment. An ACP must be in place and approved prior to this visit. (NPR 2190.1, Appendix D).	Active
11	**Access to the NASA super computer(s) is only approved in the partitioned area. No permission will be granted for direct access to the super computer nodes bypassing the front end.	Active
12	**Release of NASA software source code is not authorized.	Active
13	**The visitor is authorized access to NASA technological data regarding [_____] provided, these items and corresponding use of technology are eligible for license-free to (country).	Active

ID	Description	Status
14	**Approved access is limited to information that would be approved for the public domain and to specific non-public domain NASA data required under Space Act Agreement. Controls to restrict the individuals access only to export-controlled information that is allowed under the [ISS] agreement that is not controlled for Missile technology reasons.	Active
15	[_____] is responsible for acquiring export license authority if required.	Active
16	Visit is in support of [_____] activity and should be coordinated with [_____].	Active
17	Host should confirm [_____] approval.	Active
18	Copies of the visit approval provisos/conditions are to be provided by the JPL host to all JPL employees and on-site contractor employees working with this foreign person.	Active
19	No access to U.S. Government or NASA technical data, IT systems/networks, email, equipment, software (including source code), programs and systems authorized, except as authorized by approved Technical Assistance Agreements.	Active
20	**Access to the CERN/HOSC computer is remote access only and only approved in the partitioned area, and only valid for 2 years at a time.	Active
21	***Any Remote IT Access is only permitted from an IP Address within the U.S. Access from an IP Address within China is prohibited	Active
22	***Visit is only approved for 2 years-(through ---)	Active
23	**Approved access for one year and require annual updates-through (___).	Active
24	Remote access only. No physical access to NASA facilities	Active
25	**Caltech/JPL is authorized to transfer only that NASA-controlled technical data regarding (-------) necessary to fulfill its obligation under TA (----). Transfer of other NASA non-public domain technical data in support of this TAA requires prior NASA approval.	Active
26	Escort requirements are to be consistent with the Interim Policy Regarding Foreign National Access Management dated April 2, 2014 and NPR 1600.4 “National Security Program”	Active

B-3: STI Release Rationale

Instructions: This checklist should be attached to the NASA Form 1676 (NASA Scientific and Technical Document Availability Authorization (DAA)) in support of requests for disclosures of STI, and information controlled under Export Regulations (International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). Please review and sign next to the applicable rationale item[s] on the next page. Additional written information is required for Item V.

Background: Release of NASA information into a public forum may provide NASA technology to countries with interests adverse to the U.S. This form will help you efficiently process your proposed disclosure of NASA STI and assure that the request complies with export control regulations. Your Center ECS will use this rationale in conjunction with the completed NF 1676 which is required for each domestic and international presentation and publication of STI (See NPD 2200.1C).

Generally, the export of information pertaining to the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles (i.e. space flight hardware, ground tracking systems, launch vehicles, radiation hardened hardware and associated hardware and engineering units for these items are controlled by the ITAR. The export of information not controlled by the ITAR are generally controlled by the BIS under the EAR. If the information that you propose for release is controlled for export compliance reasons, but also falls into one or more of the following "Rationale for Public Release" items, the information may be determined to be suitable for public release.

STI Release Rationale

Title of Presentation: Click here to enter text. **Author:** Click here to enter text.

Rationale for Public Release I

The information is already in the public domain in its entirety through a non-NASA medium and/or through NASA release previously approved by an authorized NASA official.

Name of Publication: Click here to enter text. Date of Publication: Click here to enter text.

Original DAA Approval #: Click here to enter text. Date of Approval: Click here to enter text.

Typed Name: Click here to enter text. Signature: Click here to enter text.

Mail code: Click here to enter text. Date: Click here to enter text.

Rationale for Public Release II

The information pertains exclusively to the release of general scientific, mathematical, or engineering principles commonly taught in schools, colleges and universities, e.g. data pertaining to studies of biomedical or planetary sciences without disclosure of information pertaining to articles controlled by the ITAR or EAR such as flight instruments, high speed computers, or launch vehicles.

Typed Name: Click here to enter text. Signature: Click here to enter text.

Mail code: Click here to enter text. Date: Click here to enter text.

Rationale for Public Release III

The information falls into the areas of concern as referenced above, but is offered at a general purpose of high level, e.g. poster briefs and overviews, where no specific information pertaining to ITAR or EAR controlled items is offered.

Typed Name: Click here to enter text. Signature: Click here to enter text.

Mail code: Click here to enter text. Date: Click here to enter text.

Rationale for Public Release IV

The information pertains exclusively to the release of software and assurance methodologies or studies, without disclosing information pertaining to articles controlled by the ITAR or EAR.

Typed Name: Click here to enter text. Signature: Click here to enter text.

Mail code: Click here to enter text. Date: Click here to enter text.

Rationale for Public Release V

There is a compelling written reason for the public release of the information that is not covered by the "rationale" items I-IV above. The information to be released cannot be used to exploit or defeat controlled U.S. technologies. It is therefore requested that the CEA review the attached supporting statement and approve the release of the information pursuant to the exemption CFR22 - 125.4(b)(13). To use this rationale, the Requestor must provide/include a written statement that provides the export classification of the technical data and explains why the release of the information is a reasonable and advisable action.

Typed Name: Click here to enter text. Signature: Click here to enter text.

Mail code: Click here to enter text. Date: Click here to enter text.

Export Classification: Click here to enter text.

Rationale Supporting decontrol and release: Click here to enter text.

Additional Information: Click here to enter text.

B-4: Defense Articles Frequently Handled by NASA

USML Defense Articles Commonly Handled by NASA
Category IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS AND MINES
• Rockets (including but not limited to meteorological and other sounding rockets);
• Launch vehicles;
• Apparatus, devices, and materials for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of rockets and launch vehicles;
• Missile and space launch vehicle power plants; and
• Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments).
CATEGORY V—EXPLOSIVES AND ENERGETIC MATERIALS, PROPELLANTS, INCENDIARY AGENTS AND THEIR CONSTITUENTS
• Used primarily on rockets, launch vehicles, and spacecraft.
CATEGORY VIII—AIRCRAFT AND RELATED ARTICLES
• Joint programs with DOD or NASA use of “military” aircraft (such as UAVs) and associated equipment (such as military aircraft engines) that were specifically designed, modified, or equipment for military purposes.
CATEGORY XII – FIRE CONTROL, RANGE FINDER, OPTICAL AND GUIDANCE AND CONTROL EQUIPMENT
• Missile tracking and guidance systems.
CATEGORY XV—SPACECRAFT AND RELATED ARTICLES
• Spacecraft with certain electro-optical remote sensing capabilities, spacecraft that provides space-based logistics or servicing of any other spacecraft, spacecraft with an integrated propulsion system other than that required attitude control;

• Ground control stations for telemetry, tracking and control of spacecraft or satellites in this category, or employing any of the cryptographic items controlled under category XIII of this subchapter; and
• Global Positioning System (GPS) receiving equipment specifically designed, modified or configured for military use; or GPS receiving equipment with characteristics defined in USML.

MTCR Defense Articles Commonly Handled by NASA
CATEGORY I - ITEM 1
• Complete Delivery Systems
CATEGORY I - ITEM 2
• Complete Subsystems Usable For Complete Delivery Systems
CATEGORY II - ITEM 3
• Propulsion Components And Equipment
CATEGORY II - ITEM 4
• Propellants and Constituent Chemicals for Propellants
CATEGORY II - ITEM 10
• Flight Control Systems
CATEGORY II - ITEM 12
• Launch Support Equipment, Facilities, and Software for Systems in Item 1
CATEGORY II - ITEM 16
• Modelling-Simulation And Design Integration
CATEGORY II - ITEM 18
• Nuclear Effects Protection

B-5: Frequently Used Exemption/Exception List

Title 14 – Aeronautics and Space, Ch.5, Part 1217
1217.100 to 1217.106 – Duty Free Entries of Space Articles
Title 15 – Commerce and Foreign Trade, Subtitle B, Ch.7, Subchapter C, Part 740
740.3 – Shipments of limited value (LVS)
740.4 – Shipments to Country Group B countries (BGS); See Supplement 1 to 740 – Country Groups
740.5 – Civil end-users only (CIV)
740.6 – Technology and software under restriction (TSR)
740.7. – Computers (APP)
740.9 – Temporary imports, exports, re-exports, and transfers (in-country) (TMP)
740.10 – Servicing, and replacement of parts and equipment (RPL)
740.11 - Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station (GOV)
740.12 – Gift parcels and humanitarian donations (GFT)
740.13 – Technology and software—unrestricted (TSU)
740.14 – Baggage (BAG)
740.15 – Aircraft, vessels and spacecraft (AVS)
740.16 – Additional permissive re-exports (APR)
740.17 – Encryption commodities, software and technology (ENC)
740.19 – Consumer Communications Devices (CCD)
740.20 – License Exception Strategic Trade Authorization (STA)
Title 15 – Commerce and Foreign Trade, Subtitle B, Ch.1, Subpart A, Part 30
30.36 – Shipments destined to Canada
30.37(a) – Commodities less than $2500
30.37(b) – Tools of Trade
30.37(f) – Exports of Technology or Software

Title 22 – Foreign Relations, ITAR, Department of States, Ch.1, Subchapter M
123.4(a) (1) – Temporary import of US Items for servicing, repair, inspection, testing, calibration, overhaul, reconditioning, or one-to-to-one replacement
123.16(b) (2) – Components or spare parts less than $500
123.16(b) (3) – Specially designed packing cases
125.4 (b)(3)(7)(11) – General Applicability
125.4(b)(13) – Technical Data approved for public release
126.4(a) – Temporary imports or exports by or for the U.S. Gov. Agency
125.5(c) – Exemptions from plant visits
126.4(c) – temporary imports or exports or permanent export by U.S. Gov. Agency for U.S. Gov. Agency Abroad
126.5(a) –Temporary import from Canada and export back to Canada for repair, marketing, trade shows
126.5(b) – Permanent or temporary export to Canada for entities lawfully registered with Canada
126.16 - Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and Australia
126.17 - Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom.
126.18 - Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals
Title 27 – Alcohol, Tobacco Products, and Firearms, Part 447, Subpart 447, Subpart F
447.53(a)(1) – Importation of a U.S. Gov. Agency
447.53(a)(2) – Importation for the Dept. of Defense

APPENDIX C: KEY DEFINITIONS

The ITAR and EAR have specific definitions for export control-related terms. It is important to be familiar with both sets of definitions as well as other export-related terms to ensure proper compliance. The definitions listed were pulled directly from the electronic Code of Federal Regulations (CFR), and for revisions made to these terms please refer to the respective website.

ITAR DEFINITIONS:

Automated Export System (AES) - The Automated Export System (AES) is the Department of Commerce, Bureau of Census, electronic filing of export information. The AES shall serve as the primary system for collection of export data for the Department of State. In accordance with this subchapter U.S. exporters are required to report export information using AES for all hardware exports. Exports of technical data and defense services shall be reported directly to the Directorate of Defense Trade Controls (DDTC). Also, requests for special reporting may be made by DDTC on a case-by-case basis, (e.g., compliance, enforcement, congressional mandates). See 22 CFR §120.30.

Commodity jurisdiction - procedure is used with the U.S. Government if doubt exists as to whether an article or service is covered by the U.S. Munitions List. It may also be used for consideration of a re-designation of an article or service currently covered by the U.S. Munitions List. See 22 CFR §120.4 for full definition.

Defense Article - any item on the USML including "technical data". See 22 CFR §120.6 for full definition.

Defense Service - furnishing of assistance (including training) to foreign persons, whether in the U.S. or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; furnishing to foreign persons of any technical data; or military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds. See 22 CFR §120.9.

End-item - a system, equipment, or an assembled article ready for its intended use. Only ammunition or fuel or other energy source is required to place it in an operating state. See 22 CFR §120.45(a).

Exemption - an ITAR authorization from Defense Trade Control for exports of unclassified defense articles and defense services without a license under certain specific provisions or limitations. Exemptions can be found in the ITAR. All conditions of an Exemption must be met before use is authorized. Use of Exemptions for exports must have the concurrence of the CEA or the HEA and there are recordkeeping and reporting requirement to HEA. See 22 CFR §123, §125, and §126 for a description of the most relevant ITAR License Exemptions

Export - (1) Except as set forth in §126.16 or §126.17, export means: (1) An actual shipment or transmission out of the United States, including the sending or taking of a defense article out of the United States in any manner; (2) Releasing or otherwise transferring technical data to a foreign person in the United States (a "deemed export"); (3) Transferring registration, control, or ownership of any aircraft, vessel, or satellite subject to the ITAR by a U.S. person to a foreign person; (4) Releasing or otherwise transferring a defense article to an embassy or to any of its agencies or subdivisions, such as a diplomatic mission or consulate, in the United States; (5) Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad; or (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 §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. (b) Any release in the United States of technical data to a foreign person is deemed to be an export to all countries in which the foreign person has held or holds citizenship or holds permanent residency. See 22 CFR §120.17.

Fundamental research - basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if: (1) the university or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity or (2) the research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable. See 22 CFR §120.11(a)(8).

License - License means a document bearing the word "license" issued by the Deputy Assistant Secretary of State for Defense Trade Controls, or his authorized designee, that permits the export, temporary import, or brokering of a specific defense article or defense service controlled by this subchapter. See 22 CFR §120.20.

Public domain - information which is published and which is generally accessible or available to the public: (1) Through sales at newsstands and bookstores; (2) Through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information; (3) Through second class mailing privileges granted by the U.S. Government; (4) At libraries open to the public or from which the public can obtain documents; (5) Through patents available at any patent office; (6) Through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States; (7) Through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency (see also §125.4(b)(13) of this subchapter); (8) Through fundamental research in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is defined to mean basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons or specific U.S. Government access and dissemination controls. University research will not be considered fundamental research if: (i) The University or its researchers accept other restrictions on publication of scientific and technical information resulting from the project or activity, or (ii) The research is funded by the U.S. Government and specific access and dissemination controls protecting information resulting from the research are applicable. See 22 CFR §120.11.

Software - includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems, and support software for design, implementation, test, operation, diagnosis and repair. A person who intends to export only software should, unless it is specifically enumerated in §121.1 of this subchapter (e.g., USML Category XIII(b)), apply for a technical data license pursuant to part 125 of this subchapter. See 22 CFR §120.45(f).

Specially designed - Except for commodities or software described in paragraph (b) of this section, a commodity or software (*see* §121.8(f) of this subchapter) is specially designed if it: (1) As a result of development, has properties peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics, or functions described in the relevant U.S. Munitions List paragraph; or (2) Is a part (*see* §121.8(d) of this subchapter), component (*see* §121.8(b) of this subchapter), accessory (*see*§121.8(c) of this subchapter), attachment (*see* §121.8(c) of this subchapter), or software for use in or with a defense article. (b) For purposes of this subchapter, a part, component, accessory, attachment, or software is not

specially designed if it: (1) Is subject to the EAR pursuant to a commodity jurisdiction determination; (2) Is, regardless of form or fit, a fastener (e.g., screws, bolts, nuts, nut plates, studs, inserts, clips, rivets, pins), washer, spacer, insulator, grommet, bushing, spring, wire, or solder; (3) Has the same function, performance capabilities, and the same or "equivalent" form and fit as a commodity or software used in or with a commodity that: (I) Is or was in production (*i.e.,* not in development); and (ii) Is not enumerated on the U.S. Munitions List; (4) Was or is being developed with knowledge that it is or would be for use in or with both defense articles enumerated on the U.S. Munitions List and also commodities not on the U.S. Munitions List; or (5) Was or is being developed as a general purpose commodity or software, *i.e.,* with no knowledge for use in or with a particular commodity (e.g., a F/A-18 or HMMWV) or type of commodity (e.g., an aircraft or machine tool). See 22 CFR §120.41.

Technical Data - information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of "defense articles", classified information related to "defense articles"' information covered by an invention secrecy order, software directly related to "defense articles". Does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges, and universities or information in the "public domain". It also does not include basic marketing information on function or purpose or general system descriptions of "defense articles" See 22 CFR §120.10.

Temporary export - generally less than four (4) years with no transfer of title. See 22 CFR §120.18.

U.S. Person - a natural person who is a lawful permanent resident as defined in 8 U.S.C §1101(a) (20) or who is a protected individual as defined by 8 U.S.C. § 1324b (a) (3). It also means any corporation, business, association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the U.S. It also includes any governmental (Federal, state or local), entity. See CFR §120.15.

EAR DEFINITIONS:

Adjusted Peak Performance (APP) - An adjusted peak rate at which "digital computers" perform 64-bit or larger floating point additions and multiplications. The formula to calculate APP is contained in a technical note at the end of Category 4 of the Commerce Control List. See 15 CFR §772.

Automated Export System (AES) - AES is a nationwide system operational at all ports and for all methods of transportation through which export shipment data required by multiple agencies is filed electronically to U.S. Customs and Border Protection, using the efficiencies of Electronic Data Interchange (EDI). AES allows the export information to be collected electronically and edited immediately. See 15 CFR §772.

Bill of Lading - The contract of carriage and receipt for items, issued by the carrier. It includes an air waybill, but does not include an inland bill of lading or a domestic air waybill covering movement to port only. See 15 CFR §772.

Commodity is any article, material, or supply except technology and software. See 15 CFR §772.

Composite Theoretical Performance - This is metric that was used to gauge the computing-performance capacity of a high performance computer (HPC). We cite this outdated term in the manual because is still referenced in the EAR for completing a license application in 15 CFR Supplement No.1 §748, Block 22(b).

Country Chart - A chart, found in Supplement No. 1 to part 738 of the EAR, that contains certain licensing requirements based on destination and reason for control. In combination with the CCL, the Country Chart indicates when a license is required for any item on the CCL to any country in the world under General Prohibition One (Exports and Reexports in the Form Received), General Prohibition Two (Parts and Components Reexports), and General Prohibition Three (Foreign Produced Direct Product Reexports). See part 736 of the EAR. See 15 CFR §772.

Dual-use are items that have both commercial and military or proliferation applications. While this term is used informally to describe items that are subject to the EAR, purely commercial items and certain munitions items listed on the Wassenaar Arrangement Munitions List or the Missile Technology Control Regime Annex are also subject to the EAR (see § 734.2(a) of the EAR). See 15 CFR §772.

End item - a system, equipment or assembled commodity ready for its intended use. Only ammunition, or fuel or other energy source is required to place it in an operating state. Examples of end items include ships, aircraft, computers, firearms, and milling machines. See 15 CFR §772.

End-user- The person abroad that receives and ultimately uses the exported or reported items. The end-user is not a forwarding agent or intermediary, but may be the purchaser or ultimate consignee. See 15 CFR §772.

Exception is an EAR authorization that allows an export or reexport of an otherwise controlled item to proceed without a license, provided that certain specified conditions are met. Exception is a Bureau of Industry and Security (BIS) term and applies only to items under the jurisdiction of the EAR. Use of Exceptions for exports must have the concurrence of the Center Export Administrator (CEA) or the Headquarters Export Administrator (HEA). See 15 CFR §740 for a description of all EAR License Exceptions.

Export - (1) An actual shipment or transmission out of the United States, including the sending or taking of an item out of the United States, in any manner; (2) Releasing or otherwise transferring "technology" or source code (but not object code) to a foreign person in the United States (a "deemed export"); (3) Transferring by a person in the United States of registration, control, or ownership of: (i) A spacecraft subject to the EAR that is not eligible for export under License Exception STA (i.e., spacecraft that provide space-based logistics, assembly or servicing of any spacecraft) to a person in or a national of any other country; or (ii) Any other spacecraft subject to the EAR to a person in or a national of a Country Group D:5 country. (b) Any release in the United States of "technology" or source code to a foreign person is a deemed export to the foreign person's most recent country of citizenship or permanent residency. (c) The export of an item that will transit through a country or countries to a destination identified in the EAR is deemed to be an export to that destination. See 15 CFR §734.13.

Export Control Classification Number (ECCN) – a five character (Digit)-identifies CCL category; - a five character, Alpha-numeric symbol; e.g., 9A004– First Character (Digit)- identifies CCL category; e.g., 9 is Propulsion Systems, Space Vehicles and Related Equipment. Second Character (Letter) - identifies which of five "groups" the item. See BIS's explanation for ECCN's.

Fundamental research - See 15 CFR §734.8 for the full description of fundamental research under the EAR.

Intermediate consignee - the person that acts as an agent for a principal party in interest for the purpose of effecting delivery of items to the ultimate consignee. The intermediate consignee may be a bank, forwarding agent, or other person who acts as an agent for a principal party in interest. See 15 CFR §772.

License - authority issued by the Bureau of Industry and Security authorizing an export, reexport, or other regulated activity. The term "license" does not include authority represented by a "License Exception." See 15 CFR §772.

License Exception - an authorization described in part 740 of the EAR that allows you to export or reexport, under stated conditions, items subject to the EAR that otherwise would require a license. Unless otherwise indicated, these License Exceptions are not applicable to exports under the licensing jurisdiction of agencies other than the Department of Commerce. See 15 CFR §772.

Missile Technology Control Regime (MTCR) - the United States and other nations in this multilateral control regime have agreed to guidelines for restricting the export and reexport of dual-use items that may contribute to the development of missiles. The MTCR Annex lists missile-related equipment and technology controlled either by the Department of Commerce's Bureau of Industry and Security—Export Administration Regulations (15 CFR Parts 730 through 799) or by the Department of State's Directorate of Defense Trade Controls—International Traffic in Arms Regulations (22 CFR Parts 120 through 130). See 15 CFR §772.

Missile Technology Export Control Group (MTEC) - chaired by the Department of State, the MTEC primarily reviews applications involving items controlled for Missile Technology (MT) reasons. The MTEC also reviews applications involving items not controlled for MT reasons, but destined for a country and/or end-use/end-user of concern. See 15 CFR §772.

No License Required (NLR) - "No License Required (NLR)" is an authorization for shipment of an item that may change, depending on the transaction. NLR may be used for either EAR99 items, or items on the CCL that do not require a license for the destination in question, provided no General Prohibitions apply; NLR ("no license required") is also the symbol entered on the Electronic Export Information filing for the Automated Export System certifying that there is an authorization of "No License Required" for the export.

Re-export-(a) Except as set forth in §§734.18 and 734.20, Reexport means: (1) An actual shipment or transmission of an item subject to the EAR from one foreign country to another foreign country, including the sending or taking of an item to or from such countries in any manner; (2) Releasing or otherwise transferring "technology" or source code subject to the EAR to a foreign person of a country other than the foreign country where the release or transfer takes place (a deemed reexport); (3) Transferring by a person outside the United States of registration, control, or ownership of: (i) A spacecraft subject to the EAR that is not eligible for reexport under License Exception STA (i.e., spacecraft that provide space-based logistics,

assembly or servicing of any spacecraft) to a person in or a national of any other country; or (ii) Any other spacecraft subject to the EAR to a person in or a national of a Country Group D:5 country. (b) Any release outside of the United States of "technology" or source code subject to the EAR to a foreign person of another country is a deemed reexport to the foreign person's most recent country of citizenship or permanent residency, except as described in §734.20. (c) The reexport of an item subject to the EAR that will transit through a country or countries to a destination identified in the EAR is deemed to be a reexport to that destination. See 15 CFR §734.14.

Specially-designed- When applying this definition, follow this sequential analysis set forth below. (For additional guidance on the order of review of "specially designed," including how the review of the term relates to the larger CCL, see Supplement No. 4 to Part 774 of the EAR—Commerce Control List Order of Review.) See 15 CFR §772.

(a) Except for items described in (b), an "item" is "specially designed" if it:

(1) As a result of "development" has properties peculiarly responsible for achieving or exceeding the performance levels, characteristics, or functions in the relevant ECCN or U.S. Munitions List (USML) paragraph; or

(2) Is a "part," "component," "accessory," "attachment," or "software" for use in or with a commodity or defense article 'enumerated' or otherwise described on the CCL or the USML.

(b) A "part," "component," "accessory," "attachment," or "software" that would be controlled by paragraph (a) is not "specially designed" if it:

(1) Has been identified to be in an ECCN paragraph that does not contain "specially designed" as a control parameter or as an EAR99 item in a commodity jurisdiction (CJ) determination or interagency-cleared commodity classification (CCATS) pursuant to §748.3(e);

(2) Is, regardless of 'form' or 'fit,' a fastener (e.g., screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, solder;

(3) Has the same function, performance capabilities, and the same or ' equivalent' form and fit, as a commodity or software used in or with an item that:

(i) Is or was in “production” (i.e., not in “development”); and

(ii) Is either not ‘enumerated’ on the CCL or USML, or is described in an ECCN controlled only for Anti-Terrorism reasons;

(4) Was or is being developed with “knowledge” that it would be for use in or with commodities or software (i) described in an ECCN and (ii) also commodities or software either not ‘enumerated’ on the CCL or the USML (e.g., EAR99 commodities or software) or commodities or software described in an ECCN controlled only for Anti-Terrorism (AT) reasons;

(5) Was or is being developed as a general purpose commodity or software, i.e., with no “knowledge” for use in or with a particular commodity (e.g., an F/A-18 or HMMWV) or type of commodity (e.g., an aircraft or machine tool); or

(6) Was or is being developed with “knowledge” that it would be for use in or with commodities or software described (i) in an ECCN controlled for AT-only reasons and also EAR99 commodities or software; or (ii) exclusively for use in or with EAR99 commodities or software.

Technical assistance - may take forms such as instruction, skills, training, working knowledge, consulting services. Technical assistance may involve transfer of technical data (15 CFR §772).

Technical Data- may take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, or read-only memories. See 15 CFR §772.

Technology - information necessary for the “development,” “production,” “use,” operation, installation, maintenance, repair, overhaul, or refurbishing (or other terms specified in ECCNs on the CCL that control “technology”) of an item. N.B.: Controlled “technology” is defined in the General Technology Note and in the Commerce Control List (supplement no. 1 to part 774 of the EAR).

Note 1 to definition of Technology: “Technology” may be in any tangible or intangible form, such as written or oral communications, blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering designs and specifications, computer-aided design files, manuals or documentation, electronic media or information revealed through visual inspection;

Note 2 to definition of Technology: The modification of the design of an existing item creates a new item and technology for the modified design is technology for the development or production of the new item. (15 CFR 772)

Transfer - A shipment, transmission, or release of items subject to the EAR either within the United States or outside the United States. See 15 CFR §772 For *In-country transfer/Transfer (in-country)*, see §734.16 of the EAR.

Ultimate consignee - The principal party in interest located abroad who receives the exported or re-exported items. The ultimate consignee is not a forwarding agent or other intermediary, but may be the end-user. See 15 CFR §772.

Other Key Definitions:

Associate/Assistant/Alternate – Associate/Assistant refers to part-time; Alternate refers to full-time.

Document Availability Authorization (DAA) – The DAA review is NASA's compliance review for the publication, dissemination, and presentation of NASA STI by or for NASA through any channel or media. The DAA review determines if STI needs to have restricted access, such as for export-controlled information, proprietary STI, and documents disclosing an invention (see Section 4.5.2 of NPR 2200.2D).

Export Administrative Records – Documents for export control program administration that are not controlled/protected. Examples of Export Administrative Records include: training records, program audit reports, database information, correspondence, and classifications.

Export authorization- an export authorization includes: a license, a license exemption, a license exception, or No License Required (NLR).

Export Control Records – Documentation of transactions that release or deny release of export-controlled items to foreign persons and/or foreign destinations. Examples of Export Control Records include:

- Export licenses obtained by NASA HQ for the Centers
- Documents authorizing the public release of export-controlled information released into the public domain including websites
- Records certifying the use of exemptions or exceptions for exports other than shipping (oral/visual in meetings or electronic transfers)

- Mailing and shipping documentation for export-controlled transactions (invoices, bills of lading, Automated Export System (AES) filings, etc.).
- Export control-related property disposal records
- Meeting records
- Records of electronic transfers

Export controls - restrictions applied by the U.S. Government to the transfer of certain goods, services, software, technical data, and technology to foreign entities.

Export Protected Records – Documents that contain export-controlled information that must be properly marked and protected. Examples of Export Protected Records include: technical data sheets, reports/emails containing technical data, preliminary design reviews (PDRs), mission readiness reviews (MRRs), flight readiness reviews (FRRs), mishap investigation reports, technical drawings, test procedures, and project proposals.

Foreign person - any natural person who is not a U.S. citizen, U.S. lawful permanent resident or a protected individual (i.e., foreign national). A foreign person also includes any foreign corporation, business or other entity that is not incorporated to do business in the U.S., as well as international organizations, foreign governments (federal, state, and local), and any agency or subdivision of foreign governments (e.g., diplomatic missions in the U.S.) (See 22 CFR §120.15 for ITAR definition).

High-level protocol visitor - Per NAII 1600.4, a high-level protocol visit is an event or meeting attend by individuals representing, or delegations of, foreign heads of state or government, ambassadors, heads of foreign government rministries or space agencies.

Lawful permanent resident - a natural person who has been lawfully accorded the privilege of residing permanently in the U.S. under U.S. immigration laws.

NASA Empowered Official - an individual who is recognized by DDTC as having authority, among other things, to sign license requests or other requests for approval on behalf of the Agency, based on the NASA Administrator's delegation of authority through his Associate Administrator for International and Interagency Relations to the Export Control and Interagency Liaison Division (ECILD division director, HEA, and HQ EC specialist).

Off-site meetings - Per NAII 1600.4, meetings held outside a NASA Center are considered off-site meetings when there is an exchange of NASA information or if NASA business is being conducted.

Protected individual - a citizen or national of the U.S.,[43] its territories and possessions; it also includes natural persons[44] who are lawfully admitted for permanent residence, refugee status, or political asylum. See 8 U.S.C. §1324b(a)(3) for full definition of protected individual.

Related entities - Related Entities are contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors or subcontractor (at any tier), or employees of the other party's Related Entities.

Scientific and Technical Data (STI) - STI is defined as "the results (the analyses of data and facts and resulting conclusions) of basic and applied scientific, technical, and related engineering research and development."

U.S. person - a person who is a U.S. citizen, a protected individual[45] or a lawful permanent resident[46] (LPR); a U.S. person can also be a corporation, business or other entity that is incorporated to do business in the U.S., and includes all U.S. Governmental entities (federal, state, or local)

[43] See 8 U.S.C. §1101(a)(22) for full definition of a U.S. national.

[44] A natural person is a human being as opposed to an organization or entity.

[45] See 8 U.S.C. §1324b(a)(3) for full definition of protected individual.

[46] See 8 U.S.C. §1101(a)(20) for full definition of lawful permanent resident.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