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Export Control Brief

John F. Kennedy Space Center Export Control Office
September 2006 3rd Quarter
"Export Control… The first line of defense"

Determining ISS parts, components and accessories as 9A004 for export control

In EAR Part 774 of the Commerce Control List—Category 9, you will find the following explanation concerning items that are specifically built for the International Space Station (ISS). *"All specially designed or modified components, parts, accessories, attachments, and associated equipment for "spacecraft" that have been determined by the Department of State through the commodity jurisdiction process to be under the licensing jurisdiction of the Department of Commerce and that are not controlled by any other ECCN on the CCL will be assigned a classification under* ***ECCN 9A004****."*

As you may imagine, there are a variety of items that fall under the 9A004 determination from the PPRV external sampling adapter, hatch restraint fixtures, panels, knee braces, water separator assemblies and cable assemblies, hand rails, MLI boom, MLI flanges and systems flow control assembly, some of which could be considered **"common items".** However, under the 9A004 determination — **common items that are specifically built for the ISS are still considered 9A004**.

The image to the right are examples of items that could be classified as **"common items".** The items are fiber optic connectors to be exported to Astruim in Bremen, Germany and to be placed onto an ISS External Stowage Platform. Thru our export control research, the NASA KSC ECO followed the research steps of **(1)** checking the CCL and **(2)** calling the manufacturer. At the time, we checked two manufacturing sources for the connectors. One manufacturer in California, G & H Technology, Inc., furnished an export determination of 3A001, due to the fact that the items are utilized on satellite hardware, the ISS and in the aircraft industry.

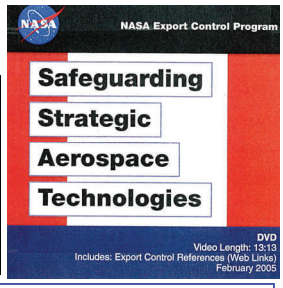
NZGL Electrical Connectors

After conducting research for the actual connector manufacturer—Amphenol, in New York, it was made clear from their export representative the **"common items"** approach was not going to satisfy the correct export control determination. According to the manufacturer the NZGL electrical connectors were **"designed and developed"** by Amphenol in the early 1990's under a Cost Plus contract with McDonnell Douglas and later with the Boeing Corporation. The connectors were **"specifically designed" for ISS systems** and the manufacturer verified that BIS has approved several export licenses for the connectors under 9A004. ***(The above data was furnished in an email from Amphenol.)***

Lessons Learned: The manufacturers' confirmation of the **ECCN 9A004**; furnished a perfect example of utilizing the export control steps and not accepting a **"common items"** approach to exports.

The USA PATRIOT Reauthorization Act of March 9, 2006, has increased USDOC/BIS penalties: imprisonment of 20 years and $50,000 per violation. The USDOS/ITAR penalties: include imprisonment of 10 years and $1 million per violation.

Copies of the NASA video are available through the KSC Export Control Office and the below Video URL.



http://exportcontrol.ksc.nasa.gov/exportcontrol.ram

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

Government Policy Review

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

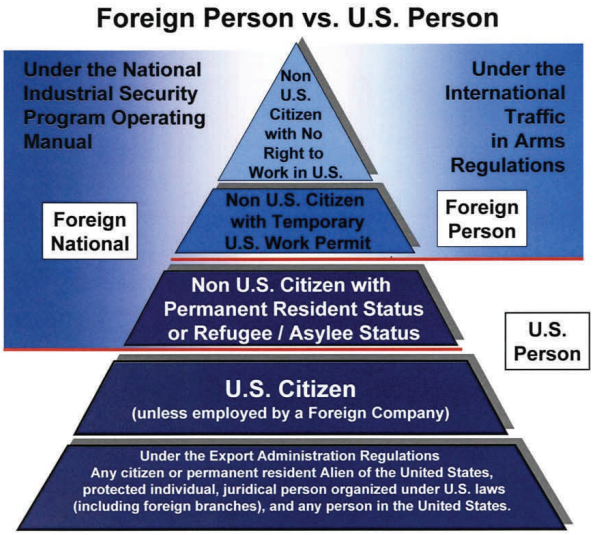
§ 120.15 U.S. person.

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 Web Sites and Video

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

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

Export Control Video: http://exportcontrol.ksc.nasa.gov/exportcontrol.ram

University of Berkeley Training: http://research.chance.berkeley.edu/echome.cfm

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Export Control Web Site

http://exportcontrol.ksc.nasa.gov

Export Control News

Export control news from the USDOC , the USDOS and KSC.

Is Your Company Diligent in Marking Export-Controlled Documents with a Warning? One of the most important steps a company can take in preventing unauthorized exports of controlled technical data and technology is to place a warning on all such controlled documents that the information contained in the document is subject to U.S. export and re-export controls. Companies can modify as appropriate the destination control statements found in section 123.9 (b) of the U.S. Department of State's International Traffic in Arms Regulations and section 758.6 of the U.S. Department of Commerce's Export Administration Regulations.) (**Article contributions** made by Gary L. Stanley, President of Global Legal Services, PC, Washington, D.C.) E-mail gstanley@glstrade.com

2005 Audit of the NASA/KSC Export Control Program:

The 2005 Audit Final Report of the NASA/KSC Export Control Program was furnished to Wayne Ranow, NASA-KSC CEA in July 2006. The independent Audit Team interviewed four ECRs for the report and were tasked the following:

" The objectives of this audit were to evaluate corrective actions based on previous recommendations/findings, determine if improvements have been made, and assess: (1) Center-wide awareness of the NASA ECP and commitment, (2) the availability of export control resources, (3) ECP training, (4) the export control review of items to be posted on internet websites, (5) the exporting process and record keeping procedures, (6) the roles of export control officials involving foreign nationals at the Center, and (7) the role of export control officials related to foreign TDY travel by NASA personnel."

AUDIT RESULTS

The Audit Team's review indicates that overall, the Center's ECP is well managed and effective. The Kennedy Space Center's (KSC) Export Control Program is in compliance with the majority of the elements included in the NASA Headquarters' Export Control Program Auditor Module. The Audit Team found that Center management is committed to the development and implementation of an effective ECP, and systems and procedures are in place to ensure compliance with export control regulations. The required screening and licensing procedure is in place and in compliance with the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). ECP training is being conducted and documented. However, it was noted that steps should be taken to enhance the current training website. Additionally, there is no evidence to support that oversight/monitoring of the contractor Export Control activities is being accomplished. With the current audit results the NASA KSC ECO will be working diligently to improve the training web site and will increase future contractor export control activities in the near future as per the audit findings.

USBIS Export Control Publications

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

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

Please visit the USBIS web site for the most recent publications.

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.

The United States Munitions List (USML)

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/

NASA Export Control Program

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Annual Mandatory Export Control Training for all NASA ECR's: The annual export control training is scheduled for September 19-21, 2006. The training will be conducted at the Holiday Inn in Cocoa Beach. There are only 40 seats available. If you cannot attend please send an alternate and please advise the NASA ECO office.

Course overview: This course is a three day orientation and training curriculum for persons who are new to export and import compliance and licensing, and may also be used as a refresher course for persons who have been involved in export compliance. The course focuses on understanding the regulatory foundations of export compliance and stresses the pragmatic aspects of reasons for controls on critical commodities, technologies and applications of the export licensing processes. By the end of the three-day course, students will have a basic understanding of the federal regulations of both the Department of State and Department of Commerce, understand the application of the export licensing processes and be able to make informed decisions based on their own ability to conduct regulatory research.

Brief Course Agenda: Day 1: An introduction to the terms and terminology used in the federal export control; **Day 2:** The pragmatic implementation of the export licensing process; **Day 3:** A focus on export management.

Additional Export Control Training:

Washington, D.C.— October 15-17, 2006: The Bureau of Industry and Security presents **Update 2006**. The 19th annual Update 2006 Conference on Export Controls and Policy will be held on October 15-17, 2006 at the Grand Hyatt Washington in Washington DC. Please visit the following URL: http://www.bis.doc.gov/SeminarsAndTraining/update2006/index.htm Also the **Bureau of Industry and Security's seminar schedule for fiscal year 2007** is now available on the BIS website at http://www.bis.doc.gov/seminarsandtraining/elsem.htm

Miami— December 4-7, 2006: Black, Sengers and Associates and Export Strategies, LLC are pleased to announce their Fall 2006 Export Control Seminar series. You may download the brochure at http://www.exportstrategies.com/Fall2006SeminarBrochure.pdf — **Special Registration Fee**: Tuition fees: **20% off** tuition for Four-day program and **15% off** tuition for Two-day program. Please reference the **discount code: NASA-KSC on your registrations.** Payment must be made in advance by credit card or check. If invoice is required contact felice@exportcontrols.com

A Message from Wayne Ranow, the Center Export Administrator

Welcome to our **3rd edition** of the Kennedy Space Center Export Control Brief. This Brief is dedicated to export control training and sharing with you the ECO's lessons learned while determining an ISS export classification. The **KSC export control audit** has been completed and the participants and supervisors were sent a copy of the final audit report. In summary, the auditors documented 2 findings, 9 observations, 4 additional recommendations, and 1 commendation. We will implement changes to correct and minimize irregularities in our export control program. Also, construct a more user friendly educational program for all KSC users in the future.

Some of you may have heard through the rumor mill that the ECO will be moving. Well it is true, as of October 1, 2006; the **ECO will be under the NASA Protective Services Division** headed by Mr. Calvin Burch/TA-G. This union has proven to be a logical and beneficial move at other NASA centers with export control, SBU, and counter-intelligence working closely to protect our technology. This move is administrative and no physical move is planned for the near future. Of course this could change any time and I will let you know if the ECO moves to a new location.

Training, you want training, well the annual KSC Export Control Training is back and it promises to bigger and better than before. The instructor, Mr. Steve Zurian has been teaching export control for years at other NASA centers and he promises an excellent course for us. The time, date and place have been emailed to everyone and I look forward to seeing you there.

Stay export aware!

Reminder: Annual Mandatory Export Control Training for all NASA ECR's: The annual export control training is scheduled for September 19-21, 2006 and to take place at the Holiday Inn Cocoa Beach.

KSC Export Control Web Site:

http://exportcontrol.ksc.nasa.gov

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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."