

NATIONAL WEATHER SERVICE INSTRUCTION 60-704

August 8, 2016

Information Technology Security Policy 60-70

TECHNOLOGY CONTROLS AND FOREIGN NATIONAL ACCESS

NOTICE: This publication is available at: <http://www.nws.noaa.gov/directives/>.

OPR: W/ACIO (J. Stuart)

Certified by: ACIO (R. Varn)

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SUMMARY OF REVISIONS: This directive supersedes the NWSI Technology Controls and Foreign National Access 60-704, dated February 23, 2015. Changes Include:

- a. Remote Access by Foreign National: Requires NOAA Chief Information Officer approval and Authorizing Official Signature to acknowledge risk before System Owner can allow network access when foreign national in the United States or its territories.
- b. No remote access allowed into any National Weather Service (NWS) networks from locations outside the United States or its territories by foreign nationals or entities without the written prior consent from the NWS Deputy Assistant Administrator or higher authority.
- c. Smart Cell Phone Restrictions: Foreign nationals will not be able to use cell phones in the NWS facilities due to potential photographs and downloads of controlled technology
- d. International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR) controlled technology: When accidentally placed on any shared drive such as Google Drive; the document owner must remove immediately and report to the NWS' Controlled Technology Coordinator (CTC) if viewed or not viewed by foreign nationals. Mandatory self-reporting of accidental release to foreign national without license for ITAR and Export controlled items.
- e. Ensure foreign nationals (FNs) terminating employment or visit with NWS return their NOAA Identification Badge and Common Access Card (CAC), and that all network access accounts are closed "no later than three working days after departure."
- f. ...and to highlight the importance of checking "Lists" to further reduce risks of release of export controlled items without an export license to foreign nationals or foreign entities..

//Signed//

07/25/2016

Richard Varn

Date

Acting, Assistant Chief Information Officer for Weather

1.0 Purpose.

1.1 To reduce the potential for unauthorized release of classified, sensitive-but-unclassified (SBU), export controlled technology, proprietary, and non-public information and data to foreign nationals (FN) while in National Weather Service (NWS) facilities. To provide information technology security instructions to mitigate the risk of unauthorized release of sensitive information to FNs; to show behavioral signs of persons who engage in illegal collection of information (espionage); and to highlight the importance of checking “Lists” to further reduce risks of release of export controlled items without an export license to foreign nationals or foreign entities.

2.0 Authorities and Responsibilities.

2.1 The Department of Commerce (DOC), through the Office of Security (OSY), regulates access by FNs at DOC facilities and activities (Department Administrative Order (DAO) 207-12, Foreign National Visitor and Guest Access Program, and NOAA Administrative Order (NAO) 207-12), Technology Controls and Foreign National Access.

2.2 OSY is responsible for identifying threats from foreign intelligence services, overseeing the investigation of security incidents, and protecting Departmental personnel, facilities and activities (Department Organization Order (DOO) 20-6).

2.3 Presidential Decision Directives (PDD) and the Code of Federal Regulations (CFR) authorize OSY to identify threats from employee contacts with foreign nationals (PDD-12), to promulgate operations security actions (PDD-298), and to investigate the potential loss, compromise or unauthorized disclosure of classified material (32 CFR § 2001.48).

2.4 The Export Administration Regulations (EAR) establish export control and deemed export control rules with fines for violations, including criminal and civil penalties (15 CFR Parts 300-799).

3.0 Definitions.

3.1 Foreign National Visitors (FNV)- Foreign nationals with access to NOAA facilities for three days or less, or attending NOAA-sponsored conferences for five or fewer business days, are defined to be FNVs. A FN attending a conference who requests a follow-on visit for three or fewer additional days remains categorized as an FNV.

3.2 Foreign National Guests (FNG) - Foreign nationals with access to NOAA facilities for more than three days, are defined as FNGs, including foreign nationals conducting work at a NOAA facility under a grant, contract, or cooperative arrangement or agreement, where such work requires access to NOAA facilities and activities. The total number of days at multiple NOAA facilities count to determine whether a FN is categorized as a Visitor or a Guest.

3.3 Foreign National - For the purposes of DAO 207-12, NAO 207-12, and EAR controls, a

“foreign national” subject to the DAO, NAO, and export controls/deemed export rules is an individual who is not a citizen of the United States, not a legal permanent resident (meaning not a "permanent resident alien" or "Green Card" holder), and not a "protected individual" under 8 U.S.C. § 1324b (a) (3). As a practical matter, foreign nationals present in NOAA facilities include employees, contractors, vendors, tourists, students, businesspersons, scholars, researchers, technical experts, military personnel, and diplomats, but may include other categories of visitors or guests. One exception to this general statement is for a "protected person," which includes political refugees and political asylum holders.

- 3.4 Departmental Sponsor/NOAA (DSN) - The NOAA Federal Government employee responsible for the day-to-day activities associated with the successful accomplishment of a foreign visit at the DSN’s location. The DSN takes all reasonable steps to protect classified, SBU, export controlled, or otherwise controlled, proprietary, or not-for-public release data, information, or technology from unauthorized physical, visual, and virtual access by a FN. The DSN must be a U.S. citizen; a FN cannot host another FN.
- 3.5 Controlled Technology - Items and technology required for the development, production, or use of the items on the Commerce Controlled List (CCL, 15 CFR Part 774) and that are subject to EAR controls. Controlled Technology includes dual use items that have both commercial and military or proliferation applications. The home country designation of a foreign national and the type of access that the foreign national has to technology determines whether an export license is required. The definition of Controlled Technology also includes items and technology on the U.S. Munitions List (USML) (22 CFR Part 121) of the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120 – 130), Classified, Sensitive-But-Unclassified (SBU), proprietary, otherwise controlled and not-for-public-release data, information, or technology.
- 3.6 Controlled Technology Coordinator (CTC) - The NOAA employee, designated by each Line Office (LO) Assistant Administrator or Staff Office (SO) Director, responsible for managing and coordinating foreign national access and deemed export compliance activities. The CTC is responsible for planning and implementation of FN and export compliance activities within his/her organization. The CTC assists the Departmental Sponsors/NOAA (DSNs) in performing their roles in an appropriate manner and in accordance with this Order and other related DOC and NOAA policies and procedures.
- 3.7 Senior Administrative Official (SAO) -The SAO reviews the information provided by the CTC, or other Designated Official, and the DSN to ensure the value of collaborative efforts gained by FN access to Departmental facilities, staff, and information remains balanced or tips toward the "value gained for the NWS side." NWS balances the need to protect classified, SBU, export controlled, or otherwise controlled, proprietary or not-for-public release data, information, or technology against the benefit gained. The SAO signifies his/her endorsement of the NWS assessment in the appropriate location on the Certification of Conditions and Responsibilities for the Departmental Sponsors of FNG and ensures this completed Certification is submitted to the proper servicing security office.
- 3.8 Deemed Export - Any release of technology or source code subject to the EAR to a FN

within the United States. Such a release is deemed to be an export to the home country of the FN. This deemed export rule does not apply to persons lawfully admitted for permanent residence in the United States or to persons who are protected individuals under the Immigration and Naturalization Act (8 U.S.C. § 1324b(a)(3)).

- 3.9 Commerce Control List - The list of items (i.e., commodities, software, and technology) subject to the export licensing authority of the Bureau of Industry and Security.
- 3.10 Escort - A U.S. Citizen employee of the Department responsible for the day-to-day activities associated with the successful accomplishment of a foreign visit and for taking all reasonable steps to protect classified, Sensitive But Unclassified (SBU), or otherwise controlled, proprietary, or not-for-public release data, information, or technology from unauthorized physical, visual, and virtual access by a Foreign National Visitor or Guest.
- 3.11 Servicing Security Office (SSO) - The field offices of the DOC/OSY that provide security services, support, and guidance to DOC organizations. A servicing security office may provide services and support to a single bureau or may provide services and support to all DOC organizations in a given geographical area.
- 3.12 Facility - An educational institution, manufacturing plant, laboratory, vessel, office building or complex of buildings located on a site that is operated and protected as one unit by the Department or its contractor.
- 3.13 Visa - A permit to enter the United States that establishes a particular status (immigrant/non-immigrant, student, exchange visitor, diplomat, etc.) evidenced by a stamp in the foreign national's passport or his/her status as noted on Form I-94 or I-95. A Form I-94 (Arrival-Departure Record) or Form I-95 (Crewman's Landing Permit) shows the date a foreign national arrived in the United States and the "Admitted Until" date – the date the authorized period of stay expires. A foreign national receives a Form I-94 or I-95 upon arrival at a U.S. port-of-entry. Of note, a visa is not a guarantee that the foreign national will be permitted to enter the United States. Final approval for a foreign national to enter the United States rests with U.S. Immigration and Customs Enforcement officials at the port-of-entry.
- 3.14 Access Control Plan (ACP) - Each LO/SO responsible for technology subject to EAR controls must have Access Control Plans that ensure appropriate access controls are established and documented for each facility/activity within its control where there are items subject to the EAR, including items classified as EAR99. Such facilities have an access control plan that identifies all measures and procedures implemented at that facility to control foreign national access to technology regulated under the EAR, and demonstrates that the facility has instituted sufficient measures and procedures to assure full compliance with the EAR.
- 3.15 EAR99 – This designation applies to items that fall under the purview of the EAR, but that are not listed on the Commerce Controlled List. The majority of commercial products are designated EAR99. Generally, these are low-technology consumer items that will not

require a license to be exported or re-exported. However, exporting an EAR99 item to an embargoed or sanctioned country, to a party of concern, or in support of a prohibited end-use, may require a license. Note, for EAR99 technology, there must be a release of “technology,” (i.e., specific information necessary for the development, production, or use of a product) in order to necessitate a deemed export license requirement.

4.0 Departmental Sponsor/NOAA (DSN) Responsibilities.

The DSN will:

- 4.1 Complete the Servicing Security Office (SSO) Foreign National Visitor Form and submit it by fax or by secure email because it contains Personally Identifiable Information (PII) that cannot be transmitted on regular email. DSNs should review their Region’s SSO website for the applicable form because each region has its own format. See links at: http://deemedexports.noaa.gov/compliance_access_control_procedures/how-to-sponsor-a-foreign-national-at-a-noaa-facility.html
- 4.2 Complete the Endorsement Supplement Form (ESF) and attach to the Certification of Conditions and Responsibilities for Departmental Sponsors of Foreign National Guests (Appendix B Form) and send these forms to their CTC. See above link for forms. These forms must be submitted to the CTC at least 30 days in advance of the expected arrival date of the Foreign National Guest. Note: For foreign nationals from Cuba, Iran, Syria, North Korea or Sudan, DSNs need to submit these forms, plus a separate justification, at least 60 in advance for DAA clearance and signature. Contact the NWS CTC for notification and guidance.
- 4.3 Follow up on the status of the ESF and Appendix B to ensure the CTC signs the forms, the NOAA SAO provides endorsement, and the SSO grants conditional approval prior to allowing access. The DSN will receive an email from the SSO providing conditional approval for the FNG to enter NOAA facilities. After the submission of Appendix C, the DSN receives final approval from the SSO.
- 4.4 Review the Access Control Plan (ACP) with the NWS CTC to ensure accuracy and to ensure EAR, ITAR, or other controlled technology have safeguards that are documented in the ACP. The DSN also will ensure staff in the office/facility that will be accessed by the FN have reviewed the ACP and protective measures, including IT security, to prevent unauthorized release of CT.
- 4.5 Review Espionage Indicators (referred to as Appendix A in NAO 207-12) with all staff in the office/facility prior to the FN visit.
- 4.6 As soon as possible in the process and, in all incidences before the FN enters the facility, check and ensure that the FN and/or their company/organization are not on the following lists:

- Denied Person List;
- Unverified List;
- Entities List;
- Specially Designated Nationals List;
- Debarred List; and
- Nonproliferation Sanctions List.

These lists are at the website:

<http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm>

- Do not allow the FN into the facility if they or their institution appears on any of the above referenced lists. Contact the NWS CTC and SSO immediately.

4.7 Ensure FNs have health insurance when sponsored by the United States Government. Contact the Office of International Activities for specific requirements.

4.8 Ensure the FN is escorted at all times (i.e., continuous visual contact) by a Federal Employee while in the facility, either by the DSN or a designated escort. The SSO does have authority under the Limited Unescorted Access (LUA) provision to grant unescorted access for certain areas without CT. See site at:

http://deemedexports.noaa.gov/compliance_access_control_procedures/how-to-sponsor-a-f-foreign-national-at-a-noaa-facility.html

Requests for LUA must be in writing and may require a facility visit by the SSO before approval. Coordinate with the CTC and the SSO before initiating this request.

4.9 Establish an orientation course for the FN to cover important topics before they begin their assignment. The orientation should include, but not be limited to, topics listed below:

- Safety
- Shelter-in-Place and Evacuation
- NOAA Employee Safety, Environmental and Sustainability Awareness Course
- Diversity and Equal Opportunity
- Security
- Ethics
- IT Security Awareness Course
- Health Insurance
- Customs and Courtesies

Safety and evacuation procedures are very important to everyone in the workplace. The FN is no exception. Thus, NWS requires the DSN to provide adequate training or instructions prior to allowing the FN to work in NWS facilities.

4.10 Verify that the FN's U.S. Visa expiration date does not end before the planned departure date on the ESF. If you are aware of the FN's U.S. Visa renewal, you may enter a departure date (within the one-year timeframe) that goes beyond their visa expiration date. Be sure to make this notation on the ESF. The DSN is responsible for initiating all renewal requests.

4.11 Limit the FN's access exclusively to work-related data and documents; restrict unnecessary access to office machines such as copiers and facsimile equipment. The following restrictions and requirements apply:

- a) Prohibit or monitor fax machine use so foreign nationals cannot send documents outside the office.
- b) Smart Cell Phone Restrictions: Foreign nationals will not be able to use cell phones in the NWS facilities due to potential photographs and downloads of controlled technology.
- c) Monitor emails and Google Drive use by foreign nationals to ensure they are not transmitting documents outside the scope of work.

4.12 Access into NWS networks by foreign nationals shall be controlled and restricted.

- a) Do not allow network access for stays that are less than 30 days unless the access is justified in writing to the NWS CTC and approved by the NWS IT Security Officer (ITSO) of the Assistant Chief Information Officer (ACIO) for Weather. One exception: Foreign nationals who work in the Pacific Region's NWS facilities located in their country may be allowed access the NWS network while visiting NWS facilities in USA for less than 30 days.
- b) Prohibit issuing/granting administrator rights or other high-level network access on NOAA networks or workstations for FNs unless necessary to perform their work. Report to your CTC before you grant high-level network access.
- c) Remove access to any large storage drives on the FN's computer, unless it is monitored and necessary for the performance of their duties.
- d) Disable thumb drives and other removable media portals or devices.
- e) Foreign nationals must successfully complete the IT Security Awareness Course before working in the NWS network.

4.13 Remote access by foreign nationals into NWS Networks references to Commerce Interim Technical Requirements (CITR) 008; Remote Access and CITR020; Safeguarding Information While on Foreign Travel.

- a) Before allowing remote access to a foreign national from the United States or its territories the following actions must be taken:
 - 1. NOAA Endorsement Supplement Form and Appendix B must be completed and approved by the DAA.
 - 2. The sponsor or representative of the foreign national will prepare a letter or memorandum for the Authorizing Official to send to the NOAA Chief Information Officer to justify remote access. The letter must identify risks and ways to mitigate the risks.
 - 3. Once the NOAA Chief Information Office approves remote access, the NWS DAA will review the Endorsement Supplement form and, after DAA approval, the NOAA Senior Administrative Official will review the Appendix B .
 - 4. Only after the NOAA Senior Administrative Official has signified approval and all

above steps have been completed, can the System Owner allow remote network access from the United States or its territories.

- b) After remote access has been approved for the foreign national, as outlined above:
 - 1. The System Owner may issue VPN Client software to FNs but only on Government Furnished Equipment.
 - 2. Foreign nationals must successfully complete the IT Security Awareness Course before working in the NWS network.
- c) No remote access will be allowed into any NWS networks from locations outside the United States or its territories by foreign nationals or entities without the written prior consent from the NWS Deputy Assistant Administrator, or a higher authority.

4.14 International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR) documents on shared drives such as Google Drive or others must be monitored and access must be properly restricted.

a) If ITAR or EAR, Export Controlled Technology is placed on any shared drive such as a Google Drive the document owner must remove it immediately and report the incident to the NWS CTC, including whether the Export Controlled Technology was viewed, or not viewed, by foreign nationals. Self-reporting of any accidental, unlicensed release of Export Controlled Technology to a foreign national is mandatory.

4.15 Review the Administrative Orders regarding FN access to DOC/NOAA facilities (see, DAO 207-12 and NAO 207-12). These orders are located on the NOAA Deemed Export Web site at:
http://deemedexports.noaa.gov/compliance_access_control_procedures/how-to-sponsor-a-for-ign-national-at-a-noaa-facility.html

4.16 Receive authorization from the Servicing Security Office (SSO) before allowing FN access to any Government facility.

4.17 Submit the Certification of Conditions and Responsibilities for a Foreign National Guest” Form (Appendix C) to the SSO no later than 3 days after the arrival of the FNG. The Appendix C can be submitted prior to the FNG’s arrival.

4.18 Ensure FNs terminating employment with NWS return their NOAA Identification Badge and Common Access Card (CAC), and that all network access accounts are closed no later than three working days after departure..

4.19 NWS DSNs must complete the On-Line Sponsor Course prior to becoming a Departmental Sponsor of NOAA (DSN). This course is located on the Commerce Learning Center website.

5.0 Responsibilities of NWS Offices and Regions:

5.1 Each office and region will assign at least one primary point-of-contact (POC) and an alternate POC who will be responsible for coordinating with the NWS Controlled Technology Coordinator (CTC).

5.2 Point of Contacts (POC) Responsibilities:

a) Provide accurate and timely updates to the NWS FN list and Controlled Technology (CT) Asset Control Plans each quarter.

1) NWS CTC submits the electronic foreign national list and controlled technology inventory for review and updates

2) At the end of the Fiscal Year, the CTC submits the Annual Certification statement signed by the DAA, to the Chief Administrative Officer

b) Monitor and assist the Departmental Sponsors of NOAA (DSNs)

c) Update the office, region or facility technology control Access Control Plan (ACP) when new technology enters the area and/or at least annually

d) Report changes that occur at NWS facilities to the Controlled Technology Coordinator (CTC)

These include, but are not limited to:

1) Established facility closes;

2) New facility opens; or

3) Name changes.

e) Complete the on-line sponsor course and/or classroom training for the NOAA Deemed Exports Program. POCs can request classroom training through the CTC.

f) Assist the CTC in conducting violation or late submission reports.

g) Report to the CTC regarding any deemed export licenses obtained for FNs.

h) Assist the CTC with DSNs identification for the on-line Foreign National Registration System.