

No.: Y30-205INS

**Title: EXPORTING COMPLIANCE FOR FOREIGN NATIONAL
TRANSACTIONS: COMMODITIES, HARDWARE, SOFTWARE,
AND INFORMATION**

Rev. Date: 06/28/01

**To establish the requirements for exporting (i.e., conversing,
shipping, carrying, mailing, transacting, training) hardware or technical
data to foreign countries and/or foreign nationals in accordance with
United States export control laws and regulations.**

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Subject: Exporting Compliance for Foreign National Transactions: Commodities, Hardware, Software, and Information

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REVISION LOG
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Revision Date	Description of Change	Pages Affected
New Revision Date 06/28/01	DM/R Number 2001-001-EXP Description: DOE issued guidance in the area of export controls due to the increased concerns of technology loss and proliferation concerns. The guidance widened the scope and defined more areas requiring reviews for export control concerns. This procedure revision realigns the company's procedure with DOE requirements that have been issued since the last intent procedure revision.	All
Previous Revision 11/1/00	Blue Sheet revision by BWXT Y-12 (Originally Dated 7/14/97)	

Subject: Exporting Compliance for Foreign National Transactions: Commodities, Hardware, Software, and Information

PURPOSE

To establish the requirements for exporting (i.e., conversing, shipping, carrying, mailing, transacting, training) hardware or technical data to foreign countries and/or foreign nationals in accordance with United States export control laws and regulations.

This document replaces procedure Y30-205INS "Exporting Commodities, Computer Hardware and Software, and Information" dated November 1, 2000.

APPLIES TO

BWXT Y-12 L.L.C. employees and subcontractors who send or personally carry outside the United States any commodities, computer hardware and software, technical data or information. This applies to all transactions with foreign nationals, including deemed exports and foreign travel. Applicable personnel shall be referred to as the "exporter" throughout this procedure.

BWXT Y-12 employees or subcontractors who export chemical substances or mixtures must comply with section 12(b) of the Toxic Substances Control Act in accordance with Y73-209PD.

OTHER DOCUMENTS NEEDED

The current revision of the Export Administration Regulations (EAR), Especially: 1) Part 744, "Control Policy: End User and End User Based", 2) Supplement 2 of Part 764, "Denied Parties List" and 3) Part 746, "Embargoes and Other Special Controls"

Y73-209PD Toxic Substances Control Act (TSCA) Compliance Program

WHAT TO DO**A. Applying the Appropriate Export Designation****Exporter**

1. Responsible to ensure his/her actions are in compliance with US export laws and regulations, and that appropriate authority exists to cover their activities with foreign nationals.

A. Applying the Appropriate Export Designation (cont)

NOTE: All scientific, technical, and operational information must be reviewed by the Classification and Technical Information Office prior to public release. Among other things, this review will assist the exporter in determining if the information contains Export Controlled Information. (See Y15-104, *Releasing Scientific, Technical, and Operational Information*).

Exporter

2. All external company transactions shall be reviewed for export compliance. This includes, but not limited to: CRADAs, Technology Transfer, Work for Others, foreign national visits, equipment and excess property sale, loans or donations, patent assignments, and other transfers of property or technical data.
3. Determine export licensing requirements and if general prohibitions apply based on the guidelines contained in Appendix B of this procedure.

NOTE: An export license **does not** remove the requirement that a security plan is required for all foreign national visitors

4. IF an export license is obtained, THEN
Ensures the RIDERS and CONDITIONS of the export license are adhered to when exporting.

Exporter

5. IF the item is to be a foreign shipment, THEN
write the export license or other export designation on the shipping order.
AND
Forward to Export Compliance Manager for approval.

**Export
Compliance**

6. Review export designation and approve if appropriate
7. Return shipping order to Exporter

NOTE: When ever possible, international shipments should be processed through the Y-12 Shipping Department

Exporter

8. Send the item and shipping order to the Shipping department.

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A. Applying the Appropriate Export Designation (cont)

NOTE: Facsimiles, email, telephone or standard mail should only be used when items are designated No License Required (NLR).

Exporter

9. IF the item is to be Hand-Carried, THEN
Obtain the proper paperwork from the shipping department
AND
Obtain Export approval from Export Compliance

Y12 Transportation Operations

10. For Items shipped through Y12: Review the shipping order for export license or other designation and Export Compliance review approval.
11. IF the shipping order does not indicate the export designation, or the Export Compliance approval THEN
contact the exporter to request a copy of the shipping order with the proper designation and/or approval.
12. Put the following Destination Control Statement (DCS) on the bill of lading, airway bill, and the commercial invoice (if any):

"These commodities, technology or software, were exported from the United States in accordance with the Export Administration Regulations (EAR). Diversion contrary to U.S. law prohibited."

13. Complete a Shipper's Export declaration to accompany shipment if needed.

Y12 Transportation Operations

14. Refer to Part 744, "Control Policy: End User and End User Based" of the Export Administration Regulations (EAR), AND Supplement 2 to Part 764, "Denied Parties List" to ensure the export is not prohibited.

NOTE: A list of embargoed countries are listed in Part 746 of the EAR

15. IF the requested transaction is with an embargoed country, THEN
reject the request for the transaction.

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B. Reporting Export Compliance Violations

General Employee

1. IF you suspect that a US Export Regulation is about to be (or may have been) violated THEN Report it to the Export Compliance Manager.

Export Compliance Manager

2. Report any actual or alleged violations of the export control laws or regulations as well as notice of any claims, violations, indictments, or investigations to the Managing Attorney.

RECORDS

Records generated as a result of this procedure are maintained in accordance with BWXT Y-12 records management practices and established retention and disposition schedules.

Exporter

Maintain export determination documentation and other supporting information for a minimum of 5 years.

Shipping

Maintain copies of export control documents, shipping orders, and associated information for a minimum of five years.

Export Compliance

Maintain export license files for a minimum of five years.

SOURCE DOCUMENTS

- Title 15 Code of Federal Regulations 730-774, "Export Administration Regulations"
- Title 22 Code of Federal Regulations 120-130, "International Traffic in Arms Regulations"
- "Export Control Guidelines", July 1999, US Department of Energy, Office of Nonproliferation and National Security
- Y12-036, "Export of Information and Technology"

APPENDICE

- A. Definitions
- B. Guidelines for Determining Export Licensing Requirements

APPENDIX A
DEFINITIONS
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EXPORT: An **export** is the sending or taking of hardware or technical data out of the United States in any manner, disclosing or transferring technical data to any foreign person or entity, and/or performing a service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad. Under this definition, personal knowledge or technical experience acquired in the United States constitutes an export of that knowledge and experience. A license may be required prior to the export of such information that is subject to the Export Administration Regulations (EAR).

COMMODITY: An economic good, an article of commerce, or something useful or valuable.

DEEMED EXPORT: A **deemed export** is a domestic release of export controlled technology or software to a foreign national who is not a person lawfully admitted for permanent residence in the United States. Deemed exports require an export license like any other export.

FOREIGN NATIONAL: A **foreign national** is any person who is not a native or national of the United States unless lawfully admitted for permanent residence (a PRA) in the United States.

FUNDAMENTAL RESEARCH: **Fundamental research** is basic research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community.

TECHNICAL DATA: As defined by the Department of Commerce, **technical data** means information of any kind that can be used, or adapted for use, in the design, production, manufacture, utilization, or reconstruction of articles or materials. The data may take a tangible form, such as a model, prototype, blueprint, or an operating manual; or they may take an intangible form, such as technical service. All software is technical data.

APPENDIX B
GUIDELINES FOR DETERMINING EXPORT LICENSING REQUIREMENTS
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Part 1: Guidelines for Determine the Export License or Other Designation

The following may be exported from the United States with the No License Required ("NLR") designation.

- Information resulting from Government sponsored research which has been approved for public release by the site Technical Information Office.
- Publicly available technology and software that:
 - Are already published
 - Arise during, or result from, fundamental research (see note 1 below); or
 - Are educational, i.e. released by instruction in catalog courses and associated teaching laboratories of academic institutions.
- Accordingly, no license is required to export (1) information generated by Y-12 that has been approved for public release, or (2) reprints of published technical journal articles.

NOTE: Information that is correspondence, rather than technical data, can be exported without a license. Examples of correspondence are conference registrations, travel plans, visit requests, meeting invitations, etc.

Most standard personal computers can now be exported to an appropriate and acceptable end user, however there are some restrictions on software.

Y-12 Export Compliance Web Page can provide specific guidance on a number of export issues.

For all items or information not specifically listed above, the exporter must contact Export Compliance to obtain the export license or other designation.

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Part 2: Guidelines for Determine whether a General Prohibition Applies to the Transaction

- An exporter may not knowingly export or reexport any item or information to an end-user or end-use that is prohibited by Part 736 of the EAR.

Included by part 736 but not limited to are:

- Part 744, end user controls and Entity List (i.e., nuclear, missile, chemical and biological weapons, and maritime nuclear propulsion end users or end uses.)
- Part 746, Embargoes and other special controls
- Part 764, Denied Parties list

An exporter may not support nuclear proliferation activities.

Contact Export Compliance for further assistance.