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National Aeronautics and Space Administration

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Export Control Brief

John F. Kennedy Space Center Export Control Office
July 2008 2nd Quarter
"Export Control… The first line of defense"

Safeguarding Technical Data

(Marking Export Controlled and Sensitive But Unclassified (SBU) Data)

An initiative to protect developing NASA technologies.

The Export Control Office in partnership with NASA Logistics and Services Office and the **K**ennedy **O**nline **P**rinting Request **S**ystem (KOPS), have developed several marking tools for export controlled and Sensitive But Unclassified (SBU) data.

The marking requirements stem from a variety of NASA Procedural Requirements (NPR's):

1) **NPR 2190.1:**

2.3.4.1 Provide appropriate safeguards for commodities, technologies, and software exported or transferred pursuant to international agreements or contracts. **All controlled technical data or commodities shall be marked or identified** in accordance with the Transfer of Goods and Technical Data Clause of the relevant international agreement (See NPR 1050.1, Section 3.5.10.3) or in accordance with the Transfer of Technical Data Clause (e.g., NFS 1852-227-87) of the contract. When necessary and appropriate (and with the concurrence of the CEA or HEA), nondisclosure agreements may be used when foreign nationals are provided controlled technical data or commodities outside the scope of an international agreement or contract.

http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=2190&s=1

2) **NPR 2200.2B:**

4.5.6.2 Notice of Availability Limitation

4.5.6.3 If NASA STI contains "Technical Data" or "Defense Articles" as defined above, it is restricted by ITAR, and all copies must bear the "ITAR Notice" shown in Exhibit 4-1 at the end of this chapter. Release or distribution of the same information by NASA contractors is subject to the same notice. The restriction marking must appear on the cover, title page, and SF-298 (RDP).

4.5.7.2 Notice of Availability Limitation. If NASA STI contains "Technology" controlled by EAR, the cover, title page, and RDP of all copies must bear the "EAR Notice" shown in Exhibit 4-2 at the end of this chapter. Release or distribution of the same information by NASA contractors is subject to the same notice.

http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=2200&s=2B

3) **NPR 1600.1 Chapter 5.24:**

Information designated as SBU will be sufficiently **marked so that persons having access to it are aware of its sensitivity and protection requirements.** The lack of SBU markings on information known by the holder to be SBU does not relieve the holder from safeguarding responsibilities. Where the SBU marking is not present on information known by the holder to be SBU, the holder of the information will protect it as SBU.

http://nodis-dms.gsfc.nasa.gov/restricted_directives/policy_letters/NM_1600-55_.pdf

The NPR's furnish the requirements and guidance in order to safeguard NASA's developing technical data for the Constellation and Space Shuttle programs. In order to fulfill the requirements the NASA KSC ECO office has developed marking templates for CD's, Storage cassettes and documentation. (Continued on back page.)

EC Compliance and Enforcement Agencies

DTSA *Ensuring the Edge*

Kennedy Space Center Export Control Office Mission Statement

"To protect our NASA civil servants and government Contractors through the enforcement of export and import compliance regulations." http://exportcontrol.ksc.nasa.gov

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Government Policy Review

According to the ITAR the following are the definitions for U.S. person and Foreign person.

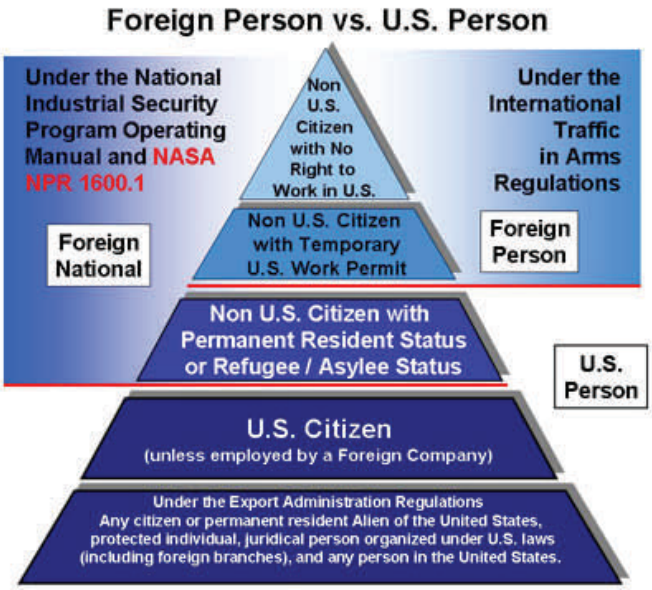
§ 120.15 U.S. person.

U.S. person means a person (as defined in §120.14 of this part) who is a lawful permanent resident as defined by 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 United States. It also includes any governmental (federal, state or local) entity. It does not include any foreign person as defined in §120.16 of this part.

§ 120.16 Foreign person.

Foreign person means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

Foreign Person vs. U.S. Person



Note: *The chart above furnishes a general overview of the ITAR and the National Industrial Security Operating Manual interpretations of foreign person; foreign national and U.S. person. (Chart is available from the NASA—KSC ECO)*

Understanding Foreign and U.S. Persons will assist you in how to handle exports to these "Persons" under the EAR and ITAR; deemed exports and NASA badging.

Export Control Training Sites and Opportunities

SATERN Certification: https://satern.nasa.gov/elms/learner/login.jsp

KSC - Export Training Purposes Only:http://exportcontrol.ksc.nasa.gov

US Department Of Commerce: http://www.bis.doc.gov/seminarsandtraining/index.htm

Complying with Export Controls: August 5-6, 2008, Orlando, Florida
http://www.bis.doc.gov/seminarsandtraining/orlandoflorida_august_08.htm

Complying with the ITAR - Exports of Defense Articles and Services August 7, 2008
Orlando, Florida http://www.bis.doc.gov/seminarsandtraining/itar_august_08.htm

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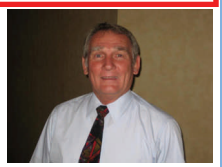
Wayne Ranow

Melanie Chan

William Collins

Export Control Web Site

http://exportcontrol.ksc.nasa.gov

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Export Control News

Export control news from the USDOC , USDOS and KSC.

Business Week: US Probes Whether Laptop Copied on China Trip": (Source: http://www.businessweek.com/ap/financialnews/D90VJ6E00.htm)

Thursday May 29, By Ted Bridis. WASHINGTON (AP) -- U.S. authorities are investigating whether Chinese officials **secretly copied the contents of a government laptop computer** during a visit to China by Commerce Secretary Carlos M. Gutierrez and used the information to try to hack into Commerce computers, officials and industry experts told The Associated Press.

Surreptitious copying is believed to have occurred when a laptop was left unattended during Gutierrez's trip to Beijing for trade talks in December, people familiar with the incident told the AP. These people spoke on condition of anonymity because the incident was under investigation. **Modern copying equipment can duplicate a laptop's storage drive in just minutes.**

A senior U.S. intelligence official, Joel F. Brenner, recounted a separate story of an American financial executive who traveled to Beijing on business and said he had detected attempts to remotely implant monitoring software on his handheld "personal digital assistant" device -- **software that could have infected the executive's corporate network when he returned home.** The executive "counted five beacons popped into his PDA between the time he got off his plane in Beijing and the time he got to his hotel room,". **The more serious danger is that your device will be corrupted with malicious software that takes only a second or two to download -- and you will not know it -- and that can be transferred to your home server when you collect your e-mail.**

The Commerce Department break-ins have been so serious that its Bureau of Industry and Security, which regulates exports of sensitive technology that might be used in weapons, effectively **unplugged itself from the Internet.**

Workers were instructed to use a few laptops placed around the office that are isolated from the department's network, **even to search for public information using Google's Web search engine.**

Attention NASA Civil Servants and USG Contractors: In order to take your laptop on foreign travel for NASA KSC business please visit the following URLs that will furnish you the proper guidance and directions: 1) http://exportcontrol.ksc.nasa.gov/faqs.cfm; 2) A brief checklist and sample Letter Of Introduction are available to assist you.

A Message from Wayne Ranow, the Center Export Administrator

Welcome to the 2008 2nd edition of the Kennedy Space Center Export Control Brief.

This edition of the Export Brief covers topics that resulted in some changes and enhancements to the export control program. More and more travelers are taking their laptops with them and this poses a problem in the export arena. KSC personnel taking laptops abroad must ensure the laptop does not contain export controlled technical data and if the laptop contains encryption, which is included in the standard ODIN load, they should register the laptop with the US Customs prior to travel.

If you must take export controlled technical data, store it on an external system such as CD's or thumb drives and encrypt the data. Laptops are targeted in many overseas countries for the data stored in the hard drive.

We have a new system to mark CD's that contain export controlled and SBU information and this will help alleviate the possible release of controlled data to non-US persons. This edition explains the new system. Stay Export Aware!

USBIS Export Control Publications: Please visit the USBIS web site for the most recent publications.

http://www.bis.doc.gov/ComplianceAndEnforcement/Dont_Let_This_Happen_To_You_2005.pdf

http://www.bis.doc.gov/ComplianceAndEnforcement/Majorcaselist.pdf

For forms and current export information, please visit these official export control web sites:

Arms Export Control Act of 1976

International Traffic in Arms Regulations (ITAR)

Govern export of defense articles and services to include most space-related technologies/ systems.

Fact Sheet: Major U.S. Export Enforcement Actions

Embargoed Countries List

www.pmddtc.state.gov.

Export Administration Act of 1979

Export Administration Regulations (EAR)

Govern the majority of US commercial exports (civil and dual-use) as well as International Space Station (ISS) hardware.

The Commerce Control List (CCL)

www.bis.doc.gov/

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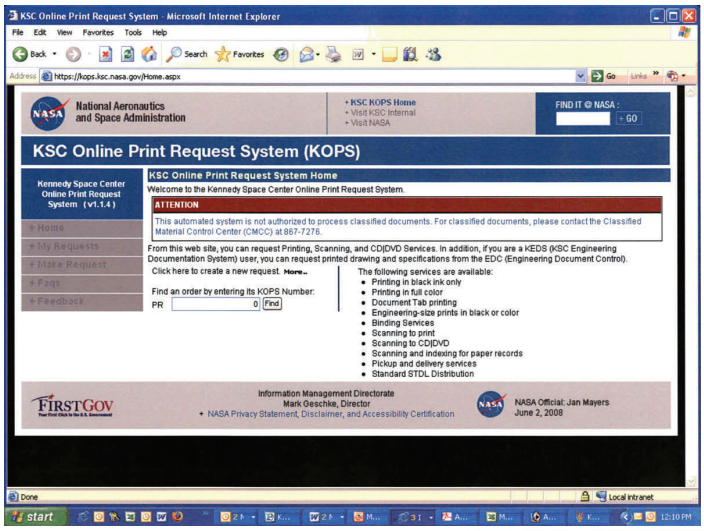

The **K**ennedy **O**nline **P**rinting Request **S**ystem (KOPS), has made available to NASA and to NASA Contractors Export Control and Sensitive But Unclassified marking tools. You may acquire these marking tools by visiting the KOPS URL and selecting the proper marking category for the technical data in a variety of electronic mediums — i.e. CD, Flash Drives, backup cassette tapes, documentation and technical drawings. KOPS will process your order via a secured link and your documents will be properly marked per export control and SBU requirements.

Below are examples of the marking tools available from KOPS:

https://kops.ksc.nasa.gov/Home.aspx

Marked Export Controlled CD

1. KSC FORM 45-1 NS

2. KSC FORM 45-2 NS

SENSITIVE BUT UNCLASSIFIED (SBU)
EXPORT CONTROLLED

When not under the continuing control and supervision of a person authorized access to such material, it must be, at a minimum, maintained under locked conditions. Handling, storage, and reproduction must be in accordance with applicable Executive Orders, statutes, and agency implementing regulations. Keep access and reproduction to the absolute minimum required for mission accomplishment.
KSC FORM 45-3 (06/08)

3. KSC FORM 45-3 NS

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The **Export Control Brief** is the official publication of the Kennedy Space Center Export Control Office in the interest of KSC civil servants and contractor employees.

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Approved by: the NASA KSC Mission Support Office of Strategic Communications, for instruction/training and for U.S.G. policy direction/objectives as per the "NASA Style Guidelines."

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