



MAR 16 2006

MEMORANDUM FOR: Assistant Administrators
Staff Office Directors
Program Directors

FROM: Rear Admiral Samuel P. De Bow Jr., NOAA
Director NOAA Commissioned Officer Corps and
NOAA Marine and Aviation Operations

SUBJECT: Foreign National Access to NMAO Facilities and Platforms

Effective immediately, NOAA Marine and Aviation Operations (NMAO) is implementing procedures to implement existing policies regarding the restriction of access by certain categories of foreign nationals to export-controlled items and technology. These procedures are being implemented to facilitate NMAO compliance with federal export control regulations.

Individuals meeting the following criteria will, by default, be denied access to all NMAO facilities and platforms:

1. Foreign nationals from countries subject to embargoes and special controls by the United States. (15 CFR 746 and at <http://www.access.gpo.gov/bis/ear/pdf/746.pdf>) As of the date of this memorandum, but subject to change, this includes Cuba, Iran, Iraq, Rwanda, and Syria, or
2. Foreign nationals, who are employees, agents or otherwise affiliated with entities covered by the "Entities List" (which is published at 15 CFR 744, Supp. 4 and at <http://www.bis.doc.gov/Entities/Default.htm>), or
3. Foreign nationals contained on either the Bureau of Industry and Security's Denied Persons List (<http://www.bis.doc.gov/dpl/Default.shtm>) or the Treasury Department, Office of Foreign Asset Control's Specially Designated Nationals List (<http://www.treas.gov/offices/enforcement/ofac/sdn/>), or the Directorate of Defense Trade Controls' Debarred List (<http://www.pmddtc.state.gov/debar059intro.htm>), or
4. Foreign nationals from countries designated by the Secretary of State as State Sponsors of Terrorism (<http://www.state.gov/s/ct/c14151.htm>) or listed on the Commerce Country Chart, columns 1 or 2, under the Anti-terrorism (AT) reason for control (which is published at 15 CFR 738 Supp. 1 and at <http://www.access.gpo.gov/bis/ear/pdf/738spir.pdf>). As of the date of this memorandum, but subject to change, this includes Cuba, Iran, North Korea, Libya, Sudan, and Syria.



(A foreign national's home country is their most recent country of citizenship or country of lawful permanent residence)

It is the responsibility of the sponsor of the foreign national to verify that the individual and their organization is not contained on the lists referenced in items 2 and 3 above and to provide the NMAO facility or platform with the results of this determination in writing. The sponsor is the NOAA employee of the sponsoring program responsible for the day-to-day activities associated with the successful accomplishment of the foreign visit at NOAA. The sponsor must be a U.S. citizen.

If access to NMAO facilities and platforms by one or more foreign nationals within the categories listed above is vital to the accomplishment of NOAA's mission, then NOAA must seek the appropriate licenses and approvals from all controlling agencies prior to access being granted. The sponsor for the foreign national will be responsible for facilitating the necessary licenses, clearances and required escorts. Foreign national clearance and licensing processes can take a significant amount of time and must be obtained before access to the platform will be authorized.

Items subject to control under the EAR, solely for Anti-terrorism (AT) reasons, include many items commonly found at NMAO facilities. Items such as ships; aircraft; boats, including inflatables; engines, including outboards; SCUBA gear; dive gear, including mask, fins, snorkels, weight belts; life jackets; inflation cartridges; dive compressors; commercial GPS receivers; radios; most underwater equipment; etc., are controlled for export; this includes the technology for development, production and use of the equipment. Compliance with the legal requirements restricting access to such equipment by foreign nationals meeting the above criteria as well as controlling the transfer of associated technology to such foreign nationals would be onerous and could interfere with safe operations of the NMAO fleet. For example, embarked scientific personnel often conduct their work (or must pass close by) to equipment that may be open for repair or to equipment undergoing maintenance with manuals, drawings, etc. open for use. Observation of the maintenance work by a foreign national could result in a "deemed" export of the technology.

Access to NMAO facilities and platforms by foreign nationals not covered by the above criteria will be authorized in accordance with the governing export regulations (EAR or ITAR) for the controlled technology to which they will have access.

The above restrictions do not apply to 1) US permanent residents as demonstrated by the issuance of a permanent resident visa (2) anyone granted U.S. citizenship regardless of other citizenships they may hold or (3) anyone granted status as a "protected person" under 8 U.S.C. 1324b(a)(3). This policy does not apply to foreign nationals who are part of a tour open to the public or 18 years of age or younger involved in non-work activities, e.g., school tours, and accompanying chaperones.

For the purposes of these procedures, NMAO platforms and facilities are ships, launches, small boats, aircraft, as well as areas of buildings, parking lots, and piers not open to the general public for which NMAO is the responsible authority.

For locations where NMAO is a tenant of a larger facility, NMAO facilities are those spaces provided for NMAO's sole use and where access can be controlled, e.g., locked or otherwise secured. Access to jointly occupied spaces, i.e., common warehouse areas, storage lots, piers, aircraft aprons, etc. will be controlled in accordance with previous agreements with the parent facility

If you have questions regarding this policy please contact me or LCDR Jeff Brown.

cc:

A – Vice Admiral Conrad C. Lautenbacher, Jr., USN (Ret.)
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DUS – Brigadier General John J. Kelly, Jr., USAF (Ret.)
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